STATE AGENCY ACTION REPORT

ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Select Specialty Hospital-Lee, Inc. (CON #9656)
2021 Church Street, Suite 202
Nashville, Tennessee 37203-2016

Authorized Representative: Greg Sassman, Vice President
(615) 284-6716

Select Specialty Hospital-Sarasota, Inc. (CON #9657)
2021 Church Street, Suite 202
Nashville, Tennessee 37203-2016

Authorized Representative: Greg Sassman, Vice President
(615) 284-6716

2. Service District

District 8

B. PUBLIC HEARING

A public hearing was not held or requested with regard to the establishment of a long-term care hospital in District 8. There were no letters of support submitted in a timely manner by either applicant for its respective project.

C. PROJECT SUMMARY

Select Specialty Hospital-Lee, Inc. (CON #9656), a wholly-owned subsidiary of Select Medical Corporation, proposes the creation of a 60-bed freestanding long-term care hospital to be located in Fort Myers, near Lee Memorial HealthPark, Lee County.

The proposed hospital will consist of 44,434 gross square feet of new construction and construction costs of $7,760,500. Total project cost is estimated to be $12,421,457. The funding for the proposed project will be provided by Select Medical Corporation.

The applicant agrees to condition award of the certificate of need on the provision of 2.8 percent of its patient days to Medicaid and indigent patients on a combined basis.

Select Specialty Hospital-Sarasota, Inc. (CON #9657), a wholly-owned subsidiary of Select Medical Corporation, proposes to establish a 44-bed freestanding long-term care hospital to be located in Sarasota, near Doctors Hospital, Sarasota County.

The proposed hospital will consist of 38,906 gross square feet of new construction and construction costs of $6,819,750. Total project cost is estimated to be $11,453,996. The funding for the proposed project will be provided by Select Medical Corporation.

The applicant agrees to condition award of the certificate of need on the provision of 2.8 percent Medicaid and indigent patient days combined.

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 meet the review criteria.

Chapter 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, M. Riley Gibson, analyzed the application in its entirety with consultation from the Financial Analyst, John Williamson, who evaluated the financial data, and the Architect, Joel Hill, who evaluated the architecturals and the schematic drawings as part of the application.

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

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

Proposed Rule 59C-1.045, Florida Administrative Code implements the provisions of subsection 408.034(3), and paragraphs 408.036(1)(a), (b), (c), (d), (f), and (g), Florida Statutes for the purpose of regulating proposals subject to comparative review for the establishment of new long-term care hospitals, the addition of beds to existing long-term care hospitals, and the conversion of licensed hospital beds to long-term care hospital beds.

1. Fixed Need Pool

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

Need is not published by the Agency for long-term acute care hospital (LTCH) beds. It is the applicant's responsibility to demonstrate need.

A long-term care hospital is defined as a hospital licensed under Chapter 395, Florida Statutes, which meets the requirements of Part 412, subpart B, paragraph 412.23(e), Code of Federal Regulations; and, where applicable, also meets the requirements for a hospital within a hospital specified under paragraph 412.22(e) of that subpart. A long-term care hospital has an average length of inpatient stay greater than 25 days for all hospital beds. Long-term care hospitals are designed to provide extended care to patients who are clinically complex and have multiple acute or chronic conditions. Long-term care hospitals typically provide programs in one or more of the following areas: respiratory care, particularly for ventilator-dependent patients; treatment of patients with multiple illnesses or multiple systems failure; treatment of wounds caused by disease or accident; and treatment for patients requiring

interdisciplinary rehabilitation services who are unable to tolerate the more intensive treatments provided in a comprehensive medical rehabilitation hospital.

b. Criteria for Determination of Need.

1. **New Provider. In determining the need for a new long-term care hospital, the agency shall consider the proposed facility within the context of licensed or approved long-term care hospital beds in the service planning area, and the licensed acute care beds, comprehensive medical rehabilitation beds, hospital-based skilled nursing unit beds, and nursing home beds in the service planning area. The applicant proposing a new long-term care hospital shall provide documentation that the other licensed inpatient beds in the service_planning area do not meet the need for the proposed service.**

Note: The Centers for Medicare and Medicaid Services (CMS) have established a prospective payment system for short-stay acute care providers to include limited "outlier" payments for long-stay acute care patient s in short-stay acute care hospitals. Effective October 1, 2002, CMS implemented a new prospective payment system for long-term care hospital providers. Through this system, termed LTC DRGs, CMS is recognizing the patient population of LTCH's as separate and distinct from the populations treated by short-term acute care and post acute care providers that each have their own prospective payment system in recognition of the material differences in patient populations, cost of care, and health care delivery. Under this system, each patient admitted to a LTCH is assigned a DRG with a corresponding payment rate that is weighted based upon the patient's diagnosis and acuity. The LTCH will be reimbursed the pre-determined payment rate for that DRG, regardless of the cost of care.

Federal Regulations, 42 CFR Parts 412, 413 and 476 regarding prospective payment for long-term care hospitals published in Volume 67, Number 169 of the Federal Register describe the universe of LTCHs on page 55960 as:

"LTCHs typically furnish extended medical and rehabilitation care for patients who are clinically complex and have multiple acute or chronic conditions. Generally, Medicare patients in LTCHs have been transferred from acute care hospitals and received a range of "postacute care" services at LTCHs, including comprehensive rehabilitation, cancer treatment, head trauma treatment and pain management."

CMS further draws parallels and distinctions among post acute care providers, most notably rehabilitation providers (page 55965):

- Most patients in LTCHs had several diagnosis codes on their Medicare claims, indicating that they had multiple co-morbidities and are probably less stable upon admission than patients admitted to other postacute care settings. Relative to intensive rehabilitation facilities (IRFs), LTCHs had a higher proportion of patient costs attributable to ancillary services (for example, pharmacy, laboratory, and radiology charges).
- LTCHs provide care to a disproportionately large number of Medicare beneficiaries who are eligible because of disability. While individuals with disabilities make up about 10 percent of the Medicare population, they make up 17 percent of the LTCH patients.
- LTCH admissions typically come from outlier acute care hospitals, nonoutlier acute care hospitals, and other (indicating direct admissions without acute stay).
- In terms of age, those without prior acute care stays were younger and about twice as many were under the age of 65, with a mean age about five or three years lower than those with prior acute care stays (whether outlier or nonoutlier). When compared to intensive rehabilitation facilities (IRFs) the proportion of LTCH patients who are under 65 years of age (18 percent) was twice that of IRF patients (nine percent).
- About 1/3 of the LTCH Medicare stays were beneficiaries who are also eligible for Medicaid, compared to fewer Medicaid-eligible beneficiary stays at IRFs. CMS states that it is widely documented that dually eligible beneficiaries are generally much sicker than non-Medicaid eligible Medicare beneficiaries.

Note: The proposed rule (42 CFR Part 412) for the LTCH Prospective Payment System (PPS) with proposed annual payment rate updates and policy changes was published in Vol. 68, No. 45, of the Federal Register on March 7, 2003.

At present there are nine long-term care hospitals with 683 beds licensed to operate in the state of Florida. These facilities are concentrated in five of the 11 AHCA health planning areas and are in the following counties: Dade (Miami), Hillsborough (Tampa), Broward (Ft. Lauderdale and Hollywood), Duval, Clay and Pinellas (St. Petersburg). There are an additional 182 beds approved but not yet operational: 20 beds at Kindred Hospital in District 4, 22 beds at Kindred in District 5, six beds at Kindred in Ft. Lauderdale

in District 10 and the following approved new LTAC Hospitals: SemperCare (30 beds) in Panama City in District 2, SemperCare (35 beds) in Orlando in District 7, HealthSouth (40 beds) in Sarasota in District 8, and Mercy (29 beds) in District 11. The average occupancy of the operational programs was 76.6 percent for the period July 2001-June 2002, ranging from a low occupancy rate of 54.6 percent for Specialty LTCH-Jacksonville to a high of 99.2 percent for Kindred LTCH-St. Petersburg.

The following table shows the beds, patient days and occupancy of Florida's operational LTCH's for the July 2001-June 2002 reporting period.

