# STATE AGENCY ACTION REPORT

# ON APPLICATION FOR CERTIFICATE OF NEED

## A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

**South Miami Hospital, Inc./CON #9623**
d/b/a South Miami Hospital
6855 Red Road, Suite 600
Coral Gables, Florida 33143

Authorized Representative: Ana Lopez Blazquez
(305) 661-0363

2. Service District/County

District 11, Dade County

## B. PUBLIC HEARING

No public hearing was requested or held regarding the proposed project. The applicant provided 12 letters of support, seven from the community, including letters from the Mayor, Vice Mayor and a Commissioner, all representing the City of South Miami. One mother wrote a three-page letter detailing the outstanding care her three pound six ounce premature daughter received in the South Miami Hospital NICU and how comfortable the staff made she and her husband feel with the situation. After 54 days in NICU the daughter was discharged home and now at 18 months old the child is "on track developmentally". This couple is very grateful and credits the entire team of physicians and staff for saving the life of their daughter.

The application also contains four letters representing 21 physicians, mostly neonatologists, supporting the proposed project to establish a six-bed Level III NICU at South Miami Hospital. In their three-page letter the physicians state: "South Miami Hospital has set the standard in the community for the delivery of the highest level of medical care." The physicians further state that South Miami Hospital has always been on the forefront of obstetrical and neonatal care for the patients in Miami-Dade County. The physicians point out several reasons why the project is needed, among them: ever increasing patient volume; a large number of Level III patients continue to be born at South Miami Hospital and are

being transferred to other area hospitals; and that South Miami Hospital's staff currently manages the administrative aspects and physically provides staffing for the NICU transport team services.

## C. PROJECT SUMMARY

South Miami Hospital, owned and operated by Baptist Health South Florida, is a 445-bed not-for-profit community hospital that has been operating since 1959. The 445 beds consist of 341 acute beds, 23 Level II NICU beds, 48 adult substance abuse beds and 33 comprehensive medical rehabilitation beds. The applicant proposes to establish a six-bed Level III NICU at South Miami Hospital through the conversion of six existing Level II NICU beds.

According to the applicant's *Certificate of Need Predicated on Conditions* page, it will set aside a minimum of 20 percent of its Level III NICU patient days to Medicaid, Medicaid HMO, and charity patients combined. The proposed project cost is estimated to be $114,113. Renovation costs are projected at $35,000 and the project will involve 860 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 III beds in District 11 for the January 2005 planning horizon.

As of July 26, 2002, District 11 had 101 licensed Level III NICU beds and no approved Level III NICU beds. The Level III NICU beds in District 11 experienced an occupancy rate of 81.61 percent during the period January through December 2001. It should be noted that five Level III NICU beds were approved and licensed to Mt. Sinai Medical Center on December 11, 2001 pursuant to Final Order of Case No. 97-1161, CON #8642, Rendition No. AHCA-99-234-S-CON. This approval/licensure of five beds at Mt. Sinai Medical Center increases the inventory of licensed Level III NICU beds in District 11 to 106 beds.

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 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, the 101 Level III NICU beds in District 11 experienced an occupancy rate of 81.61 percent for the January through December 2001 reporting period. However, preliminary utilization data reported to the Agency for the 106 licensed Level III NICU beds for the period July 2001 through June 2002 reveals average utilization of 78.77 percent for the entire 106 beds.

**Utilization of District II Level III NICU Beds**

| Facility | Beds | 01/01-12/01 | 07/01-06/02* |
|---|---|---|---|
| Baptist Hospital of Miami | 7 | 61.53% | 89.82% |
| Jackson Memorial Hospital | 66 | 85.43% | 80.71% |
| Miami Children's Hospital | 23 | 80.48% | 79.96% |
| Mt. Sinai Medical Center** | 5 | 0% | 30.77% |
| North Shore Medical Center | 5 | 64.66% | 68.11% |
| Total/Average | 106 | 81.61% | 78.77% |

**Source: Florida Hospital Bed and Service Utilization by District, July 26, 2002 & Agency data**
*** Preliminary data reported to AHCA from the LHC**
**** Licensed December 11, 2001**

c. **Conversion of Underutilized Acute Care Beds. New Level II or Level III neonatal intensive care unit beds shall normally be approved only if the applicant converts 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 or Level III beds proposed, unless the applicant can reasonably project an occupancy rate of 75 percent for the applicable planning horizon, based on historical utilization patterns, for all acute care beds, excluding specialty beds. If the conversion of the number of acute care beds which equals the number of proposed Level II or Level III beds would result in an acute care occupancy exceeding 75 percent for the applicable planning horizon, the applicant shall only be required to convert the number of beds necessary to achieve a projected 75 percent acute care occupancy for the applicable planning horizon, excluding specialty beds.**

Although the acute care bed occupancy for calendar year 2001 in the applicant's 341 acute beds was 55.4 percent, the applicant is not proposing to convert acute care beds. Rather, it is proposing to convert six of its 23 Level II NICU beds. The applicant's 23 Level II NICU experience an annual occupancy of 69.68 percent in 2001.

d. **Other Special Circumstances:**

The applicant states that need for the proposal is indicated by seven characteristics that support approval for the establishment of a six-bed Level III NICU via conversion of six Level II NICU beds. These are discussed below, however it is noted that none of these characteristics demonstrate need for an additional Level III NICU provider or additional Level III beds. Rather, they represent reasons the applicant believes the hospital can support a Level III program. In the absence of published

need for additional Level III beds in District 11, the burden of demonstrating that need is on the applicant.

