

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Lifemark Hospitals of Florida, Inc./CON #9622
d/b/a Palmetto General Hospital
999 Ponce de Leon Blvd., Suite 950
Coral Gables, Florida 33134

Authorized Representative: Patricia Greenberg
(305) 444-5007

2. Service District/County

District 11, Dade County

B. PUBLIC HEARING

No public hearing was requested or held regarding the proposed project. A letter of support from Dr. Albert R. Tano, Director, NICU at Palmetto General Hospital was submitted by the applicant. Dr. Tano speaks to the quality of care provided at the facility and states that the ever-increasing volume demonstrates the need for the five additional Level II NICU beds requested by the applicant.

C. PROJECT SUMMARY

Lifemark Hospitals of Florida, Inc. is the licensee for Palmetto General Hospital, a 360-bed for-profit general acute care hospital consisting of 302 acute care beds, 10 Level II NICU beds and 48 adult psychiatric beds. Lifemark Hospitals of Florida, Inc. is a wholly-owned subsidiary of Tenet HealthSystem Medical, Inc., which is a wholly-owned subsidiary of Tenet Healthcare Corporation. The applicant is seeking to expand its existing 10-bed Level II neonatal intensive care unit (NICU) by five NICU beds and simultaneously reduce its acute care beds by five.

According to the applicant's *Certificate of Need Predicated on Conditions* page, the applicant proposes to condition award of the CON upon providing 20 percent of its total patient days to Medicaid patients in the entire 15-bed Level II NICU. This is consistent with the existing 20 percent Medicaid condition on the 10 currently licensed Level II NICU beds. The proposed project cost is estimated to be \$1,228,350. Renovation costs are projected at \$353,500 and the project will involve 573 gross square feet (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, Ed Carter, 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 30, dated July 26, 2002, on page 3319 of Section XII of the Florida Administrative Weekly, a fixed need pool of zero beds was published for neonatal intensive care Level II beds in District 11 for the January 2005 planning horizon.

As of July 26, 2002, District 11 had 164 licensed Level II NICU beds and 10 approved Level II NICU beds. The Level II NICU beds in District 11 experienced an occupancy rate of 78.05 percent during the period January 2001 through December 2001. The applicant is applying outside of the fixed need pool and indicates it is applying under special (not normal) circumstances.

b. Regardless of whether bed need is shown under the need formula, the establishment of new Level II neonatal intensive care unit beds within a district shall not normally be approved unless the average occupancy rate for Level II 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)(d), Florida Administrative Code.

As stated above, the 164 Level II NICU beds in District 11 experienced an occupancy rate of 78.05 percent for the most recent reporting period. However it is significant to note that the 10 Level II NICU beds at Jackson Memorial (North) have not been operational for the entire reporting period (January - December 2001). When this is taken into consideration, the utilization of the 154 "active" Level II NICU beds, compared with actual patient days for the period of 47,412, result in an occupancy rate of 84 percent.

- 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 II neonatal intensive care beds at hospitals with Level II neonatal intensive care services seeking additional Level II beds is demonstrated in the absence of need shown under the formula specified in paragraph (3)(c) of this rule if the occupancy rate for their Level II beds exceeded an average of 90 percent as computed by the agency for the same time period specified in subparagraph (3)(e)(2).**

The applicant currently has 10 Level II NICU beds that were utilized at 90.11 percent occupancy for the reporting period January - December 2001. According to the applicant, the Level II beds have experienced 111 percent utilization for the first eight months of 2002. Preliminary data reported to the Agency for the next batching cycle, reflects an increase in utilization of the 10 Level II NICU beds to 101.59 percent for the July 2001 through June 2002 reporting period. The applicant is consistent with this "special circumstances" provision of the Rule.

- d. **Other Special Circumstances:**

The current average occupancy and census of 11 to 12 patients in a 10-bed Level II NICU is unacceptable to the applicant. With the current census of 11.8 patients the applicant would have to increase its unit by five beds to achieve an 80 percent occupancy rate. The applicant explains that this average does not take into account the daily/monthly peaks and operating efficiencies at high occupancy levels.