Florida Long Term Care Hospitals
Utilization Experience July 2001-June 2002

Hospital	District	Beds	Bed Days	Patient Days	Occupancy
Kindred-North Florida	4	60	22,080	19,524	88.4%
Specialty-Jacksonville	4	107	39,376	21,482	54.6%
Kindred-St. Petersburg	5	60	22,080	21,909	99.2%
Kindred-Central Tampa	6	102	37,536	28,794	76.7%
Kindred-Tampa	6	73	26,864	18,499	68.9%
Kindred-Hollywood	10	124	45,632	32,485	71.2%
Kindred-Ft. Lauderdale	10	64	23,552	21,279	90.3%
Kindred-Coral Gables	11	53	19,504	17,166	88.0%
*Select Specialty-Miami	11	40	Not Reported	Not Reported	Not Reported
Florida Total		683	236,624*	181,138*	76.6%*

Source: Florida Hospital Bed Need and Service Utilization, 1/24/03
****Select Specialty-Miami was licensed 12/23/02 and has no reported utilization. Utilization data shown above is based on 643 beds in operation for 12 month reporting period.***

There are currently no existing long-term care hospitals (LTCHs) located in District 8. As previously indicated, HealthSouth LTAC of Sarasota, Inc. received approval via CON #9499 to develop a 40-bed LTCH in Sarasota County. However, in view of recent legal problems involving HealthSouth's parent corporation, the ultimate development of the HealthSouth LTCH in District 8 is uncertain.

Both Select Specialty proposals contend that its respective proposals will provide LTCH services to patients with complex and medically unstable conditions that cannot be adequately addressed by licensed acute care beds, comprehensive medical rehabilitation beds, hospital-based skilled nursing unit beds, and nursing home beds in the service planning area. It is the intent of both Select

Specialty projects to provide I.V. therapy, enteral therapy, wound/skin care, post surgical stabilization, respiratory care, ventilator weaning, nutritional support, dialysis and oncology support. In addition, rehabilitation services will be offered to augment the primary treatment program of the patient.

The current bed complement, patient days and average occupancy of these distinct other forms of care in District 8 is as follows:

Acute Care and Post Acute Care Providers
District 8 Beds and Utilization

Facility Type	Total Beds District 8	District 8 Average Occupancy
Long Term Hospital Care	*40	CON approved not yet licensed
Acute Care	3,860	51.21%
Comprehensive Med. Rehab	227	80.67%
Hospital Based Skilled Nursing	**98	56.88%
Skilled Care Community Nursing Homes	7,070	85.02%

Source: Hospital Bed Need Projections 01/03 Projections/HBSNU beds January 2002-December 2002 and Nursing Home Utilization By District July 2001-June 2002
***40 bed LTCH approved for HealthSouth/CON 9499**
****HBSNU beds reflect a 37 bed decrease/13 beds in Lee County and 24 beds in Collier County**

Population Estimates for District 8 Counties and Percent Change by County
For Total Population, 65 and over, and 75 and Over Population

County	Total Jan. 2003	Total Jan. 2008	Percent Change	65+ Percent Change	75+ Percent Change
Charlotte	149,472	163,157	9.15%	5.19%	6.23%
Collier	282,724	327,582	15.86%	20.21%	26.83%
DeSoto	34,044	38,043	11.75%	15.23%	19.18%
Glades	10,912	12,042	10.36%	15.70%	29.18%
Hendry	37,541	42,682	13.69%	15.78%	19.77%
Lee	474,520	522,604	10.13%	8.91%	10.24%
Sarasota	343,966	365,439	6.24%	7.15%	6.59%
Total District	1,333,179	1,471,549	10.38%	10.30%	11.87%

Source: AHCA Pop. Projections, published October 2002.

As shown above, the overall population in District 8 is expected to increase by 10.38 percent during the next five years, with the 65 and over and 75 and over age cohort increasing by 10.30 percent and 11.87 percent, respectively. For both Lee and Sarasota Counties, the most populous counties in the district, the overall

population increase as well as the increase in the 65 and over and 75 and over age groups is expected to be less than the district averages. The mean age for the 4,210 patients discharged from the eight operational Florida LTCH's in the 12-month period ending June 2002 was 72.3 years. Approximately 77 percent of these were age 65 or older while only 6.1 percent were age 44 or less.

Select Specialty Hospital-Lee, Inc. (CON #9656) contends that there is a need for a LTCH in Lee County and that need exceeds the capacity of the approved HealthSouth (CON #9499) 40-bed LTCH in Sarasota County. Although need methodologies are presented (discussed below), rather than discuss why it believes capacity is exceeded using current patient population placement and post-acute care usage, the applicant states that patient flow and physician referral patterns indicate that few Lee County residents seek acute hospital care in Sarasota County. It is not clear why the applicant believes that patients must seek acute hospital care in Sarasota County in order to receive post-acute care in that county. There is nothing that limits Lee County hospitals to only discharging patients to post-acute facilities physically located within the county. In other words, there is nothing to preclude patients admitted to acute care hospitals in Lee County from obtaining post-acute care services in Sarasota County or any other county, and as discussed below, the applicant does not believe that it will receive patients solely from Lee County, rather that hospitals in counties outside of Lee will seek to place patients in its proposed LTCH. The applicant states that since most admissions to a LTCH originate through transfers from acute care hospitals, the applicant contends that few Lee County residents will benefit from the HealthSouth LTCH proposed for Sarasota County. The applicant references acute care discharge data to show that for the 12-month period ending June 2002, only 172 Lee County residents were discharged from a Sarasota acute care hospital. The low number of Lee County residents discharged from Sarasota County hospitals could be explained by the fact that Lee County has 1,431 of the district's total 3,860 acute care beds, thus decreasing need to transfer patients out of the county for acute care. As noted above, there is nothing to preclude Lee

County hospitals from discharging patients in need of post-acute care to the new LTCH approved for the planning area and located in Sarasota County. The applicant provided no evidence to suggest that once this new LTCH is established in Sarasota County that Lee County hospitals will not discharge patients needing LTCH services to this facility. Therefore, a similar discharge pattern cannot be determined for LTCH services in view of the current non-availability of these services in the district.

The applicant contends that the approved 40-bed HealthSouth LTCH in Sarasota County is located approximately 75 miles north of Ft. Myers and will provide little to no access to LTCH services for residents in Lee County or to residents in other counties in the southern portion of the district, particularly Collier County, the third most populated county in the district. The applicant states that the anticipated site for the project in Fort Myers, near Lee Memorial-Health Park, is ideally located to serve the district with primary emphasis on the Lee County population. Again, the applicant has stated this belief, but has not presented any information that reasonably demonstrates its likelihood. As previously discussed, while the applicant believes this, it has not provided any letters supporting this project from area hospitals or physicians.

With regard to short-term acute care, the applicant states that the overall case mix index for short-stay acute care patients nationwide (1.00) and in Florida (1.24) is less by comparison with patients treated in the eight existing LTCH's in Florida (2.36). This indicates a higher medical complexity of cases. *(Note: The case mix index is a measure developed in conjunction with Medicare's prospective payment system (PPS) as a means of adjusting payments to hospitals based upon case complexity).* With regard to comprehensive medical rehabilitation (CMR) services, the applicant states that some rehabilitation will be offered at the LTCH but is not the primary focus. The applicant intends to use rehabilitation to augment the primary treatment program of the patient and that these services will be less intense than that provided by CMR programs in the area. With regard to hospital-based or nursing home skilled care, the applicant contends that these patients are generally less medically complex and are provided a more limited length of stay. Typically, the ALOS in skilled nursing units runs between 12 and 15 days whereas, Florida's eight LTCH's had an ALOS of 42.2 days during the 12-month period ending June 2002.

However, these data do not show that medically complex post acute patients care inappropriately cared for this setting. The currently licensed 98 hospital-based skilled nursing beds in District 8 were utilized at only 56.88 for calendar year 2002.

Although the applicant emphasizes that the level of care provided by a LTCH is acute care, this is not the case. Acute care services are only provided in an acute care setting, whereas, the care provided in a LTCH is considered "post acute care", predominantly provided to patients discharged from an acute care setting. A LTCH distinguishes itself within the overall health care continuum based upon the high acuity level of the patients it treat, the interdisciplinary treatment model, and the duration of the patients' hospitalization. Typically, patients are medically unstable, require extensive care and often require extensive technological support (ventilator care, dialysis, etc.).

The nearest operational LTCH for Lee County residents is located in St. Petersburg (District 5), approximately 100 miles from Fort Myers. This Kindred facility reported an occupancy level of 99.23 percent for calendar year 2001, the highest utilization of any LTCH in the state. The applicant states that only 10 Lee County residents were discharged from the St. Petersburg LTCH during the year ending June 2002. According to the applicant, this is an indication that the most seriously ill patients are using LTCH services, while less serious patients are staying in acute care hospitals with more costly treatment regimens. However, this might as easily suggest that patients are willing to travel to St. Petersburg and hospital discharge planners are attempting to transfer patients to St. Petersburg, but could not because of high occupancy at the Kindred LTCH. It is again noted that the applicant provided no documentation to support its claims. For the 12-month period ending June 2002, 123 District 8 residents were discharged from a Florida LTCH, with 97 of those from the St. Petersburg and Tampa area LTCH's. For the total District 8 LTCH discharges, the average length of stay was 52 days. This is higher than the average length of stay statewide of just over 42 days. The applicant concludes that because the LTCH beds are all located outside of District 8, only the most seriously ill or injured patients currently utilize LTCH services and possibly wait until the severity of their circumstances dictates longer stays. It is again noted that a 40-bed LTCH has been approved, but is not yet operational, in District 8.