The first characteristic is the large birth volume at the facility that can support the proposed Level III NICU. During 2001 South Miami Hospital experienced 3,634 births, which it states is more than twice the minimum birth volume of 1,500 required by Rule. The applicant presents "Table 9" on page 21 of the application to support this claim. Operating the 13th largest obstetrical program in the State, the applicant believes it is reasonable for it to provide Level III NICU services. The applicant presents "Table 10" on page 22 to show there are 13 facilities in the State with fewer births than South Miami Hospital yet these facilities have Level III NICU beds. The applicant maintains that these Level III NICU programs demonstrate the ability of hospitals with lower volumes of deliveries to successfully support Level III NICU programs. On page 23 the applicant presents Table 11 that compares Level III days to Level III births in the district to establish a ratio that it applies to births at South Miami Hospital to project need for 11.31 beds at 80 percent occupancy. As noted above, while this represents a reason the applicant believes it should be able to provide this service, it is not a demonstration of need for the service.

The second characteristic for consideration is that South Miami Hospital treats a high and increasing number of high-risk pregnancies, which result in a large number of high-risk babies. Adjacent to the hospital is the South Florida Institute for Reproductive Medicine, which specializes in, in vitro fertilization and other fertility regimens, as well as counseling for couples trying to conceive. In addition the applicant has two perinatologists on staff, providing consultations and support for complicated delivery cases. Consequently the South Miami Hospital has become "the hospital of choice" for many "high-risk" expectant mothers as demonstrated by the age profile of the applicant's obstetric patients. The applicant presents Table 13 on page 24 of the application to show that 23.6 percent of mothers delivering at its facility are in the age bracket, 35 - 44 compared to 14 percent of this age mother delivering in the district as a whole. The applicant states that as a result of a disproportionate percentage of high-risk pregnancies (i.e., mothers ages 35+), South Miami Hospital has a significant number of infants needing neonatal intensive care services. The applicant references an article by Philip A. Shlossman, M.D. in the September 1997 issue of *American Journal of Perinatology*, entitled "An Analysis of Neonatal Morbidity and Mortality in Maternal (IN Utero) and Neonatal Transports at 23-24 Weeks' Gestation", wherein researchers found that the neonatal survival rate was 79.5 percent for the neonatal transfer group compared to 94.5 percent for the population when the baby was transported in utero. The applicant also discussed the three "most significant risks" associated with neonatal transport related to intraventricular hemorrhage, a

change in ventilator, and increased handling/touching. The applicant provided no evidence that the residents of District 11 needing Level III NICU services were unable to obtain them.

The third characteristic discussed by the applicant is that existing NICU III units in the southern portion of the district have high occupancy rates and a new program will improve access. The applicant states that the geographic distribution of the existing Level III NICU and the established patterns of care sought by OB patients create a geographic misallocation on NICU III beds within the district. North Shore and Mt. Sinai primarily serve the northern portion of Dade County and residents of the southern portion of the county (the applicant's service area) do not seek to deliver at either North Shore or Mt. Sinai, the NICU III beds at these two facilities are not optimally available to residents of southern Dade County, according to the applicant. Due to its geographic location, South Miami Hospital typically transfers NICU infants to Baptist Hospital of Miami, Miami Children's Hospital, or Jackson Memorial, all of which are much closer to the applicant than either Mt. Sinai or North Shore. It is generally true that in the short-term, any time beds and programs are added to an area, access is improved. Improved access does not demonstrate that access to Level III NICU care is being denied or that there is need to improve access. Additionally, even though "established patterns of care" may affect utilization within the district, the Neonatal Intensive Care Services Rule (59C-1.042, Florida Administrative Code) defines the service area for Level III NICU as District 11. Level III NICU services are available well within two hours ground travel time under normal traffic conditions for 90 percent of the population of District 11. There is no evidence presented to demonstrate that Level III NICU services are being denied patients. It is further noted that the applicant's parent corporation, Baptist Health South Florida, also owns Baptist Hospital of Miami, which is located approximately 3.3 miles and seven minutes drive time from South Miami Hospital. As recent as the January through December 2001 reporting period, Baptist Hospital reported 61.53 percent occupancy of its seven Level III NICU beds. However, the applicant states that the reason for the dramatic increase in utilization (89.82 percent) for the July 2001 through June 2002 reporting period was because, under previous management, the hospital was incorrectly classifying its Level III NICU patients. That hospital's Level III NICU does not meet the 15-bed minimum bed size either. It might be more appropriate for Baptist Hospital to request an expansion of the existing Level III NICU service rather than to establish a second undersized Level III NICU at South Miami Hospital.