In addition the applicant explains that its primary service area is the northwest region of Miami-Dade County where the population is largely Hispanic. This culturally distinct area includes the entirety of Hialeah, Hialeah Gardens and parts of unincorporated Miami-Dade County. According to the applicant, this factor is predictive relative to birth outcomes, pre-natal care and the impact on Palmetto General Hospital's maternity and Level II NICU programs. The applicant conducted an evaluation of the DRG and admission status of each newborn during the past three years and observed that the percent of normal newborns decreased from 81 percent to 70 percent to 68 percent, indicating a higher acuity and increased case mix neonate. Another indicator of the increasing acuity level of the newborns is the conversion rate of births to Level II admissions. During the applicant's first year of Level II operation, this rate was 5.7 percent. During the next three years, it increased to eight percent, then grew dramatically to the 11 percent range in 2000 and 2001 and has now increased further to 15 percent in 2002, according to the applicant. The applicant considers it critical that it be able to respond to this increasing need within its service area.

In support of its project, the applicant relies upon information from ongoing studies by the Florida Department of Health (DOH), particularly analyses of various predictive factors contributing to poorer birth outcomes. According to the applicant, a recent report published by the State Department of Health titled: "2002-2003 Long Range Program Plan - Trends and Conditions Narrative" contains information pertinent to its service area and explains some differentials in its level of NICU patient days and sick/premature infants:

" A critical public health issue is the discrepancy between whites and nonwhites regarding birth outcomes. Nonwhites experience poor birth outcomes at twice the rate as whites. This difference may be attributable to poverty and associated factors such as stress, lack of transportation, lack of information and a diminished capacity to seek early and continuous prenatal care. Much of the difference remains unexplained by currently measured social and medical factors. Florida must address the needs of nonwhite women and infants so they will not continue to experience disproportionately poor birth outcomes. This requires culturally appropriate outreach and care coordination services, prenatal care, specialized services to at-risk pregnant women and infants, family planning, nutrition assistance, substance abuse treatment services and public education..."

To compound the applicant's situation, none of the nine Miami-Dade County community health centers providing family planning, prenatal, post-natal and well-child care services, are located in Hialeah. Also of the seven Miami-Dade County public health units providing family planning, prenatal, post-natal and well-child care services, none are in Hialeah. As a result, the applicant states that Palmetto General Hospital's maternity program and neonatal unit have become a defacto primary care center for the lower income population. With respect to underserved markets, the applicants existing Level II NICU currently serves in excess of 40 percent Medicaid, underinsured and self-pay patients. The expanded unit is expected to have the same payor mix. Although not a Medicaid Disproportionate Share provider for State Fiscal Year 2002-2003, Palmetto General is a Medicaid Disproportionate Share provider for State Fiscal Year 2001 - 2002.

Given the planned configuration of the Level II unit and a recent determination of non-reviewability for renovation of the facility's maternity care center, the applicant states that it can accommodate five additional beds without significant renovation. Construction costs are estimated at \$353,500 and involve 573 GSF.

As described earlier, the applicant intends to delicense five acute care beds if this project is approved. For the January - December 2001 reporting period, the applicant's 302 acute care beds were utilized at 66.76 percent average occupancy. The proposed expansion of the Level II NICU by five beds is justified by application of the special circumstances provision of the Rule for an existing provider and is not expected to negatively impact other Level II providers in the district.

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 11 October 2000 CON Allocation Factors Report provides the following preferences in the review of applications pertaining to tertiary and neonatal intensive care services:

- a. Preference should be given to the following applicants for tertiary care services:**

Level One - Higher Priorities

- (1) Applicants who provided the highest proportion of charity care and Medicaid days during the past fiscal year for which reimbursement was received through Florida's "Disproportionate Share Program" of the Medical Assistance Trust Fund. "Charity care" is that care provided to persons below 150% of the federal poverty level and for which there was no compensation exclusive of adjustment allowances.**

Medicaid and Charity Care of the Applicant Compared to the District for Fiscal Year 2000

Applicant	FY 00 Medicaid & Medicaid HMO Days	FY 00 Gross Charity Days - Weighted Average
Palmetto General Hospital	22.8%	0.8%
District 11 Average	18.7%	6.2%

Source: FY 2000 Actual Data/AHCA

As reflected in the table, Palmetto General Hospital's provision of Medicaid exceeds the district average however the charity care is less than the district average.

The applicant proposes to be conditioned for 20 percent of its total patient days to Medicaid patients in the entire 15-bed Level II NICU. This is consistent with the existing 20 percent Medicaid condition on the 10 currently licensed Level II NICU beds. Although not a Medicaid Disproportionate Share provider for State Fiscal Year 2002-2003, Palmetto General is a Medicaid Disproportionate Share provider for State Fiscal Year 2001 – 2002.