In the absence of an approved methodological approach to need, the applicant presents two methodologies for consideration in support of the proposed project. The first methodology utilizes statewide age-specific LTCH use rates applied to population projections for the first three years of operation of the proposed hospital. The second method involves an average length of stay (ALOS) methodology to identify acute care patients with lengths of stay in acute care hospitals that exceed the geometric mean length of stay (GMLOS).

With regard to the use rate method, the applicant calculated a statewide utilization rate using District 4, District 6, and District 10 patient days and populations only. The applicant states that both District 11 and District 5 have only four LTCH beds per 10,000 elderly people and in combination, suggests that LTCH use in these two districts is limited by bed availability. Therefore, the applicant concludes that the low utilization rate but yet high occupancy levels in these districts, skews the patient day projections downward, producing misleadingly conservative estimates of future demand. Rather than illustrating need, this methodology, as explained by the applicant is not a valid method of calculating need because in at least two areas of the state, the results are “misleading”.

The use rate approach is based on the assumption that Lee County as well as surrounding area will perform, on average, the same as some, but not all, of the other LTCHs in the state. It does not take into account other variables that may impact utilization including changes in population growth of the various age groups, the availability of other care options and a change in referral patterns. It should also be noted that the development of the 40-bed HealthSouth facility in Sarasota (CON #9499) as well as the addition of 22 LTCH beds to the highly utilized Kindred-St. Petersburg facility (CON #9488) will add a total of 62 beds to the LTCH bed inventory of both District 8 and contiguous District 5.

The applicant also presents a length of stay methodology to project patient days for a new LTCH using the ALOS for LTCH appropriate patients in acute care hospitals to calculate an estimated number of patient days that may be generated by area hospitals. The applicant used Florida's Hospital Discharge Data for the 12-month period ending June 2002 for hospitals within its proposed service area to identify patient days appropriate for LTCH services.

Included are hospitals in Lee County, Collier County and half the calculated patient days from hospitals in Charlotte County. The hospitals in the analysis are all within a 40-mile radius of the proposed location of the requested LTCH.

Since not all diagnoses are appropriate for the services offered at a LTCH (burn victims, obstetric and gynecological care, alcohol and drug abuse, rehabilitation and psychoses, etc.), the applicant has deleted these DRGs and others from inclusion in the analysis. The applicant also removed all patients with a length of stay that is less than the GMLOS plus 15 days. *(Note: The GMLOS represents an adjusted value for all cases for a given DRG, assigned by the CMS)* It is therefore assumed that if patients stayed in the acute care hospital more than a few days beyond the GMLOS, they are potential candidates for a LTCH.

The following table indicates the applicant's calculated number of discharges and LTCH patient days for the hospitals expected to transfer patients to the proposed LTCH.

Long Term Hospital Patient Days
Lee County Service Area Hospitals: GMLOS plus 15 Definition
July 2001 - June 2002

Hospital	District County	Discharges	LTCH Days	ADC	Bed Need
Cape Coral Hospital	8/Lee	54	1,230	3.4	4
Cleveland Clinic-Naples	8/Collier	30	769	2.1	3
Lehigh Regional	8/Lee	7	150	0.4	1
Gulf Coast Hospital	8/Lee	8	188	0.5	1
Lee Memorial-Cleveland	8/Lee	134	3,186	8.7	11
Lee Memorial-HealthPark	8/Lee	71	1,538	4.2	5
Naples Community	8/Collier	262	6,838	18.7	23
North Collier Hospital	8/Collier	19	400	1.1	1
Columbia Hospital	9/Palm Beach	129	3,136	8.6	11
Charlotte Regional	8/Charlotte	63	1,474	4.0	5
Fawcett Memorial	8/Charlotte	46	1,107	3.0	4
St. Joseph-Port Charlotte	8/Charlotte	34	722	2.0	2
Total		856	20,736	56.8	60

Source: CON Application

Based on the above discharges, the applicant arrives at a total bed need for 60 LTCH beds, based on extended acute care lengths of stay for the hospitals listed. However, looking only at Lee County hospitals (Cape Coral, Gulf Coast, Lee Memorial-Cleveland, Lee Memorial-Health Park, Lehigh Regional, and Columbia Hospital), the applicant arrives at an approximate need for 33 LTCH beds. It is again noted that the applicant provided no documentation to show that it could reasonably expect hospitals to discharge these patients to its proposed facility. No letters of support were submitted from area hospitals or area physicians. As noted earlier, the applicant has contended that Lee County hospitals will not discharge patients outside of Lee County to the CON approved, but not yet licensed, 40-bed LTCH that is likely to be located in Sarasota County. In this analysis it anticipates hospitals in other District 8 counties as well as one District 9 hospital to seek its services.

The applicant also looks at all lengths of stay longer than 15 days to arrive at an even greater need, approximating 111 beds. However, this method does not recognize the nationally accepted GMLOS as assigned by CMS and appears to present a much more liberal approach to arriving at need. The applicant contends that the two estimates provide a reasonable upper (32,555 days) and lower range (20,736 days) of projected LTCH patient days. The mid-point of these two estimates (26,646 days) is used to establish age specific utilization rates in order to forecast estimates for future years. This approach accounts for all of the hospitals located in Lee, Collier and Charlotte Counties. The applicant then used populations from these counties for each age cohort as the denominator in the rate and also to forecast patient day estimates for the first three years of operation of the proposed LTCH. The applicant arrived at a projected need for 107 beds by the year ending June 2008 looking at the total proposed service area. The applicant expects that 14,645 potential LTCH patient days will be generated from Lee County hospitals alone, supporting a need for 50 beds (at 80 percent occupancy).

As with any LOS methodology, certain variations in patient characteristics can alter assumptions of need. These include the patient's functional ability, availability of caretakers at home, ethnicity, age, socio-demographics, and dependence on technology.

The applicant did not provide any specific supporting data, including specific DRG data from any area hospitals in support of the project. There was no documentation presented from area hospital planners with regard to discharges of potential LTCH patients.

In summary, the applicant's two methodological approaches to need are not supported by any specific discharge studies or other data, including DRG admission criteria from area hospitals regarding potential need. In addition, the applicant failed to provide any supporting documentation from area physicians regarding potential referrals. The applicant's use rate approach is based on the experience of other LTCH's in other parts of the state and relies on assumptions that may or may not occur in the proposed service area. With regard to the LOS methodological approach, the applicant's projections are based on assumed capture rates with no supporting data or indication of potential referrals from area hospitals. There were no letters of support for the project submitted by any area providers. It was further not demonstrated by the applicant that patients that may meet the definition of a LTCH patient are not currently being placed or that an access problem currently exists in the district. With the approval of a new freestanding 40-bed LTCH to be constructed by HealthSouth in District 8 (Sarasota) and the approved addition of 22 LTCH beds for the Kindred-St. Petersburg facility in District 5, the need for additional LTCH beds in District 8 is not demonstrated. However, as previously discussed, in view of legal problems regarding HealthSouth's parent corporation, the development of the approved HealthSouth LTCH in District 8 is uncertain.

Select Specialty Hospital-Sarasota, Inc. (CON #9657) contends that there is a need for a LTCH in Sarasota County that exceeds the capacity of the approved HealthSouth (CON #9499) 40-bed LTCH to be located in Sarasota County. In the absence of any currently operational LTCH beds in District 8 and specifically in Sarasota County, the applicant states that the nearest LTCH services are located in District 5 (St. Petersburg), approximately 25 miles in distance from Sarasota. As previously shown, the Kindred LTCH in St. Petersburg was utilized at 99.23 percent for the July 2001-June 2002 reporting period. According to discharge data

presented by the applicant, a total of 37 Sarasota County residents utilized LTCH services in Florida for the reporting period, with 25 of these residents discharged from the Kindred-St. Petersburg facility. The Kindred LTCH is approved to add 22 additional LTCH beds to the 60 licensed beds for an increase in licensed capacity to 82 LTCH beds.