The fourth characteristic offered by the applicant is the district is experiencing an increasing demand for NICU III services. However, the applicant failed to show that this increased demand necessitates additional beds be made available. The Agency has a need methodology, which shows zero need in the planning horizon for this service.

The fifth characteristic discusses the applicant's experience in treating fragile neonates. The applicant talks about the NICU environment and the special needs required to care for Level III neonates, such as; dimmed light levels, reduced noise levels, and blanket-covered bassinets. Next the applicant discusses the medical staff, stating that South Miami Hospital was the first private south Dade Hospital to provide 24-hour in-house neonatologists, "raising the standard of care for neonates in the area". South Miami Hospital currently has 17 neonatologists, all associated with Kidz Medical Services Inc., on staff that provides 24-hour "in-house" coverage. All physicians are either board-certified or board-eligible by the sub-board of Neonatal-Perinatal Medicine of the American Board of Pediatrics, have completed fellowships in neonatology, and have extensive NICU Level II and Level III experience, according to the applicant. The NICU staff of the hospital includes nurse practitioners, neonatal nurses, developmental pediatricians, respiratory therapists, speech pathologists, social workers, and other specialized neonatal health professionals. The last element of this characteristic discussed by the applicant is the neonatal transport experience. The current Level II NICU staff by virtue of their participation on the Neonatal Transport Team have "significant experience" treating Level III patients, according to the applicant. Baptist Hospital South Florida (related entity) provides a 24-hour transport service based at South Miami Hospital. This transport team consists of 21 caregivers (11 nurses and 10 respiratory therapists) all but one of whom is from the South Miami Hospital Staff. The applicant has provided evidence that it can most likely care for this level of neonate, but again, this is not a demonstration of need for this service.

The sixth characteristic relates to the cost of implementing the project. The applicant states its intent to utilize existing NICU II space thus keeping the cost to a minimum due to the small amount of needed equipment additions and upgrades it believes is required. A review of the Agency architectural review calls into question some of these assumptions for a Level III NICU, which may affect the proposed cost projected by the applicant. The applicant’s ability to save money in implementation is not a demonstration of need for additional Level III NICU beds.

The seventh characteristic assumes economies of scale will be realized because the six beds will be included as an overall NICU nursery of 23 beds. The applicant states that by providing its Level II and Level III NICU beds as part of one overall unit, South Miami Hospital is effectively meeting the reasons underlying the state requirement and containing health care costs by coordinating personnel and treatments. It appears the applicant has made assumptions that may not be possible under the current NICU Rule and latest adopted editions of all applicable codes. Although applicants are always encouraged to achieve economies and cost-efficiencies when providing services, this is not a demonstration of need.

There is no evidence that Level III NICU services are being denied applicants in District 11. The applicant has not met its burden and shown need for additional Level III NICU beds in District 11.

## 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 percent of the federal poverty level and for which there was no compensation exclusive of adjustment allowances.**

The applicant is not a designated Medicaid Disproportionate Share Provider.

*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 III 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.**

The applicant is not a designated Medicaid Disproportionate Share Provider. The applicant proposes to condition the approval of this project for the provision of at least 20 percent of patient days in the proposed Level III NICU to Medicaid/charity/Medicaid HMO patients combined.

**(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 numerous onsite interpreters to aid patients and visitors, including interpreters for Creole.

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

The applicant states that the establishment of a Level III NICU at its facility will contribute to the development of an organized district-wide neonatal program by reducing the number of transports of infants born at South Miami Hospital in need of Level III NICU services. This reduction in transfers will not only eliminate the risks associated with transfer incurred by these South Miami Hospital born neonates, but will also increase the capacity of the transport team to serve infants in facilities without appropriate NICU services. However, this proposal appears to have more of a potential to impact the provision of this care in the district in a negative, rather than a positive, way and does not appear to contribute to organizing a district wide program. Refer to quality of care discussion below.

**(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 III 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 not proposing the conversion of acute care beds. The applicant is however proposing to convert six Level II NICU beds to six Level III NICU beds.

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

The applicant states that it will provide neonatal intensive care services to patients eligible for children's medical services as well as other pay sources. However, the applicant has not proposed to condition award of the CON upon providing services to this patient population.

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

The applicant does not currently have any Level III NICU beds.

*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 July 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 and Step Down Neonatal Special Care Unit patients.**

As stated above, the applicant is proposing a minimum of 20 percent of its Level III NICU patient days will be provided to Medicaid/charity/Medicaid HMO patients combined.

The applicant projects its payment mix to be:

| Payor | Percent of Patient Days |
|---|---|
| Other Managed Care | 71.6% |
| Medicaid | 17.0% |
| Medicaid HMO | 2.0% |
| Commercial Insurance | 6.8% |
| Self Pay | 2.6% |
| Total | 100.0% |

The applicant projects that approximately one percent of its gross revenues will be written-off to charity.

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) 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. 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 beds and Level III neonatal intensive care beds.**

The applicant has 23 Level II NICU beds. This is not a comparative review.