Level Two – Lower Priorities

(1) Applicants who include a plan to train personnel.

The applicant states that it has training programs in place to provide the necessary ongoing training and education required to establish and maintain a quality Level II NICU program.

b. Preference should be given to the following applicants for Level II neonatal intensive care services:

Level One – Higher Priority

(1) Applicants who provided the highest proportion of charity care and Medicaid days during the past fiscal year for which reimbursement was received from the State of Florida. “Charity care” is that care provided to persons below 150 percent of the federal poverty level and for which there was no compensation exclusive of adjustment allowances.

Refer to A. 1. above.

(2) Applicants who demonstrate the highest ongoing commitment to serving Medicaid and indigent patients as well as patients from diverse minority backgrounds. “Medically indigent” refers to persons below 150 percent of the poverty level, uninsured and/or underinsured, as defined by the Health Council of South Florida.

Please refer to E.4.i. below.

(3) Applicants who provide onsite interpreters for Creole.

The applicant states that it has employees and volunteers on-site who speak and read Creole.

- (4) **Applicants who specify how their proposed program will contribute to the development of an organized district-wide neonatal program.**

The applicant is requesting expansion of an existing Level II NICU program based on excessive occupancy and is part of an organized district-wide network. The facility has transfer agreements in place for Level III NICU services.

- (5) **Applicants who convert a number of acute care beds as defined in Rule 59C-1.038, excluding specialty beds, which is equal to the number of Level II beds proposed, or who accurately project an occupancy rate of 75 percent for the applicable planning horizon for all acute care beds, excluding specialty beds.**

The applicant is proposing to convert five acute care beds to five Level II NICU beds.

- (6) **Hospitals which propose to provide neonatal intensive care services to Children's Medical Services patients.**

The organized system implemented as part of Children's Medical Services in District 11 is affiliated with Jackson Memorial Hospital for both Level II and Level III NICU services. The applicant states that it would welcome the opportunity to provide NICU services to CMS.

- (7) **Hospitals, which have both Level II and Level III NICU beds.**

The applicant is an existing provider of Level II NICU services and is seeking expansion of that service to accommodate a high volume demand. The facility does not provide Level III NICU services.

Level Two - Lower Priority

- (1) **Applicants who demonstrate a commitment to quality of care as evidenced by the existence of a mechanism to assess and publicly report on quality.**

Please see E.4.b. below.

- (2) **Commit to timely completion of CON projects that are approved.**

In Schedule 10 of the application, the applicant projects that the service would be initiated in September 2003.

3. Agency Rule Preferences

Please indicate how each applicable preference for the type of service proposed is met. Ch. 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 (RPICC) and Step Down Neonatal Special Care Unit patients.**

Palmetto General Hospital is not a RPICC program. As stated above, the applicant is proposing a minimum of 20 percent of its Level II NICU patient days will be provided to Medicaid patients in the entire 15-bed Level II NICU.

Please 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) Hospitals may be approved for Level II neonatal intensive care services without providing Level III services. In a comparative review, preference for the approval of Level II beds shall be given to hospitals, which have both Level II neonatal intensive care unit beds and Level III neonatal intensive care unit beds.**

The applicant is currently licensed for 10 Level II NICU beds and is seeking to expand to 15 Level II beds to accommodate demand.

- (2) Applicants proposing to provide Level II or 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 is an existing provider of Level II NICU services and has an established protocol for follow-up on patients after discharge to monitor the outcome of care. This is managed by the social workers and case managers who are assigned to the unit and coordinated with the Developmental Disability program at South Miami Hospital where patients are referred upon discharge.

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

The applicant is currently licensed for 10 Level II NICU beds and thus meets the minimum requirements of the Rule.

- d. Ch. 59C-1.042(6) - Minimum Birth Volume Requirement. Hospitals applying for Level II neonatal intensive care services shall not normally be approved unless the hospital has a minimum service volume of 1,000 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 1,000 live births for the most recent 12-month period with 2,951 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 time to 90 percent of the residents of District 11.

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

- (1) Physician Staffing: Level II 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 NICU Medical Director is Albert Tano, MD. Dr. Tano is board-certified in pediatrics and has completed a Neonatal-Parinatal Fellowship from Georgetown University. The applicant states that there is a board-certified perinatologist, Dr. Alfredo Rodriguez and 19 board-certified neonatologists on active staff at the hospital, providing 24-hour coverage.