With regard to short-term acute care, the applicant states that the overall case mix index for short-stay acute care patients nationwide (1.00) and in Florida (1.24) is less by comparison with patients treated in the eight existing LTCH's in Florida (2.36). This indicates a higher medical complexity of cases. *(Note: The case mix index is a measure developed in conjunction with Medicare's prospective payment system (PPS) as a means of adjusting payments to hospitals based upon case complexity)* With regard to comprehensive medical rehabilitation (CMR) services, the applicant states that some rehabilitation will be offered at the LTCH but is not the primary focus. The applicant intends to use rehabilitation to augment the primary treatment program of the patient and that these services will be less intense than that provided by CMR programs in the area. With regard to hospital based or nursing home skilled care, the applicant contends that these patients are generally less medically complex and are provided a more limited length of stay. Typically, the ALOS in skilled nursing units runs between 12 and 15 days whereas, Florida's eight LTCH's had an ALOS of 42.2 days during the 12-month period ending June 2002. However, these data do not show that medically complex post acute patients care inappropriately cared for this setting. The currently licensed 98 hospital-based skilled nursing beds in District 8 were utilized at only 56.88 for calendar year 2002. The majority of these HBSNU beds are located in Sarasota County with 36 beds at Bon Secours-Venice Hospital and 32 beds at Sarasota Memorial. These beds were utilized during calendar year 2002 at 52.99 percent and 76.89 percent, respectively.

Although the applicant emphasizes that the level of care provided by a LTCH is acute care, this is not the case. Acute care services are only provided in an acute care setting, whereas, the care provided in a LTCH is considered "post acute care", predominantly provided to patients discharged from an acute care setting. A LTCH distinguishes itself within the overall health care continuum based upon the high acuity level of the patients it treats, the interdisciplinary treatment model, and the duration of the patients' hospitalization. Typically, patients are medically unstable, require extensive care and often require extensive technological support (ventilator care, dialysis, etc.).

As previously discussed, the nearest operational LTCH for Sarasota County residents is located in St. Petersburg (District 5), approximately 25 miles in distance from Sarasota. This is closer in distance than the 75 miles to St. Petersburg from Fort Myers, the proposed site of Select Specialty's 60 bed competing project (CON #9656). The applicant contends that with only 37 Sarasota County residents discharged from a LTCH for the reporting year, this is an indication that the most seriously ill patients are the ones using LTCH services, while less serious patients are staying in acute care hospitals with more costly treatment regimens.

In the absence of an approved methodological approach to need, the applicant presents two methodologies for consideration in support of the proposed project. The first methodology utilizes statewide age-specific LTCH use rates applied to population projections for the first three years of operation of the proposed hospital. The second method involves an average length of stay (ALOS) methodology to identify acute care patients with lengths of stay in acute care hospitals that exceed the DRG GMLOS. The applicant contends that each methodology supports a need over and above the capacity of the combined total for the 40-bed approved HealthSouth LTCH and its own proposed 44-bed project.

With regard to the use rate method, the applicant calculated a statewide utilization rate using District 4, District 6 and District 10 patient days and populations only. The applicant states that both District 11 and District 5 have only four LTCH beds per 10,000 elderly people and in combination, suggests that LTCH use in these two districts is limited by bed availability. Therefore, the applicant concludes that the low utilization rate but yet high occupancy levels in these districts, skews the patient day

projections downward, producing misleadingly conservative estimates of future demand. Rather than illustrating need, this methodology, as explained by the applicant is not a valid method of calculating need because in at least two areas of the state, the results are "misleading".

The use rate approach is based on the assumption that Sarasota County as well as surrounding area will perform, on average, the same as some, but not all, of the other LTCHs in the state. It does not take into account other variables that may impact utilization including changes in population growth of the various age groups, the availability of other care options and a change in referral patterns. It should also be noted that the development of the 40-bed HealthSouth facility in Sarasota (CON #9499) as well as the addition of 22 LTCH beds to the highly utilized Kindred-St. Petersburg facility (CON #9488) will add a total of 62 beds to the LTCH bed inventory of both District 8 and contiguous District 5.

The applicant also presents a length of stay methodology to project patient days for a new LTCH using the ALOS for LTCH appropriate patients in acute care hospitals to calculate an estimated number of patient days that may be generated by area hospitals. The applicant used Florida's Hospital Discharge Data for the 12-month period ending June 2002 to identify patient days appropriate for LTCH services for hospitals within its proposed service area that includes Sarasota County, DeSoto County and half the calculated patient days from the hospitals in Charlotte County. Although the applicant expects to admit most of its patients from the four hospitals in Sarasota County, it also intends to serve patients from all other hospitals in the district as well as from outside the district. The hospitals in the applicant's analysis are all within a 40-mile radius of the proposed location of the LTCH. The one exception is DeSoto Memorial, located outside the 40-mile radius.

Since not all diagnoses are appropriate for the services offered at a LTCH (burn victims, obstetric and gynecological care, alcohol and drug abuse, rehabilitation and psychoses, etc.), the applicant has deleted these DRGs and others from inclusion in the analysis. The applicant also removed all patients with a length of stay that is less than the GMLOS plus 15 days. *(Note: The GMLOS represents an adjusted value for all cases for a given DRG, assigned by the CMS)* It is therefore assumed that if patients stayed in the acute care hospital more than a few days beyond the GMLOS, they are potential candidates for a LTCH.

The following table indicates the applicant's calculated number of discharges and LTCH patient days for the hospitals expected to transfer patients to the proposed LTCH.

Long Term Hospital Patient Days
Sarasota County Service Area Hospitals: GMLOS plus 15 Definition
July 2001 - June 2002

Hospital	District County	Discharges	LTCH Days	ADC	Bed Need
Bon Secours-Venice Hospital	8/Sarasota	84	2,118	5.8	7
Doctors' Hosp-Sarasota	8/Sarasota	63	1,708	4.7	6
Englewood Community	8/Sarasota	27	529	1.4	2
Sarasota Memorial Hosp.	8/Sarasota	223	5,568	15.3	19
DeSoto Memorial Hosp.	8/DeSoto	2	37	0.1	0
Charlotte Regional	8/Charlotte	63	1,474	4.0	5
Fawcett Memorial	8/Charlotte	46	1,107	3.0	4
St. Joseph-Port Charlotte	8/Charlotte	34	722	2.0	2
Total		541	13,263	36.3	45

Source: CON Application

Based on the above discharges, the applicant arrives at a total bed need for 45 LTCH beds, based on extended acute care lengths of stay for the hospitals listed. The applicant arrives at an approximate need for 34 LTCH beds, looking only at Sarasota County hospitals (Bon Secours-Venice, Doctors-Sarasota, Englewood Community, and Sarasota Memorial). Sarasota Memorial is expected to generate the largest number of potential LTCH referrals since it is located only six miles from the proposed site of the project. As noted earlier, there is an approved, but not yet licensed, 40-bed LTCH in District 8.

The applicant also looks at all lengths of stay longer than 15 days to arrive at an even greater need, approximating 74 beds. However, this method does not recognize the nationally accepted GMLOS as assigned by CMS and appears to present a much more liberal approach to arriving at need. The applicant contends that the two estimates provide a reasonable upper (21,753 days) and lower range (13,263 days) of projected LTCH patient days. The mid-point of these two estimates (17,508 days) is used to establish age specific utilization rates in order to forecast estimates for future years. This approach accounts for all of the hospitals located in Sarasota, DeSoto and Charlotte Counties. The applicant then used populations from these counties for each age cohort as the denominator in the rate and also to forecast patient day estimates for the first three years of operation of the proposed LTCH. The applicant arrived at a projected need for 67 beds by the

year ending June 2008 looking at the total proposed service area. The applicant expects that 9,853 potential LTCH patient days will be generated from Sarasota County hospitals alone, supporting a need for 34 beds (at 80 percent occupancy).

As with any LOS methodology, certain variations in patient characteristics can alter assumptions of need. These include the patient's functional ability, availability of caretakers at home, ethnicity, age, socio-demographics, and dependence on technology. The applicant did not provide any specific supporting data, including specific DRG data from any area hospitals in support of the project. There was no documentation presented from area hospital planners with regard to discharges of potential LTCH patients.

In summary, the applicant's two methodological approaches to need are not supported by any specific discharge studies or other data, including DRG admission criteria from area hospitals regarding potential need. In addition, the applicant failed to provide any supporting documentation provided from area physicians regarding potential referrals. The applicant's use rate approach is based on the experience of other LTCH's in other parts of the state and relies on assumptions that may or may not occur in the proposed service area. With regard to the LOS methodological approach, the applicant's projections are based on assumed capture rates with no supporting data or indication of potential referrals form area hospitals, including Sarasota Memorial, expected to be the main referral source within the county. There were no letters of support for the project submitted by any area providers. It was further not demonstrated by the applicant that patients that may meet the definition of a LTCH patient are not currently being placed or that an access problem currently exists in the district. With the approval of a new freestanding 40-bed LTCH approved for HealthSouth in District 8 (Sarasota) in close proximity to the proposed LTCH, as well as the approved addition of 22 LTCH beds for the Kindred-St. Petersburg facility in District 5, the need for additional LTCH beds in District 8 is not demonstrated. However, as previously discussed, in view of legal problems regarding HealthSouth's parent corporation, the development of the approved HealthSouth LTCH in District 8 is uncertain.