**(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 states that its discharge planning team will conduct follow-up checks on discharged patients to monitor outcomes of care and make appropriate referrals for care.

**c. Ch. 59C-1.042(5), Florida Administrative Code - Minimum Unit Size. Hospitals proposing the establishment of new Level III neonatal intensive care services shall propose a Level III neonatal intensive care unit of at least 15 beds, and should have 15 or more Level II neonatal intensive care unit beds.**

The applicant proposes to establish a six bed Level III NICU by converting six of its 23 Level II NICU beds to this use. The rationale expressed by the applicant is that by providing its Level II and III NICU beds as part of one overall unit, it is effectively meeting the reasons underlying the state requirement and containing health care costs by coordinating personnel and treatments.

There is evidence to suggest that size is a significant factor relative to quality care provided in a Level III NICU. In a study reported in the October 1996 issue of JAMA, The Journal of the American Medical Association, entitled, "The Effects of Patient Volume and Level of Care at the Hospital of Birth on Neonatal Mortality", the authors found that; "Compared with hospitals without an NICU, infants born in a hospital with a level III NICU with an average NICU census of at least 15 patients per day had significantly lower risk-adjusted neonatal mortality. ... Risk-adjusted neonatal mortality for infants born in smaller level III NICUs, and level II+ and level II NICUs, regardless of size, was not significantly different from hospitals without an NICU, and was significantly higher than hospitals with large level III NICUs." The study by Ciaran S. Phibbs, PhD; Janet M. Bronstein, PhD; Eric Buxton; and Roderic H. Phibbs, MD, also concluded that "Concentration of high-risk deliveries in urban areas in a smaller number of hospitals that could provide level III NICU care has the potential to decrease neonatal mortality without increasing costs."

In a recent approval of a certificate of need (#9492) that applicant identified 10 conditions it was willing to accept as a condition to facilitate approval of a smaller Level III NICU. The conditions were:

(1) A board-certified or board-eligible neonatologist on call, in house, 24 hours a day.
(2) Maintenance of neonatal CPR certification and recertification every two years for all attending neonatologists.
(3) Demonstration of 24-hour availability of subspecialists to include pediatric surgery, anesthesia, cardiology, ophthalmology and perinatology.
(4) Annual review by a neonatologist of nursing policies and procedures relevant to the delivery of nursing care to the high-risk newborn.
(5) Participation in continuous outcome monitoring of all infants admitted and cared for in University Community’s neonatal intensive care unit, to include major categories of morbidity as well as mortality.
(6) Maintenance of a developmental follow-up clinic to analyze and report long-term outcomes as well as short-term outcomes.

(7) Participation of the applicant's attending neonatologists in a quality assurance peer review program to include quarterly review of the above-mentioned outcome statistics, including short-term morbidity, mortality and developmental outcome, with a quarterly filing with AHCA of outcome information on the State of Florida forms titled “Infant Demographics and Outcomes, Level II and Level III NICUs,” pages 1 through 4.

(8) To quarterly file with AHCA the information requested on State of Florida forms titled “Infant Demographics and Outcomes, Level II and Level III NICUs,’ pages 1 through 4.

(9) An annual morbidity and mortality review by a board-certified neonatologist from a tertiary care RPICC center approved by the Agency.

(10) That should AHCA determine, from the outcome monitoring and long-term and short-term outcome analyses and reporting and statistical review required in conditions 4, 6, 7, 8 and 9, above, that the morbidity and mortality levels for the Level III NICU patient population served by the applicant is significantly above morbidity and mortality levels of other Level III programs in Florida, as adjusted for consideration of relevant risk factors in the patient populations, or if the applicant fails to comply with the reporting and monitoring conditions and other requirements set forth in paragraph 3 of this Stipulation and Settlement Agreement, the AHCA may issue its notice of intent to revoke the CON by serving an administrative complaint upon the applicant, pursuant to Section 120.60(5), Florida Statutes (1997), providing the applicant with reasonable notice of facts or conduct which warrant the intended action, and providing the applicant an adequate opportunity to request a proceeding pursuant to Section 120.569 and 120.57, Florida Statutes (1997).

While some of these 10 conditions may have been stated in the application by South Miami Hospital, they were not offered as conditions of approval of the proposed project.

It is further noted that the applicant’s parent corporation, Baptist Health South Florida, also owns Baptist Hospital of Miami, which is located approximately 3.3 miles and seven minutes drive time from South Miami Hospital. As recent as the January through December 2001 reporting period, Baptist Hospital reported 61.53 percent occupancy of its seven Level III NICU beds. However, the applicant states that the reason for the dramatic increase in utilization (89.82 percent) for the July 2001 through June 2002 reporting period was because, under previous management, the hospital was incorrectly classifying its Level III NICU patients. That hospital’s Level III NICU does not meet the 15-bed minimum bed size either. It might be more appropriate for Baptist Hospital to request an expansion of the existing

Level III NICU service rather than to establish a second undersized Level III NICU at South Miami Hospital.

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 experienced 3,634 births during 2001, thus exceeding the minimum service volume of 1,500 live births for the most recent 12-month period.