A curriculum vitae for each of the physicians is included in Volume III, Tab 28 of the application. The applicant does not project the addition of staff physicians to accommodate the proposed five-bed addition. There are numerous physicians representing pediatric sub specialties on the Palmetto Medical Staff including specialties in allergy, emergency medicine, cardiology, gastroenterology, genetics, hematology, infectious disease, ophthalmology, neonatal-parinatal medicine, pulmonology and surgery.

- (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.**

According to the applicant, the director of the neonatal intensive care unit at Palmetto General Hospital is Dora Rafuls, R.N., who has experience in neonatal intensive care nursing. Her resume can be found in Volume III, Tab 29 of the application. The applicant states that currently 100 percent of the nurses in the Level II NICU are registered nurses. Schedule 6 of the application indicates that the applicant intends to add six FTE R.N.s to the existing nursing staff to accommodate this project.

- (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 the nurses in the Level II NICU program are trained in the foregoing requirements and that nurses assigned to the program will be required to have the technical skills to manage ill neonates and to provide the nursing interventions necessary to manage the intensive care that neonates receive.

- (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 it has sufficient staff to meet the requirements of a least one certified respiratory care practitioner with expertise in the care of neonates to be available 24 hours per day. There is at least one respiratory therapist for every four neonates receiving assisted ventilation at the hospital, according to the applicant. Schedule 6 is not definitive regarding the number of existing and or proposed respiratory therapists working at the hospital or in NICU.

- (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 the hospital has blood gas determinations available on a 24-hour basis. The applicant also provides on site x-ray, obstetric ultrasound, and clinical laboratory services with the ability to perform microstudies, 24 hours, seven

days a week. In addition, anesthesia is available in-house 24 hours per day, seven days per week.

- (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 it provides information on patient dietary needs while in the hospital and also provides the patient's family instructions or counseling regarding the appropriate nutritional and dietary needs of the patient after discharge. According to Schedule 6A, dietary services are "outsourced" by the applicant. No FTEs are reflected on Schedule 6A for dietary services.

- (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.**

Palmetto General Hospital has a case management department that assists families in their supportive needs, including identification and referral to needed resources in the community. The applicant states the case management department is very experienced in providing practical and compassionate care to patients and their families since nearly 3,000 newborns annually are processed through this department.

- (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.**

While Palmetto General Hospital does not have an in-house Development Center, it coordinates this initiative with South Miami Hospital by referring patients and families to this community resource upon discharge. Social workers and case managers assigned to the unit provides intervention and referral

services for infants identified as being at high risk for developmental disabilities to include developmental assessment, intervention and parental support and education.

- (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, Denise Promgate, RN, is the lead person at the unit for discharge planning. Weekly multi-disciplinary rounds are conducted for every infant in the Level II NICU program. Personnel attending these conferences are from nursing, pharmacy, social work, case management, respiratory therapy, nutrition, Pt and OT.

- g. **Ch. 59C-1.042(9) - Level II Neonatal Intensive Care Unit Standards: The following standards shall apply to Level II neonatal intensive care services:**

- (1) **Nurse to Neonate Staffing Ratio. Hospitals shall have a nurse to neonate ratio of at least 1:4 in Level II neonatal intensive care units at all times. At least 50 percent of the nurses shall be registered nurses.**

The applicant states that it currently meets this standard having nearly 100 percent registered nurses and will continue to meet the requirement after the addition of the five proposed Level II NICU beds. The applicant did not specifically address the nurse to neonate ratio in its response to this element of the Rule.

- (2) **Requirements for Level II NICU Patient Stations. Each patient station in a Level II NICU shall have, at a minimum:**
- a. **Fifty square feet per infant;**
 - b. **Two wall mounted suction outlets preferably equipped with a unit alarm to signal loss of vacuum;**
 - c. **Eight 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 oxygen analyzer for every three beds;**
- k. At least one non-invasive blood pressure monitoring device for every three beds;**
- l. At least one portable suction device; and**
- m. Not less than one ventilator for every three beds.**

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

(3) Equipment Required to be Available to Each Level II NICU on demand:

- a. An EKG machine with print-out capacity;**
- b. Transcutaneous oxygen monitoring equipment; and**
- c. Availability to continuous blood pressure measurement.**

As an existing Level II NICU provider, the applicant has the required equipment available on demand to meet the needs of its Level II patients.

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 64E-2.003, Florida Administrative Code.**

The applicant uses the services of Miami-Dade County, City of Hialeah and private ambulance services for the advanced life support transfers of Level III neonates.