2. **Local Health Plan Preferences**

Is need for the project evidenced by the applicable district health plans? Applicants shall provide evidence in their applications that a proposed long-term care hospital is consistent with the needs of the community and other criteria contained in Local Health Council Plans. ss. 408.035(1) and 408.037(1), Florida Statutes, and Ch. 59C-1.030(2)(c), Florida Administrative Code.

The October 2000 District 8 CON Allocation Factors Report does not specifically address the development of long-term care hospital beds or provide for any generic health care related preferences.

3. **Agency Rule Criteria** *(The Agency does not currently have adopted preferences relating to LTCHs; however, the proposed rule for LTCHs does contain specific preferences which are discussed as follows)*

Please indicate how each applicable preference for the type of service proposed is met.

a. **Preferences Among Applicants for Long-Term Care Hospital Beds. In weighing and balancing statutory and rule review criteria, the agency will give preference to:**

1. **An applicant who provides or proposes to provide Medicaid days as a percentage of their total patient days equal to or greater than the statewide average percentage of Medicaid patient days provided by all long-term care hospitals, as determined in the Agency's most recent "Hospital Financial Data" report.**

According to the 2001 Hospital Financial Data Report, LTCHs in the state averaged 2.0 percent Medicaid patient days.

Both **Select Specialty Hospital-Lee, Inc. (CON #9656)** and **Select Specialty Hospital-Sarasota, Inc. (CON #9657)** agree to condition award of the certificate of need on the provision of 2.8 percent Medicaid and indigent patient days combined. According to Financial Schedule 7A for both applicants, 2.0 percent of total patient days are allocated to self-pay (considered charity care by the applicant), while only 0.8 percent of total patient days are allocated to Medicaid. This projected provision of Medicaid patient days for each applicant is less than the state average.

2. **An applicant who has or proposes to have a ratio of charity care deductions to net patient service revenue equal to or greater than the statewide average ratio for all long-term care hospitals, as determined in the Agency's most recent "Hospital Financial Data" report.**

   According to the 2001 Hospital Financial Data Report, LTCHs in the state averaged 1.7 percent charity care patient days.

   Both **Select Specialty Hospital-Lee, Inc. (CON #9656)** and **Select Specialty Hospital-Sarasota, Inc. (CON #9657)** agree to condition award of the certificate of need on the provision of 2.8 percent Medicaid and indigent patient days combined. In Financial Schedule 7A, neither applicant specifically allocates patient days for charity care but rather for self pay days (2.0 percent), considered by the applicant to be charity. Assuming that the self-pay days do represent charity care days totally, both applicant's exceed the state average.

b. **Minimum Hospital Size. Freestanding long-term care hospitals established after the effective date of this rule shall have a minimum of 40 licensed beds. Long-Term care hospitals designated as hospitals within hospitals established after the effective date of this rule shall have a minimum of 25 licensed beds.**

   Select Specialty Hospital-Lee, Inc. (CON #9656) is proposing a 60-bed freestanding LTCH. The minimum licensed bed size criteria is met.

   Select Specialty Hospital-Sarasota, Inc. (CON #9657) is proposing a 44-bed freestanding LTCH. The minimum licensed bed size criteria is met.

c. **Required Services. Long-term care hospital services, as provided by the hospital or by contract, shall include at a minimum:**

   (1) Pre-admission screening.
   (2) Care for patients with multiple complex diagnoses.
   (3) Care for patients with multi-system failure.
   (4) Services for difficult-to-wean ventilator-dependent patients.'

(5) Services for patients who cannot be weaned from ventilator dependence.
(6) Respiratory/pulmonary care.
(7) Airway restoration.
(8) Intensive wound care.
(9) Nutrition services, including metabolic analysis, invasive enteral tube placement, and total parenteral nutrition.
(10) Infusion therapy.
(11) Daily physician assessments.
(12) An average of at least 8 direct patient care nursing hours per patient per day.
(13) Physical therapy, occupational therapy, speech therapy, and respiratory therapy
(14) Laboratory
(15) Pharmacy.
(16) Radiology.
(17) An operating room.

Both **Select Specialty Hospital-Lee, Inc. (CON #9656)** and **Select Specialty Hospital-Sarasota, Inc. (CON #9657)** state that its respective project includes staffing, equipment, and facility provisions to meet all of the above requirements.

Both applicants have made specific provision for a surgical suite, including an operating room incorporated into the physical plant of its respective facility. In addition, the required pharmacy and space for radiographic equipment are provided.

d. **Quality of Care. Long-term care hospital services shall comply with the agency standards for long-term care hospital licensure described in Chapter 59A-3, Florida Administrative Code.** *(Note: Also reference Item 4-b regarding the provision of quality of care)*

Both applicants state their intention to comply with applicable licensure standards.

e. **Services Description. An applicant for long-term care hospital beds shall provide a detailed program description in its certificate of need application including:**

1. **Characteristics of age groups to be served by age and diagnosis.**

Comparison Table Showing Projected Percentages of Major Diagnostic Categories For Both Select Specialty Proposals

Major Diagnostic Category	Age 0 to 64		Age 65 Plus	
	Discharges	Percent	Discharges	Percent
Respiratory System	41	13.4%	226	18.3%
Circulatory System	44	14.4%	177	14.3%
Skin	56	18.3%	144	11.7%
Nervous System	36	11.8%	106	8.6%
Musculoskeletal	23	7.5%	104	8.4%
Kidney & Urinary Tract	9	2.9%	44	3.6%
Digestive System	4	1.3%	43	3.5%
Endocrine, Nutritional & Metabolic Diseases	3	1.0%	30	2.4%
Infectious and Parasitic	17	5.6%	28	2.3%
Hepatobiliary System	12	3.9%	14	1.1%
MDCs & Pre-MDCs	3	1.0%	14	1.1%
Injury, Poisoning, Toxic Effects of Drugs	11	3.6%	12	1.0%
Other Diagnoses	47	15.4%	292	23.7%
Total	306	100.0%	1,234	100.0%

Source: Extracted from CON Applications

Both **Select Specialty Hospital-Lee, Inc. (CON #9656)** and **Select Specialty Hospital-Sarasota, Inc. (CON #9657)** intend to rely on the experience of its parent corporation in operating similar facilities. According to the table provided by both applicants, the typical Select Specialty Hospital provides LTCH services to a predominantly older population group (65 and over). This group represents approximately 80 percent of total projected discharges.

As previously discussed, the applicant intends to treat patients that can be generally categorized into the following four programs: cardiopulmonary, medically complex, stage III and IV wounds, and neurological and musculoskeletal disorders. As shown in the above table, 46.1 percent of the projected discharges for the under 64 age group fall into the major diagnostic categories that include respiratory, skin and circulatory diseases and disorders, while 44.3 percent of the discharges for these categories fall under the above age 65 group.

2. **Specialty programs to be provided.**

Both **Select Specialty Hospital-Lee, Inc. (CON #9656)** and **Select Specialty Hospital-Sarasota, Inc. (CON #9657)** state their intention to provide specialty care for pulmonary/vent; neuro/trauma; medically complex and wound care patients.

3. **Proposed staffing, including qualifications of the medical director, a description of staffing appropriate for any specialty program, and a description of the training and experience requirements for all staff who will provide direct patient care.**

   Select Specialty Hospital-Lee, Inc. (CON #9656) provided a description of the qualifications, training and experience required for each of the various LTCH positions in the supporting materials section of the application. According to Financial Schedule 6, the applicant intends to employ a total of 75 FTE staff in the first year of operation, increasing to 122 in year two. The applicant intends to staff the facility based upon the operating experience of the Parent company. The majority of the positions in year two involve nursing (61 positions) and ancillary/therapy (32 positions).

   Select Specialty Hospital-Sarasota, Inc. (CON #9657) provided a description of the qualifications, training and experience required for each of the various LTCH positions in the supporting materials section of the application. According to Financial Schedule 6, the applicant intends to employ a total of 74.40 FTE staff in the first year of operation, increasing to 106.60 in year two. The applicant intends to staff the facility based upon the operating experience of the parent company. The majority of the positions in year two involve nursing (52 positions) and ancillary/therapy (28.10 positions).

4. **Expected sources of patient referrals. Applicants shall include evidence of transfer agreements with local hospitals indicating an intent to discharge appropriate patients to the proposed long-term care hospital.**

   Both **Select Specialty Hospital-Lee, Inc. (CON #9656)** and **Select Specialty Hospital-Sarasota, Inc. (CON #9657)** provided only a copy of a hospital transfer agreement currently in force at Select Specialty Hospital-Miami. The co-batched applicants did not provide any letters of support for its respective project or provide evidence of any official or tentative transfer agreements with area hospitals. There was also no evidence provided as to potential referrals from area physicians or other health care providers.