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 III and Level II 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 applicant states that there is a board-certified neonatologist, Jorge E. Perez, M.D., in charge of the direction and supervision of the NICU services at South Miami Hospital. Dr. Perez is also the medical director of the neonatal transport team of Baptist Hospital South Florida. Dr. Perez has attained board certification in both pediatric and neonatal/perinatal medicine. In addition to Dr. Perez, there are 17 neonatologists associated with Kidz Medical Services, Inc. on staff at South Miami Hospital, who provide 24-hour "in-house" coverage. All 17 of these physicians are either board-certified or board-eligible by the sub-board of Neonatal-Perinatal Medicine of the American Board of Pediatrics.

A curriculum vitae for each of the 17 physicians is included in Volume II, Attachment 11 of the application, Exhibit 3-3 of the application. Schedule 6 of the application reflects 2.5 FTE existing staff for a unit/program director under physicians. No new physician FTEs are projected.

(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.**

Ms. Colleen Cowie, RN, BSN, MHSA is the Nurse Manager of the South Miami Hospital Level II NICU and will be in the same position for the proposed Level III NICU according to the applicant. Ms. Cowie has extensive Level III NICU experience having served as the Nurse Manager for a 13-bed Level III NICU in the Miami area as well as other neonatal responsibilities. Please see Volume II, Attachment 13 for her curriculum vitae. Schedule 6 of the application indicates that by the second year of operations there will be 12 new RN FTEs as a result of 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 and proposed Level III NICU programs are trained in the foregoing requirements.

(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 the respiratory care department is operated and staffed 24 hours, seven days a week, and that staffing for the proposed Level III NICU insures that at least one

certified respiratory care practitioner therapist with expertise in the care of neonates will be available in the hospital at all times. There will be at least one respiratory therapist technician for every four infants receiving assisted ventilation, according to the applicant.

**(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 within 30 minutes, 24 hours a day.

**(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.**

South Miami Hospital has clinical pediatric neonatal dietitians on staff. These dieticians and nutritionist are trained and experienced to provide information on patient dietary needs while mothers and babies are in the hospital and to provide the patient's family instruction and counseling regarding the appropriate nutritional and dietary needs of the patient after discharge.

**(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 provides a comprehensive array of social service support to the families of its NICU patients, including counseling, development evaluation, and referrals to appropriate community resources.

**(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 states that it will provide in-hospital intervention services for infants identified as being high risk for developmental disabilities. The Child Development Center at South Miami Hospital provides diagnostic and early intervention services to help children achieve their fullest capabilities in all areas of development. The applicant states that this program is well recognized throughout the community for having the highest standard of quality and expertise in pediatric developmental assessment, intervention and care.

**(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.**

Denise Prongay, RN is the dedicated discharge planner for neonates at South Miami Hospital. Ms. Prongay develops a comprehensive summary of each neonate's inpatient stay and distributes this report to the obstetricians, pediatricians, parents, and staff of the Child Development Center, to ensure that the necessary follow-up care is delivered and that all practitioners have access to a complete medical history.

**g. 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.**

South Miami Hospital has a pediatric cardiologist on staff, Abdulwahab Aldousany, M.D. Dr. Aldousany is board-certified in

pediatrics, neonatal-perinatal medicine, and pediatric cardiology. He is a member of the American Heart Association, the American College of Cardiology, a Fellow in the American Academy of Pediatrics, a member of the Florida Chapter of the American College of Cardiology, and the American Registry of Diagnostic Medical Sonographers. He is published extensively and is a former assistant professor of pediatric cardiology at the University of Tennessee - Memphis.

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

Proposed staffing by the applicant provides for a nurse-to-neonate ratio of at least 1:2 in the Level III NICU at all times. The requirement that 50 percent of the nurses be registered nurses will be exceeded as the applicant is proposing that 100 percent of nurses will be registered nurses. Schedule 6A indicates that the applicant intends to hire 10 registered nurse FTEs.

(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 states that the proposed Level III NICU patient stations meet the square footage, mechanical/electrical and equipment requirements for Level III NICU services. However, the architectural review indicates concern in this area. Refer to E. 4. h. below.

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

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

The applicant indicates it will have all of the required equipment above available.

**h. 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.**

South Miami Hospital currently provides neonatal 24-hour emergency transport by ground and air via the hospital's neonatal transport team. Accompanying the infant, whether by ground or air, is a qualified team that includes a neonatal nurse, respiratory therapist or neonatologist.

i. **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.**

The applicant currently transfers patients in need of Level III neonatal intensive care services to providers of Level III NICU services and has a written protocol in place governing these transfers. Please Volume II, Attachment 18 for the transfer to Level III NICU Policy of South Miami Hospital NICU.

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 required information and data requested by the Agency and the local health planning council.

**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 applicant states that the intent of its application is to increase the availability/access and improve the quality of care, efficiency, appropriateness, and adequacy of services to fragile newborns at South Miami Hospital and in District 11. However, because the applicant has failed to demonstrate need for the program, as discussed above under E. 1., there is some concern that this project, if approved, will negatively impact the current quality of care, efficiency and adequacy of services provided in District 11.