- 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.**

Within District 11, the applicant has transfer agreements with North Shore Medical Center, Miami Children's Hospital, Baptist Hospital and Jackson Memorial. The applicant also has a transfer agreement with West Boca Medical Center, outside the district.

- 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.**

The addition of five Level II NICU beds to the 10 existing Level II beds will enhance availability, efficiency and accessibility to patients needing this tertiary health service. As shown above in E.1., Fixed Need Pool, the applicant has experienced high facility-specific utilization of its NICU beds. For the reporting period January - December 2001 these 10 beds experienced 90.11 percent utilization with a trend toward increased utilization for the next period. Data received by the Agency for the upcoming cycle based on utilization experienced during July 2001 through June 2002, report preliminary utilization of 101.59 percent. The applicant claims during the current fiscal year's 116 days, or nearly four

months, average occupancy exceeded 100 percent each month, averaging 118 percent for the period. The applicant further states that during this same 116 days, daily occupancy exceeded the 10 licensed beds 72 percent of the days during that period. This increase in utilization of Level II NICU services can only be explained by higher acuity with higher risk babies being born at the facility from the Palmetto service area, according to the applicant. This area is distinguished from other parts of the Miami-Dade County area because of its high percentage of births to Hispanic women as well as women without adequate pre-natal care. The applicant states that without these five additional Level II NICU beds, these mothers and children would experience serious problems in accessing health services. However, approval of the proposed project should improve quality care to patients with five additional Level II NICU bassinets and the addition of six registered nurses to the NICU staff.

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

The facility is accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). A copy of the JCAHO accreditation is included in Volume II of the application at Tab 1. The application also includes detailed descriptions of the applicant's Performance Improvement Plan and Perinatal Improvement Plan for 2002. A copy of the plan can be found behind Tab 21 in Volume III of the application.

According to AHCA data, the applicant had 20 confirmed complaints (four (4) without deficiency), during the last three (3) years. 13 of the confirmed complaints were related to billing and administrative concerns. Three others concerned patient care, two others were COBRA/emergency access violations and there was one each involving the physical plant and staffing.

- 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 proposed project does not involve special health care services that are not reasonably or economically accessible in adjacent districts.

- c. **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 applicant is not a statutory teaching hospital nor is the proposed project's primary purpose research or physician education. Palmetto General Hospital is however an affiliate of Nova Southeastern University of the Health Sciences and an American Osteopathic Association approved traditional internship and Family Practice Residency Program. Current enrollment in the Family Practice Residency Program includes 24 interns, eight PGY II Family Practice Residents and Seven PGY III Family Practice Residents. In addition there are six podiatry residents training at Palmetto's medical education program.

Palmetto General Hospital also has affiliation agreements with various schools, junior colleges, universities and vocational schools for student training and recruitment. Some of these are:

Nova Southeastern University
Broward Community College
Miami Dade Community College
Miami Lakes Technical Center
Florida International University

- d. **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 audited financial statements for Lifemark Hospitals of Florida, Inc. for the periods ending May 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:

	<u>05/31/2001</u>	<u>05/31/2000</u>
Current Assets	\$ 57,392,982	\$ 53,073,931
Cash and Current Investment	\$ 812,470	\$ 0
Assets Restricted for Capital Projects	\$ 0	\$ 0
Total Assets	\$ 261,414,301	\$ 188,747,478
Current Liabilities	\$ 15,555,162	\$ 12,261,451
Total Liabilities	\$ 71,380,681	\$ 23,440,302
Total Equity	\$ 190,033,620	\$ 165,307,176
Net Operating Revenues	\$ 184,973,673	\$ 176,732,677
Interest Expense	\$ 0	\$ 306,101
Net Profit - Operations	\$ 39,107,930	\$ 28,421,571
Net Income	\$ 24,726,444	\$ 18,003,822
Cash Flow from Operations	\$ 36,191,804	\$ 22,805,556
Working Capital	\$ 41,837,820	\$ 40,812,480
Current Ratio (CA/CL)	3.7	4.3
Cash Flow to Current Liabilities (CFO/CL)	2.3	1.9
Long-Term Debt to Equity (TL-CL/TE)	0.3	0.1
Times Interest Earned (NPO+Int/Int)	n/a	93.9
Equity to Total Assets (TE/TA)	72.7%	87.6%
Operating Margin (NPO/NOR)	21.1%	16.1%
Total Margin (NI/NOR)	13.4%	10.2%
Return on Assets (NI/TA)	9.5%	9.5%
Operating Cash Flow to Assets (CFO/TA)	13.8%	12.1%

Short-term position:

The applicant's current ratio of 3.7 indicates current assets are almost four times that of short-term liabilities, an excellent level of ready reserves. The working capital (current assets less current liabilities) of \$42 million is very good. The ratio of cash flow to current liabilities of 2.3 is good. The applicant has a strong short-term position.