5. Expected average length of stay for discharges by age group.

Both **Select Specialty Hospital-Lee, Inc. (CON #9656)** and **Select Specialty Hospital-Sarasota, Inc. (CON #9657)** expect the length of stay in their respective facility to be 32.81 days with the 0-64 age group averaging 29.59 days and the 65 plus age group averaging 33.61 days.

6. Expected discharge destination by age group.

Both **Select Specialty Hospital-Lee, Inc. (CON #9656)** and **Select Specialty Hospital-Sarasota, Inc. (CON #9657)** expect to mirror the experience of the parent's freestanding hospitals. On average across all age groups, the applicant expects that discharge status will represent the following percentages: acute care hospital (7.7 percent); assisted living (16.5 percent); expired (11.7 percent); home (58.6 percent); and other (5.5 percent).

7. Projected number of patient days by payer type, including Medicare, Medicaid, private insurance, self-pay and charity care patient days for the first 2 years of operation after completion of the proposed project.

Projected Patient Days and Percentage By Payer Type, Year Two

Applicant	Self-Pay or Charity	Medicaid	Medicare	Insurance	Managed Care	Other
Select Specialty (9656)	2.0% 298 days	0.8% 117 days	77.6% 11,539	14.7% 2,194	4.9% 731 days	-0-
Select Specialty (9657)	2.0% 245 days	0.8% 96 days	77.6% 9,490	14.7% 1,801	4.9% 600 days	-0-

Source: Schedule 7A

The above table provides a comparison of the proposed patient days and percentages by payer group for the second year of operation for both Select Specialty proposals. As shown, the percentages are the same for both applicants although the projected patient days are different in view of the number of beds requested.

8. Admission policies of the facility with regard to charity care patients.

Both applicants basically state their willingness to admit patients who meet their admission criteria regardless of ability to pay. Both applicants have agreed to condition award of the CON upon providing a percentage of charity care.

9. Services that will be provided by contract.

Both applicants anticipate that radiology, laboratory, and laundry services will be provided by contract. The required space for basic radiographic equipment as well as a pharmacy are shown on the plans for both proposed projects.

f. Quarterly Reports. Licensed long-term care hospitals shall report to the agency or its designee, within 45 days after the end of each calendar quarter, the number of admissions and patient days by age and primary diagnosis that occurred within the quarter.

No response to this proposed criterion was provided by either applicant.

4. Statutory Review Criteria

a. Is need for the project evidenced by the availability, quality of care, efficiency, 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.

Select Specialty Hospital-Lee, Inc. (CON #9656) states that from the proposed location of its LTCH, the nearest existing LTCH is Kindred Hospital-St. Petersburg, in District 5, approximately 100 miles to the north. The applicant contends that consequently, few residents of Lee County (10 during the relevant reporting period), use long-term care hospital services to any great extent. The applicant contents that in view of the lack of availability and accessibility of LTCH services, patients tend to remain for extended stays in general acute care hospitals.

The applicant acknowledges the approval of a 40-bed LTCH in Sarasota County but contends that its location, approximately 75 miles north of Ft. Myers, will offer limited access to LTCH services for residents in Lee County or to residents in other counties in the southern portion of District 8. However, there was nothing presented by the applicant to suggest that area physicians or hospital discharge planners will not transfer patients needing LTCH services to the approved 40-bed facility. Further, there was nothing submitted to suggest that patients needing these services would not seek them at the approved facility. The applicant states that its primary service area will comprise a 40-mile radius of its intended site in Ft. Myers, with the majority of its patients originating from acute care hospitals in Lee County. However, the applicant has also indicated that it believes it will receive referrals from Columbia Hospital (potential 129 LTCH discharges generating a need for 11 LTCH beds), near the opposite coast in District 9 (West Palm Beach). That hospital almost three hours and approximately 129 miles away from the applicant's proposed location in Ft. Myers.

The applicant did not provide any indication from area hospitals regarding interest in implementing a transfer agreement with the facility. Specific documentation from area providers with regard to delays in care would have been supportive and beneficial in showing an access problem to long-term care in the area.

Need for LTCH services in the district beyond those already approved was not demonstrated by the applicant. The applicant did not demonstrate need for the project as evidenced by the availability, quality of care, accessibility, and extent of utilization of existing health care facilities and health services in the applicant's service area.

Select Specialty Hospital-Sarasota, Inc. (CON #9657) presents a similar response to this criterion, stating that from the proposed location of its LTCH, the nearest existing LTCH is Kindred Hospital-St. Petersburg (District 5), located approximately 25 miles to the north. The applicant contends that consequently, few residents of Sarasota County (37 during the relevant reporting period), use long-term care hospital services to any great extent. The applicant contents that in view of the lack of availability and accessibility of LTCH services, patients tend to remain for extended stays in general acute care hospitals.

The applicant basically contends that need in District 8 exceeds the capacity of the approved 40-bed LTCH proposed for this district planning area. Although the applicant anticipates that the majority of LTCH eligible patients will be transferred from area hospitals, the applicant did not provide any indication from area hospitals regarding interest in implementing a transfer agreement with the facility. Specific documentation from area providers with regard to delays in care would have been supportive and beneficial in showing an access problem to long-term care in the area.

The applicant drew a reasonable comparison between the LTCH services proposed and other possible referral options in the community, including short-term acute care beds, CMR beds and hospital based and community nursing home beds.

Need for LTCH services in the district beyond those already approved was not demonstrated by the applicant. Further, the applicant did not demonstrate need for the project as evidenced by the availability, quality of care, accessibility, and extent of utilization of existing health care facilities and health services in the applicant's service area.

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

Both **Select Specialty Hospital-Lee, Inc. (CON #9656)** and **Select Specialty Hospital-Sarasota, Inc. (CON #9657)** are new, development stage corporations, and as such have no operating history. However, both applicants are controlled entities of Select Medical Corporation, an existing provider of LTCH services nationwide with 72 existing facilities, including one in Miami, Florida that was licensed on December 23, 2002. The applicants state that all existing Select Medical facilities have current JCAHO accreditation, except those that have recently opened and are awaiting survey. The JCAHO accreditation is an indication that quality of care is being delivered and that the components are in place to ensure the delivery of quality of care.

The co-batched applicants provided identical descriptions of their respective performance improvement plans for establishing specific methods and techniques for monitoring and improving care delivery. The applicants also described the makeup of its organizational improvement committee, an interdisciplinary group that connects all of the quality improvement activities and structures together. A copy of the Select Specialty Hospital Plan for Improving Organizational Performance, Year 2003 is included in the supporting materials section of both applications.

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.**

Neither applicant is proposing special health care services that are not reasonably and economically accessible in adjacent service areas.

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.**

Neither of the proposed projects are to be located in a statutorily defined teaching hospital nor will the primary purpose of either 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 were reviewed to assess the financial position of both co-batched applicants as of the balance sheet date and the financial strength of the operations for both applicants for the applicable period presented.

Select Specialty Hospital-Lee, Inc. (CON #9656), a wholly-owned subsidiary of Select Medical, Inc., is a start-up company with $10 in assets as of February 4, 2003. The applicant submitted Form 10K for Select Medical, Inc. for the period ended December 31, 2001. The company reported $10.7 million in cash on hand, $276.5 million in current assets and $650.8 million in total assets. Revenue from operations was $959 million with cash flows of $95.8 million. This is a financially strong company.

Capital requirements:
Total capital costs for this project from Schedule 1 are $12.4 million. Schedule 2 indicates the applicant has no other capital projects.

Available capital:
Funding for the proposed project is coming from the parent, Select Medical, Inc. A letter was provided in support of their commitment to fund the project.

Conclusion:
Funding for this project, with the support of its parent, should be available as needed.

Specialty Hospital-Sarasota, Inc. (CON #9657), also a wholly-owned subsidiary of Select Medical, Inc., is a start-up company with $10 in assets as of August 6, 2001. The applicant submitted Form 10K for Select Medical, Inc. for the period ended December 31, 2001. The company reported $10.7 million in cash on hand, $276.5 million in current assets and $650.8 million in total assets. Revenue from operations was $959 million with cash flows of $95.8 million. This is a financially strong company.

Capital requirements:
Total capital costs for this project from Schedule 1 are $11.5 million. Schedule 2 indicates the applicant has no other capital projects.

Available capital:
Funding for the proposed project is coming from the parent, Select Medical, Inc. A letter was provided in support of their commitment to fund the project.