As noted earlier, the applicant's parent corporation, Baptist Health South Florida, also owns Baptist Hospital of Miami, which is located approximately 3.3 miles and seven minutes drive time from South Miami Hospital. As recent as the January through December 2001 reporting period, Baptist Hospital reported 61.53 percent occupancy of its seven Level III NICU beds. However, the applicant states that the reason for the dramatic increase in utilization (89.82 percent) for the July 2001 through June 2002 reporting period was because, under previous management, the hospital was incorrectly classifying its Level III NICU patients. That hospital's Level III NICU does not meet the 15-bed minimum bed size either. It might be more appropriate for Baptist Hospital to request an expansion of the existing Level III NICU service rather than to establish a second undersized Level III NICU at South Miami Hospital.

The applicant demonstrated that almost a fourth of the mothers delivering at South Miami Hospital were in the high-risk category (age 35 and above). However it did not document how many of these deliveries resulted in high-risk neonates nor did the applicant demonstrate that Level III neonates were not receiving proper care in the district.

**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) as well as the Commission for the Accreditation of Rehabilitation Facilities (CARF), the College of American Pathologists, the Association of Rehabilitation Nurses and the Case Management Society of America. The facility has also received numerous awards (see page 79 of the application). The applicant demonstrates its capacity for providing quality care to patients.

According to AHCA data, the applicant had 17 confirmed complaints (two without deficiencies), during the past three years. Two of the confirmed complaints were patient care related, two more were medical services, five were billing problems two were COBRA/emergency access and one of these is a recent complaint and is still open. The remaining complaints were of a miscellaneous nature.

**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.

**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 research or teaching hospital nor will the primary purpose of the project involve research or physician education.

**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 audited financial statements for South Miami Hospital, Inc. for the periods ending September 30, 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:

| | | 09/30/2001 | | 09/30/2000 |
|---|---|---|---|---|
| Current Assets | $ | 36,974,826 | $ | 29,361,634 |
| Cash and Current Investment | $ | 12,901 | $ | 12,901 |
| Assets Restricted for Capital Projects | $ | 0 | $ | 0 |
| Total Assets | $ | 116,897,853 | $ | 101,687,375 |
| Current Liabilities | $ | 43,546,670 | $ | 42,195,675 |
| Total Liabilities | $ | 117,433,767 | $ | 114,353,271 |
| Total Equity | $ | -535,914 | $ | -12,665,896 |
| Net Operating Revenues | $ | 245,467,593 | $ | 179,997,007 |
| Interest Expense | $ | 3,768,976 | $ | 3,536,241 |
| Net Profit - Operations | $ | 28,985,089 | $ | -1,960,274 |
| Net Income | $ | 29,071,244 | $ | -936,342 |
| Cash Flow from Operations | $ | 44,181,743 | $ | 12,354,566 |
| Working Capital | $ | (6,571,844) | $ | (12,834,041) |
| Current Ratio (CA/CL) | | 0.8 | | 0.7 |
| Cash Flow to Current Liabilities (CFO/CL) | | 1.0 | | 0.3 |
| Long-Term Debt to Equity (TL-CL/TE) | | -137.9 | | -5.7 |
| Times Interest Earned (NPO+Int/Int) | | 8.7 | | 0.4 |
| Equity to Total Assets (TE/TA) | | -0.5% | | -12.5% |
| Operating Margin (NPO/NOR) | | 11.8% | | -1.1% |
| Total Margin (NI/NOR) | | 11.8% | | -0.5% |
| Return on Assets (NI/TA) | | 24.9% | | -0.9% |
| Operating Cash Flow to Assets (CFO/TA) | | 37.8% | | 12.1% |

**Short-term position:**
The applicant's current ratio of 0.8 indicates current assets are less than short-term liabilities, an inadequate position. The negative working capital (current assets less current liabilities) of $-6.5 million is very weak. The ratio of cash flow to current liabilities of 1.0 is good. The applicant's short-term position is poor.

**Long-term position:**
The long-term debt to equity of –138 means this debt is very high in relation to the negative net worth of the entity, a very weak position. The cash flow to assets of 37.8 percent is very high. The most recent year had a strong operating profit of $29 million resulting in a margin of 11.8 percent. The total negative equity of half a million with the equity to assets of –0.5 percent is considered unsatisfactory. The applicant has a weak long-term position.

South Miami Hospital, Inc. is a non-profit subsidiary of Baptist Health Systems of South Florida, Inc. in 2001 the applicant transferred $419 million to the parent, without this transfer the current ratio and equity ratios would have been significantly improved.

**Capital requirements:**
Schedule 2 indicates the applicant had $29.8 million in capital projects planned or underway. The audited financial statements disclosed long-term debt maturing through 2003 of $4.4 million, which when added to the Schedule 2 amount would total $34.2 million.

**Available capital:**
Schedule 2 indicates funding for these projects will come from operating cash flows of $20 million and the balance will come from the parent, Baptist Health Systems of South Florida. The applicant's audited financial statement for September 30, 2001 indicates cash flows of $44 million. A letter from the parent indicates it will provide any additional funding that is needed.