Long-term position:

The long-term debt to equity of 0.3 reflects a low level of non-current debt. The cash flow to assets of 13.8 percent reflects a substantial level of cash flows. The most recent year had an operating profit of \$39 million, which resulted in a margin of 21.1 percent, a very high level of earnings. The total equity of \$190 million with the equity to assets of 73 percent is high for Florida hospitals. The applicant has a very strong long-term position.

Capital requirements:

Schedule 2 indicates the applicant had \$61 million in capital expenditures planned or underway. The long-term debt consists primarily of funds due to affiliates and carries no specific maturity dates; therefore the \$61 million represents all capital funding needed.

Available capital:

Schedule 2 indicates funding for these capital needs will come from operating cash flows of \$21 million with the ultimate parent, Tenet Healthcare Corporation providing the balance. A letter from the parent indicates it will fund the referenced project and all other capital needs. The audited financial statements for the parent, found in volume II of this application, show adequate financial strength to fund the Schedule 2 expenditures.

Conclusion:

When we consider the applicant's financial strength and the strength and commitment from the parent, funding for all capital requirements should be available as needed.

e. 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 section 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.

Schedule 7 net operating revenue for year two for the total facility including the project was \$250,435.621; however, Schedule 8 net operating revenue including the project for year two was \$246,131,484. The discrepancy is less than 2 percent and is not felt to significantly impair this review. The Schedule 8 net revenue was used for the following comparative test below.

Net revenue per adjusted patient day (NRAPD) of \$1,535 in year one and \$1,570 in year two is just below the control group median values of \$1,559 in year one and \$1,606 in year two. With net revenues falling close to the median level, the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table). The 2001 actual NRAPD for this hospital was \$1,213.

Projected cost per adjusted patient day of \$1,124 in year one and \$1,129 in year two is below the group lowest of \$1,289 and \$1,327 for year one and two respectively. The lowest cost is considered the lower limit of cost-efficiency. Costs below this threshold would describe efficiencies that no other facility has been able to achieve. Compared to the control group these costs are too low to be efficient, raising doubt that the facility is spending enough on services to provide adequate care. (See Comparative Table). The 2001 actual CAPD for this hospital was \$919. While the forecasted costs are low when compared to the group they are reasonable when compared to the hospital's own historical activity.

The year two operating profit for the hospital of \$69 million computes to an operating margin per adjusted patient day of \$441, which is significantly above the peer group highest of \$278. The operating margin ratio computes to 28 percent. In an industry where a 10 percent profit margin is considered high (approaching the 90th percentile) a 28 percent margin could indicate that either charges are too high or not enough is being spent on patient care. In light of the NRAPD comparison above and the high profits, the costs appear to be significantly underestimated.

The hospital industry, a service oriented group, is based on helping people. The typical institution gives back an average of about 95 percent of net revenues in services to its patients with only about 20 percent of hospitals giving back less than 90 percent. A facility that plans to keep 28 percent of its revenues, only giving 72 percent in services operates on priorities between patient care and profits far different than most Florida hospitals.