Conclusion:
Funding for this project, with the support of its parent, should be available as needed.

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

A comparison of each of the co-batched applicant's estimates to the corresponding 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.

The Centers for Medicare and Medicaid Services (CMS) published a prospective payment system (PPS) rule for long-term care hospitals (LTCH) effective for cost reporting periods beginning or after October 1, 2002. Under the PPS for LTCH a payment for a Medicare patient will be made at a predetermined, per discharge amount for each LTC-DRG. The law requires that the LTCH PPS be budget neutral, which means that total payments must equal the amount that would have been paid if the PPS had not been implemented. Therefore, a comparison of the applicants' revenue estimates to the control group values, based on the reasonable cost-based reimbursement system, provide a rational basis for evaluating estimated revenues.

The estimated revenues submitted by both applicants for their respective projects were developed based on the prospective payment system.

Medicare requires a six-month period (demonstration period) before a hospital is eligible for reimbursement under the LTCH PPS. This period is required to demonstrate a minimum 25-day average length of stay. During the demonstration period the hospital is reimbursed at the acute care rate. This applicant did not disclose how this period was accounted for in their financial projections.

Comparative data were derived from hospitals in peer groups that reported data in 2001. Both applicants will be compared to the hospitals in peer group 12. Per Diem rates are projected to increase by an average of 3.6 percent per year. Inflation adjustments were based on the 3rd Quarter New CMS Hospital Market Basket Index.

Select Specialty Hospital-Lee, Inc. (CON #9656) presented projected net revenue per adjusted patient day (NRAPD) of $888 in year one and $986 in year two which is between the control group lowest and median values of $810 and $1,075 in year one and $835 and $1,110 in year two. The lowest value is generally viewed as the practical lower limit on economies of operation. With net revenues per adjusted patient day falling between the lowest and median the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table).

Projected cost per adjusted patient day of $1,128 in year one and $921 in year two is between the control group median and highest values of $969 and $3,280 in year one and the control group lowest and median values of $821 and $1,000 in year two. Compared to the control group these costs are efficient. (See Comparative Table).

The year two operating profit for the hospital of $962,016 computes to an operating margin per adjusted patient day of $65, which falls between the peer group median and highest values of $53 and $234 respectively. The operating margin of 6.6 percent indicates that net revenues are proportional to costs.

This project appears to be financially feasible.

Select Specialty-Lee (CON # 9656
Comparative Financial Table

CON # 9656 Select Specialty Hospital - Lee, Inc. 2001 DATA Peer Group 12	2007 YEAR 2 ACTIVITY	YEAR 2 ACTIVITY PER DAY	VALUES ADJUSTED FOR INFLATION Highest	 Median	 Lowest
ROUTINE SERVICES	14,134,098	950	906	741	329
INPATIENT AMBULATORY	15,906,346	1,069	10	0	0
INPATIENT ANCILLARY SERVICES	362,154	24	3,981	2,612	410
OUTPATIENT SERVICES	0	0	3,591	8	0
OTHER OPERATING REVENUE	0	0	58	2	0
TOTAL REVENUE	30,402,598	2,043	4,759	3,492	2,331
DEDUCTIONS FROM REVENUE	15,738,267	1,058	*	*	*
NET REVENUES	14,664,331	986	2,192	1,110	835
EXPENSES					
ROUTINE	2,952,850	198	435	274	198
ANCILLARY	5,274,865	355	576	282	204
AMBULATORY	0				
OVERHEAD	5,474,600	368	1,419	471	373
OTHER	0	0			
TOTAL EXPENSES	13,702,315	921	3,385	1,000	821
OPERATING INCOME	962,016	65	234	53	-186
		6.6%			
PATIENT DAYS	14,879		VALUES NOT ADJUSTED FOR INFLATION		
ADJUSTED PATIENT DAYS	14,879				
TOTAL BED DAYS AVAILABLE	21,900				
ADJ. FACTOR	1.0000				
TOTAL NUMBER OF BEDS	60				
PERCENT OCCUPANCY	67.9%		96.0%	75.0%	9.5%
PAYER TYPE	PATIENT DAYS	% TOTAL			
MEDICARE	11,539	77.6%	97.3%	74.5%	67.2%
COMMERCIAL	2,194	14.7%			
MEDICAID	117	0.8%	15.3%	0.2%	0.0%
PRIVATE	298	2.0%			
HMO/PPO	731	4.9%	16.3%	11.3%	0.0%
OTHER	0	0.0%			
TOTAL	14,879	100.0%			

Select Specialty Hospital-Sarasota, Inc. (CON #9657) presented projected net revenue per adjusted patient day (NRAPD) of $885 in year one and $984 in year two which is between the control group lowest and median values of $773 and $1,027 in year one and $798 and $1,060 in year two. The lowest value is generally viewed as the practical lower limit on economies of operation. With net revenues per adjusted patient day falling between the lowest and median the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table).

Projected cost per adjusted patient day of $1,094 in year one and $951 in year two is between the control group median and highest values of $925 and $3,132 in year one and the control group lowest and median values of $784 and $955 in year two. Compared to the control group these costs are efficient. (See Comparative Table).

The year two operating profit for the hospital of $396,369 computes to an operating margin per adjusted patient day of $32, which falls between the peer group lowest and median values of -$186 and $53 respectively. The operating margin of 3.3 percent indicates that net revenues are proportional to costs.

This project appears to be financially feasible.

Select Specialty-Sarasota (CON # 9657
Comparative Financial Table

CON # 9657 Select Specialty Hospital - Sarasota, Inc. 2001 DATA Peer Group 12	2007 YEAR 2 ACTIVITY	YEAR 2 ACTIVITY PER DAY	VALUES ADJUSTED FOR INFLATION Highest	Median	Lowest
ROUTINE SERVICES	11,619,450	950	865	707	314
INPATIENT AMBULATORY	13,439,534	1,099	10	0	0
INPATIENT ANCILLARY SERVICES	297,716	24	3,801	2,494	392
OUTPATIENT SERVICES	0	0	3,429	8	0
OTHER OPERATING REVENUE	0	0	56	2	0
TOTAL REVENUE	25,356,700	2,073	4,545	3,334	2,225
DEDUCTIONS FROM REVENUE	13,322,788	1,089	*	*	*
NET REVENUES	12,033,912	984	2,093	1,060	798
EXPENSES					
ROUTINE	2,547,075	208	415	261	189
ANCILLARY	4,362,050	357	550	269	195
AMBULATORY	0				
OVERHEAD	4,728,418	387	1,165	387	307
OTHER	0	0			
TOTAL EXPENSES	11,637,543	951	3,232	955	784
OPERATING INCOME	396,369	32	234	53	-186
		3.3%			
PATIENT DAYS	12,232		VALUES NOT ADJUSTED		
ADJUSTED PATIENT DAYS	12,232		FOR INFLATION		
TOTAL BED DAYS AVAILABLE	21,900				
ADJ. FACTOR	1.0000				
TOTAL NUMBER OF BEDS	60				
PERCENT OCCUPANCY	55.9%		96.0%	75.0%	9.5%
PAYER TYPE	PATIENT DAYS	% TOTAL			
MEDICARE	9,490	77.6%	97.3%	74.5%	67.2%
COMMERCIAL	1,801	14.7%			
MEDICAID	96	0.8%	15.3%	0.2%	0.0%
PRIVATE	245	2.0%			
HMO/PPO	600	4.9%	16.3%	11.3%	0.0%
OTHER	0	0.0%			
TOTAL	12,232	100.0%			

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

Select Medical, Inc. is the parent corporation for both co-batched applicants. There are no material financial differences between the two projects.

Both **Select Specialty Hospital-Lee, Inc. (CON #9656)** and **Select Specialty Hospital-Sarasota, Inc. (CON #9657)** project managed care to represent 4.9 percent of patient days in its respective facility. This is between the control group lowest and median level of activity of 0.0 and 11.3 percent. The projected levels, if realized, will not have a 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? ss. 408.035(10), Florida Statutes; Ch. 59A-3 or 59A-4, Florida Administrative Code.

Select Specialty Hospital-Lee, Inc. (CON #9656) proposes to construct a new 60-bed facility in Ft. Myers near the Lee Memorial HealthPark.

Obviously new construction standards will be applied when and if the AHCA Office of Plans and Construction reviews the proposed building. It is expected that the revised Florida Building Code and Chapter 59A-3 of the Florida Administrative Code will be in effect by the time this project could be submitted for review. The disaster preparedness requirements of the applicable codes will also have to be met.

The application includes a floor plan of the proposed one-story building, larger scaled plans of patient rooms and a smoke compartment plan.