**Conclusion:**
With potentially over $88 million available, along with support from the parent, the applicant should be able to fund all capital requirements.

**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 5. Per diem rates are expected to increase by an average of 3.4 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.

Net revenues per adjusted patient day (NRAPD) of $1,818 in year one and $1,918 in year two are above the control group highest values of $1,673 in year one and $1,723 in year two. The highest level is generally viewed as the practical upper limit on economies of operation. With net revenues falling above highest level, the facility is expected to consume excess health care resources in proportion to the services provided. (See Comparative Table). The 2001 actual NRAPD for this hospital was $1,663. Inflated forward to year one the 2001 NRAPD would be $1,838. Although the projections are excessive when compared to the group they are consistent with the 2001 actual activity of the hospital.

Anticipated costs per adjusted patient day of $1,702 in year one and $1,806 in year two are above the group highest values of $1,478 in year one and $1,522 in year two. This application is not considered cost-efficient when compared to the control group. (See Comparative Table). The 2001 actual CAPD for this hospital was $1,445 and inflated to year one would be $1,597.

The year two operating profit for the hospital of $16.7 million computes to an operating margin per adjusted patient day of $112 which is between the peer group median and highest of $9 and $246. The operating margin computes to 5.8 percent, which is in the average range for Florida hospitals. The 2001 financial data submitted to the agency shows the hospital with an operating margin of $29 million. This project is expected to contribute $674,255 to the operating margin.

NRAPD and CAPD are both high when compared to the control group and are therefore an inefficient use of resources. As shown by the reasonable profit margin it appears the hospital is not keeping significant profits but using these resources on patient care. Although revenues and costs are high when compared to the group, they are more consistent when compared to the hospital's historical activity. The projections show an inefficient use of resources however, they are still considered financially feasible.

**COMPARATIVE TABLE**

| South Miami Hospital 2000 DATA Peer Group 5 | 2005 YEAR 2 ACTIVITY | YEAR 2 ACTIVITY PER DAY | INFLATION ADJ. VALUES Highest | Median | Lowest |
|---|---|---|---|---|---|
| ROUTINE SERVICES | 118,970,599 | 798 | 1,034 | 585 | 290 |
| INPATIENT AMBULATORY | 0 | 0 | 136 | 46 | 17 |
| INPATIENT ANCILLARY SERVICES | 372,519,787 | 2,497 | 3,922 | 2176+ | 1,405 |
| OUTPATIENT SERVICES | 279,287,790 | 1,872 | 2,094 | 1,446 | 710 |
| OTHER OPERATING REVENUE | 3,534,874 | 24 | 69 | 11 | 1 |
| TOTAL REVENUE | 774,313,050 | 5,191 | 6,087 | 4,225 | 2,968 |
| DEDUCTIONS FROM REVENUE | 488,256,155 | 3,273 | * | * | * |
| NET REVENUES | 286,056,895 | 1,918 | 1,723 | 1,340 | 895 |
| EXPENSES | | | | | |
| ROUTINE | 74,271,000 | 498 | 310 | 227 | 171 |
| ANCILLARY | 69,688,419 | 467 | 633 | 464 | 333 |
| AMBULATORY | 8,066,955 | | | | |
| OVERHEAD | 113,035,574 | 758 | 689 | 607 | 423 |
| OTHER | 4,330,632 | 29 | | | |
| TOTAL EXPENSES | 269,392,580 | 1,806 | 1,522 | 1,363 | 1,012 |
| OPERATING INCOME | 16,664,315 | 112 | 246 | 9 | -374 |
| | | 5.8% | | | |
| PATIENT DAYS | 94,690 | | NOT INFLATION ADJUSTED | | |
| ADJUSTED PATIENT DAYS | 149,178 | | | | |
| TOTAL BED DAYS AVAILABLE | 162,425 | | | | |
| ADJ. FACTOR | 0.6347 | | | | |
| TOTAL NUMBER OF BEDS | 445 | | | | |
| PERCENT OCCUPANCY | 58.3% | | 90.6% | 53.6% | 23.0% |
| PAYER TYPE | PATIENT DAYS | % TOTAL | | | |
| MEDICARE | 28,930 | 30.6% | 68.2% | 41.6% | 19.4% |
| COMMERCIAL | 6,344 | 0.0% | | | |
| MEDICAID | 5,679 | 6.0% | 22.8% | 6.0% | 0.7% |
| PRIVATE | 6,370 | 6.7% | | | |
| HMO/PPO | 47,367 | 50.0% | 64.6% | 36.0% | 13.7% |
| OTHER | 0 | 0.0% | | | |
| TOTAL | 94,690 | 100.0% | | | |

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

The applicant forecasts managed care to represent 50 percent of its patient days. This is between the control group's median and highest levels of 36 percent and 65 percent and is just below the hospital's own 2001 managed care level of 55 percent.

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 project only is projected to be $5,485,955 for year two. With 1,665 patient days anticipated the gross revenue (gross charges) per patient day computes to $3,295. This amount is between the median and highest of $2,785 and $5,578 respectively.