COMPARATIVE TABLE

Palmetto General 2000 DATA Peer Group 9	2005	YEAR 2	<u>INFLATION ADJ. VALUES</u>		
	YEAR 2	ACTIVITY	Highest	Median	Lowest
	ACTIVITY	PER DAY			
ROUTINE SERVICES	147,233,389	939	938	709	396
INPATIENT AMBULATORY	0	0	119	72	36
INPATIENT ANCILLARY SERVICES	555,807,178	3,545	2,701	2,051	1,737
OUTPATIENT SERVICES	446,937,730	2,851	2,210	1,338	1,110
OTHER OPERATING REVENUE	559,735	4	67	17	10
TOTAL REVENUE	1,150,538,032	7,339	5,939	4,356	3,502
DEDUCTIONS FROM REVENUE	900,102,411	5,742	*	*	*
NET REVENUES	246,131,484	1,570	1,752	1,606	1,328
EXPENSES					
ROUTINE	50,671,888	323	270	239	167
ANCILLARY	29,036,214	185	650	490	383
AMBULATORY	1,893,291				
OVERHEAD	95,331,221	608	850	673	609
OTHER	0	0			
TOTAL EXPENSES	176,932,614	1,129	1,858	1,446	1,327
OPERATING INCOME	69,198,870	441	278	35	-146
		28.1%			
PATIENT DAYS	95,794		NOT INFLATION ADJUSTED		
ADJUSTED PATIENT DAYS	156,769				
TOTAL BED DAYS AVAILABLE	131,400				
ADJ. FACTOR	0.6111				
TOTAL NUMBER OF BEDS	360				
PERCENT OCCUPANCY	72.9%		66.0%	55.9%	38.6%
<u>PAYER TYPE</u>	PATIENT DAYS	% TOTAL			
MEDICARE	28,004	29.2%	43.5%	35.1%	25.9%
COMMERCIAL	0	0.0%			
MEDICAID	19,350	20.2%	19.7%	12.7%	5.0%
PRIVATE	6,145	6.4%			
HMO/PPO	42,295	44.2%	47.2%	42.3%	36.9%
OTHER	0	0.0%			
TOTAL	95,794	100.0%			

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

The applicant expects managed care to represent 44 percent of its patient days in year two. This is between the control group median and highest levels of 42 percent and 47 percent and is similar to the hospital's own 2001 managed care level of 43 percent.

The proposed NICU II project was compared to all other hospitals in the state with approved NICU II programs. Schedule 7, total gross revenue for the NICU II only is projected to be \$3,984,116 for year two. With 1,515 patient days anticipated the gross revenue (gross charges) per patient day computes to \$2,630. This amount is between the median and highest of \$2,024 and \$3,902 respectively. The 2001 average NICU charge for this hospital was \$3,370. It is unlikely that the projected NICU charges would be less than the hospital's 2001 actual charges.

The project should have minimal positive impact on competition to promote quality assurance and cost-effectiveness.

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

The proposal is to convert five acute care beds to Level II NICU beds and locate the new beds in an area adjoining an existing 10-bed Level II NICU. By having this adjacency, the required support spaces do not need to be duplicated for the new beds. The existing ancillary spaces appear to be adequately sized for 15 NICU beds. An existing nursery currently adjacent to the 10-bed unit is to be eliminated to provide space for the new beds. No demolition plan was submitted.

The plan shows the layout of the entire 15-bed unit, but it cannot be determined if there is to be any change proposed in the area of the existing beds. All existing walls, room names etc. are shown with lighter (screened) lines, but all the NICU beds, their allotted floor space and all counters and sinks are shown with solid black lines. There are two existing scrub sinks within the space and they are shown with lighter lines.

It could easily be assumed that all black lines represent new or renovated items as is usually the architectural convention. However, there is nothing in the narrative to indicate that any relocation or work is being performed in the existing bed area. The line weight on the drawings is the **only reason** to question the scope of the project. This needs to be clarified since the layout of the existing 10 beds is very awkward and may not meet code requirements.

There are two handwashing lavatories shown and noted as new. However, they are in a very inconvenient location. Both are on a wall adjacent to new NICU bed 5, and anyone washing their hands will be within inches of the this bed. It appears that the new lavatories were added to satisfy the requirement that there be a handwashing station for "every four neonatal stations or portion thereof." If the two existing scrub sinks are functional and could serve as hand washing facilities,

the two new lavatories would not be needed and the layout of the space could be improved.

The Code requires:

“a work counter at each neonatal care station at approximately the height of the platform mattress. The shelf shall be the width of the station. To accommodate the monitoring equipment, there shall be a shelf or other device at eye level. Sixty inches above the floor is suggested”.

Both the new and existing neonatal stations are drawn identically, and they have a dashed rectangle labeled “shelf on headwall system”. There is no indication of a new or existing shelf that satisfies the requirement that it be “the width of the station” even though the application actually quotes the code language above. If such a shelf were to be located across the width of space for new NICU bed 2, it would protrude into the path leading to the existing handicapped staff toilet.

The drawings include a floor plan of the area in question at a legible scale. The list of applicable building codes is essentially correct. The design professionals have health care experience and are well aware of applicable building code issues.

Given the fact that there is only \$ 535,000 listed for movable equipment, the building cost per bed is \$138,670.00, which appears to be unreasonably high for a project where the only new building construction is the addition of two walls to define a new equipment room. If there is more to this project than is immediately clear in the application, some clarification regarding the costs would be advisable.