The building is laid out quite efficiently. There is a large central core nurse station with three patient wings radiating from it. There is also a surgery/procedure wing and a sizable administrative/dining/visitor area. One wing leads to an ICU area with its own nurse station and its required support spaces. Separate from the ICU space and served by a second nurse station core is another patient wing with 16 beds.

In the patient wings, the more critical areas and the semi-private rooms are located near the central nurse station. There is a variety of toilet/shower configurations. Some patient rooms have accessible showers and some do not. There is a five-station central bathing near the nurse station, which includes a shower that will accommodate a patient on a stretcher. This bathing area is more remote from the 16-bed wing than is desirable.

In addition to having a staff dining room near the main entrance, there is also a small patient dining space. Both of these rooms open onto a covered exterior patio. Evidently the applicant anticipates that all patients will not be bed-ridden.

The surgery/procedure wing needs extensive further study and revision. Since there is only one operating room and one procedure room, the traffic pattern for doctors, staff and patients is overly complicated. There is only one two-station space that is labeled "Holding and Recovery". It is not clear if "Holding" refers to pre-op or post-op functions or both. No space is provided for a nurse station and its ancillary spaces in the holding/recovery room and this is particularly needed to serve a patient in the isolation room.

There is a doctor's area in the surgery/procedure wing with showers for both men and women but no adjacent toilet rooms. There are no comparable spaces for the nursing staff. In most facilities, the staff support spaces are separate from those of the doctors. The surgery waiting room could easily be enlarged and would function better by moving its entrance door and wall further up the corridor. If this were done, there could be a door leading directly from the waiting room to the surgical suite and the attendant could monitor this space better. In short, the surgical suite needs to be re-designed, and would most likely increase in size and cost.

There are numerous storage spaces as well as visitor and staff/patient amenities throughout the building. The required pharmacy and space for radiographic equipment are provided.

There is a list of applicable building codes on the plans, but most of them will change as noted above. Cost data and schedules submitted are difficult to analyze because of the surgery/procedure wing situation outlined above. The applicant has submitted several other proposals that have the identical problem, and the redesign will affect the timetable of at least one of these proposals and possibly the cost of all of them.

It is required that schematic drawings be submitted as part of the CON application. Although the drawings for this proposal may be more advanced than required, they have been reviewed as schematics with the expectation that they will necessarily be revised and refined during the design development (preliminary) and contract document stages. The architectural review of the application shall not be construed as an in-depth effort to determine complete compliance with all applicable codes and standards. The final responsibility for facility compliance ultimately rests with the owner.

Select Specialty Hospital-Sarasota, Inc. (CON #9657) proposes to construct a new 44-bed facility in Sarasota near the Doctor's Hospital, Sarasota County.

Obviously, new construction standards will be applied when and if the AHCA Office of Plans and Construction reviews the proposed building. It is expected that the revised Florida Building Code and Chapter 59A-3 of the Florida Administrative Code will be in effect by the time this project could be submitted for review. The disaster preparedness requirements of the applicable codes will also have to be met.

The application includes a floor plan of the proposed one-story building, larger scaled plans of patient rooms and a smoke compartment plan.

The building is laid out quite efficiently. There is a large central core nurse station with three patient wings radiating from it. There is also a surgery/procedure wing and a sizable administrative/dining/visitor area. One wing leads to an ICU area with its own nurse station and its required support spaces.

In the patient wings, the more critical areas and the semi-private rooms are located near the central nurse station. There is a variety of toilet/shower configurations. Some patient rooms have accessible showers and some do not. There is a five-station central bathing near the nurse station, which includes a shower that will accommodate a patient on a stretcher.

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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.

According to the 2001 Hospital Financial Data Report, LTCHs in the state averaged 2.0 percent Medicaid patient days and 1.7 percent charity care patient days.

Both **Select Specialty Hospital-Lee, Inc. (CON #9656)** and **Select Specialty Hospital-Sarasota, Inc. (CON #9657)** are new development stage companies with no operating history. Both applicants propose identical conditions on award of the certificate of need for the provision of 2.8 percent Medicaid and indigent patient days combined. Schedule 7A indicates both applicant's expectation to deliver up to two percent of its total patient days to self pay patients and 0.8 percent for Medicaid patients. The applicants anticipate that all self pay patients will be charity. This being the case, both applicants propose a charity care provision that is higher than the state average of 1.7 percent. However, both applicants project a Medicaid provision that is less than the state average of 2.0 percent.

F. SUMMARY

Select Specialty Hospital-Lee, Inc. (CON #9656), a wholly-owned subsidiary of Select Medical Corporation, proposes the creation of a 60-bed freestanding LTCH to be located in Fort Myers, near Lee Memorial HealthPark, Lee County.

The proposed hospital will consist of 44,434 gross square feet of new construction and construction costs of $7,760,500. Total project cost is estimated to be $12,421,457. The funding for the proposed project will be provided by Select Medical Corporation.

The applicant agrees to condition award of the certificate of need on the provision of 2.8 percent Medicaid and indigent patient days combined.

Select Specialty Hospital-Sarasota, Inc. (CON #9657), a wholly-owned subsidiary of Select Medical Corporation, proposes to establish a 44-bed LTCH to be located in Sarasota, near Doctors Hospital, Sarasota County.

The proposed hospital will consist of 38,906 gross square feet of new construction and construction costs of $6,819,750. Total project cost is estimated to be $11,453,996. The funding for the proposed project will be provided by Select Medical Corporation.

The applicant agrees to condition award of the certificate of need on the provision of 2.8 percent Medicaid and indigent patient days combined.

Need:

Need is not published by the agency for long-term care hospital beds. It is the applicant's responsibility to demonstrate need.

Select Specialty Hospital-Lee, Inc. (CON #9656)

- The applicant's two methodological approaches to demonstrate need are not supported by any specific discharge studies or other data, including DRG admission criteria from area hospitals regarding potential need. The applicant also failed to provide any supporting documentation from area physicians or other providers regarding potential referrals. It was further not demonstrated that patients that qualify for LTCH services are not currently being served or that an access problem exists for residents in District 8.

- With the approval of a new freestanding 40-bed LTCH n District 8 and the approved addition of 22 LTCH beds for the Kindred-St. Petersburg facility in contiguous District 5, the need for additional LTCH beds in District 8 is not demonstrated.

Select Specialty Hospital-Sarasota, Inc. (CON #9657)

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Quality of Care:

Select Specialty Hospital-Lee, Inc. (CON #9656)

- The applicant is a new development stage corporation with no operating experience. However, the applicant's parent company is an existing provider of LTCH services and states that all existing LTCH's have a current JCAHO accreditation with the exception of those that have recently opened and are awaiting survey. The applicant provided a reasonable description of its performance improvement plan.

Select Specialty Hospital-Sarasota, Inc. (CON #9657)

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Cost/Financial Analysis:

Both co-batched applicants are start-up companies under the auspices of the parent company, Select Medical, Inc. There are no material financial differences between the two projects.

Select Specialty Hospital-Lee, Inc. (CON #9656)

- The applicant is a start-up company with limited assets. However, the parent, Select Medical, Inc. is a financially strong company with total assets of $650.8 million and revenue from operations of $959 million. The funding for the proposed project should be available, with the support of the parent company.

- With net revenues falling between the lowest and median values in the first two years of operation, the facility is expected to consume health care resources in proportion to the services provided. The projected operating margin of 6.6 percent indicates that net revenues are proportional to costs. The project appears to be financially feasible.

- The applicant projects managed care to represent 4.9 percent of its patient days. This is between the control group lowest and median level of activity of 0.0 and 11.3 percent. The projected levels, if realized, will have not have a positive impact on competition to promote quality assurance and cost-effectiveness.

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Architectural Analysis:

Select Specialty Hospital-Lee, Inc. (CON #9656)

- The project involves new construction of a 60-bed freestanding LTCH and final drawings will need to meet the revised Florida Building Code and Chapter 59A-3 of the Florida Administrative Code. The disaster preparedness requirements of the applicable codes will also have to be met.

- The proposed project appears to be designed efficiently although the surgery/procedure wing needs extensive further study and revision. The project includes numerous visitor and staff/patient amenities and the required pharmacy and space for radiographic equipment are provided.

- The cost data and schedules appear to be subject to change in view of the required redesign of the surgical and procedure wing.

Select Specialty Hospital-Sarasota, Inc. (CON #9657)

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- The cost data and schedules appear to be subject to change in view of the required redesign of the surgical and procedure wing.

G. RECOMMENDATION

Deny CON #9656 and CON #9657.

AUTHORIZATION FOR AGENCY ACTION

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

DATE: ____________________

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Karen Rivera
Health Services and Facilities Consultant Supervisor
Certificate of Need

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Jeffrey N. Gregg
Chief, Bureau of Health Facility Regulation