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.**

This application is to convert an existing six-bed Level II NICU to Level III status. The narrative states that the existing NICU area was built for the eventual opening of a Level III program. The rooms involved in this six-bed conversion are currently in use and located across the corridor from another Level II unit that has 16 beds.

The Florida Building Code and Chapter 59A-3 of the Florida Administrative Code currently have identical specific requirements for support spaces and items that must be in any NICU. Level III NICUs must meet <u>all</u> the requirements for Level II Units in addition to several additional requirements and increased square footage per isolette. From the scale of the plans submitted, it appears that the size and dimensional requirements have been met. A larger scale plan would have been helpful in determining the clearances and available square footage.

Code requirements that do not appear to have been satisfied by the plans and narrative include:

- A clean utility room with a work counter, a sink and storage space.
- A control center in a location that offers a view of all the neonatal stations.
- A double compartment sink in the existing soiled utility room if this space is intended to satisfy the requirement for providing a soiled <u>holding</u> room. The soiled utility room might be incorrectly named since it has doors to the corridor and to the NICU as required for a holding room. Clarification is needed on this issue.
- No required staff lockers are shown in either of the twp staff lounges across the corridor from the NICUs, but the lockers are probably located in these spaces and are simply not shown on the drawings.

A Level III Unit must have, in addition to all the requirements for a Level II, several other spaces. The spaces that are not shown on the plan include:

- Space designated for a portable X-Ray machine – There appears to be ample room for this unit, but a dedicated location is not shown.
- A physicians' sleeping room with a private toilet and shower room.
- A respiratory therapy workroom unless this function will take place in the existing work area or is located elsewhere in the hospital as allowed by the codes.

In regard to some of the requirements that do not appear to have been met by the new plan, it is possible that the facility may have specific and viable reasons for the layout as submitted. There are some Level III Units that assign one nurse to each isolette so the need for a control center is less significant. This is only an example, and relief for any deficiencies above will have to be addressed on a case-by-case basis.

The renovation cost of just over $40 per square foot appears to be quite reasonable for a project of this limited scope.

The latest adopted editions of all applicable codes will have to be adhered to if and when the project progresses. The AHCA Office of Plans and Construction will have input at that time to insure that all code information is correct.

**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 states that during fiscal year 2000, Baptist Health South Florida, a related entity, provided more than $99 million in charity care and uncompensated service. In addition, Baptist Health South Florida dedicated another $2 million to other programs that directly benefited the community (see list on page 88 of the application).

The application also contains the projected payer distribution in the second year of operation of the proposed 10-bed Level II NICU:

**Payer Distribution in the Six-Bed Level III NICU by Category Second Year of Operation**

| Payer Category | Percent of Patient Days |
|---|---|
| Self Pay | 2.6% |
| Medicaid | 17.0% |
| Medicaid HMO | 2.0% |
| Commercial Ins | 6.7% |
| Other Managed Care | 71.7% |
| **Total** | **100.0%** |

**Source: CON Application 9623**

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 Conventional Medicaid Days | FY 00 Gross Charity Percentage of Charges |
|---|---|---|
| South Miami Hospital | 4.9% | 1.2% |
| District 11 Average | 18.7% | 6.2% |

**Source: FY 2000 Actual Data/AHCA**

As reflected in the table, South Miami Hospital's provision of Medicaid and charity care is lower than the district average. The applicant is not a designated Medicaid Disproportionate Share Provider.

As a condition of this application, the applicant commits that at least 20 percent of the Level III NICU days will be provided to Medicaid, Medicaid HMO and charity patients combined.

## F. SUMMARY

The applicant proposes to establish a six-bed Level III NICU through the conversion of six of the facility 's 23 Level II NICU beds at South Miami Hospital.

The proposed project cost is estimated to be $114,113 and will involve 860 GSF of renovated space at a renovation cost of $35,000.

**Need:**
A fixed need pool of zero was published for Level III 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. The applicant failed to demonstrate need for a six-bed Level III NICU.

**Access:**
The applicant does not show that there is a problem in the district accessing Level III NICU services.

**Quality of Care:**
The applicant is JCAHO accredited and a quality care provider. Because the applicant failed to demonstrate need for the project and this project is expected to impact existing providers, there is some concern that this project, if approved, will negatively impact the quality of care currently being provided in the district.

**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 III NICU patient days to Medicaid/Medicaid HMO/charity patients combined.

**Financial/ Cost:**
The short-term position of the applicant is poor and the long-term position is weak. With potentially over $88 million available, along with support from the parent, the applicant should be able to fund all capital requirements.

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

**Architectural:**
Overall, the proposed project, as submitted, poses several architectural concerns. Code requirements do not appear to have been satisfied by the plans and narrative in several areas. Some required spaces for Level III are not shown on the plan. The renovation cost of just over $40 per square foot appears quite reasonable. The latest adopted editions of all applicable codes will have to be adhered to if and when the project progresses.

## G. RECOMMENDATION

Deny CON #9623.

**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**