- 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 following table provides an indication of the applicant’s commitment to charity and Medicaid, with comparison to the district, based on Fiscal Year (FY) 2000 Actual Data prepared by AHCA:

Medicaid and Charity Care of the Applicant Compared to the District for Fiscal Year 2000

Applicant	FY 00 Medicaid & Medicaid HMO Days	FY 00 Gross Charity Days - Weighted Average
Palmetto General Hospital	22.8%	0.8%
District 11 Average	18.7%	6.2%

Source: FY 2000 Actual Data/AHCA

As reflected in the table, Palmetto General Hospital's provision of Medicaid exceeds the district average however the charity care is less than the district average. In addition, the applicant states that its charity write-off was nearly \$20 million during the past two fiscal years.

The applicant provided the historical payor mix experience for neonates (excluding normal newborns) for the past three years using DRG 385 through DRG 390:

**Percent of DRG 385 through DRG 390 Admissions
by Payor at Palmetto General Hospital**

Payor	1999	2000	2001
Medicaid	37.1%	41.5%	38.6%
Self Pay/Under-insured	3.4%	2.2%	3.1%
All Other	59.5%	56.4%	58.3%
Total	100.0%	100.0%	100.00%

Source: CON Application 9622

The applicant proposes to be conditioned for 20 percent of its total patient days to Medicaid patients in the entire 15-bed Level II NICU. This is consistent with the existing 20 percent Medicaid condition on the 10 currently licensed Level II NICU beds.

F. SUMMARY

The applicant proposes to add five Level II NICU beds to 10 existing Level II NICU beds by converting five underutilized acute care beds at Palmetto General Hospital.

The proposed project cost is estimated to be \$1,228,350 and will involve 573 GSF of renovated space and \$353,500 in renovation costs.

Need:

A fixed need pool of zero was published for Level II NICU services in District 11. The applicant is applying outside of the fixed need pool and indicates it is applying under hospital-specific special (not normal) circumstances. Based on utilization of the existing 10 beds (90.11 percent) the application demonstrates "Special Circumstances for the Approval of Additional Neonatal Intensive Care Unit Beds at Existing Providers", 59C-1.042(3)(g), Florida Administrative Code.

Access:

The applicant has been consistently exceeding its licensed bed capacity of 10 beds for the past two years. The addition of five Level II NICU beds will improve access and availability of needed beds.

Quality of Care:

The applicant is JCAHO accredited and a quality care provider. Due to the high occupancy experienced by the applicant over the past year, by eliminating over-utilization and increasing its nursing staff, this project is expected to improve the quality of care at this hospital.

Medicaid/Indigent Care:

According to the applicant's *Certificate of Need Predicated on Conditions* page, it will set aside a minimum of 20 percent of its Level II NICU patient days to Medicaid patients for the entire 15-bed Level II NICU.

Financial/ Cost:

When the applicant's financial strength and the strength and commitment from the parent is considered, funding for all capital requirements should be available as needed. The financial projections reflect huge profits, which is not consistent with most other hospitals in the state.

The project should have minimal positive impact on competition to promote quality assurance and cost-effectiveness.

Architectural:

The plan shows the layout of the entire 15-bed unit, but it cannot be determined if there is to be any change proposed in the area of the existing beds. The existing ancillary spaces appear to be adequately sized for 15 NICU beds. There needs to be some clarification of the project that cannot be determined from the plans and/or the narrative, since the layout of the existing 10 beds is very awkward and may not meet code requirements. The building cost per bed is \$138,670, which appears to be unreasonably high for a project where the only new building construction is the addition of two walls to define a new equipment room. If there is more to this project than is immediately clear in the application, some clarification regarding the costs would be advisable, according to the Agency's architect.

G. RECOMMENDATION

Approve CON #9622 to add five Level II neonatal intensive care unit (NICU) beds to the existing 10-bed unit at Palmetto General Hospital. Total project costs equal \$1,228,350 and involve 573 GSF and \$353,500 in renovation costs.

CONDITIONS:

- (1) A minimum of 20 percent of the total annual patient days in the 15-bed Level II NICU shall be provided to Medicaid patients.

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: _____

Karen Rivera
Health Services and Facilities Consultant Supervisor
Certificate of Need

Jeffrey N. Gregg
Chief, Bureau of Health Facility Regulation