

**STATE AGENCY ACTION REPORT**  
**ON APPLICATION FOR CERTIFICATE OF NEED**

**A. PROJECT IDENTIFICATION**

1. Applicant/CON Action Number

**Tenet Health System North Shore, Inc./CON #9672**  
**d/b/a North Shore Medical Center**

999 Ponce de Leon Blvd., Suite 950  
Coral Gables, Florida 33134

Authorized Representative: Patti Greenberg  
(305) 444-5007

**Public Health Trust of Miami-Dade County, Florida/CON #9673**  
**d/b/a Jackson Memorial Hospital**

1611 N.W. 12<sup>th</sup> Avenue  
Miami, Florida 33136-1096

Authorized Representative: Jack P. Hartog,  
Assistant County Attorney  
(305) 585-1313

2. **Service District/County**

District 11, Dade County

**B. PUBLIC HEARING**

Although no public hearing was requested, the applicants did submit letters of support for their respective projects as presented below:

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** A letter of support from Dr. Frederick Bloom, Chair, Department of Pediatrics at North Shore Medical Center, inferred that the need for expansion of the NICU was demonstrated by the facility's increase in "at risk"/"high risk" patient mixture along with transfer admissions. Letters of support were also received from Peter Martin, Vice President, Network Management (Humana South Florida);

Dr. Mark Spence (Full Circle Health Care); Dr. James Bridges, Chairman of the Governing Board (North Shore Medical Center); Dr. Myda Antun, Senior Vice President & Chief Medical Officer (Neighborhood Health Partnership); Senator Frederica Wilson; and Dr. Alberto Dominguez-Bali. All of the letters were in strong support of the overall expansion of North Shore Medical Center's neonatal intensive care units.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** Letters of support were received from John S. Curran, M.D (CMS Neonatal Consult), Nancy Humbert, MSN, ARNP (Acting Executive Administrator for Miami-Dade County Health Department), Brodes H. Hartley, President/CEO (CHI), Caleb A. Davis, President/CEO (Helen B. Bentley Family Health Center), Betsey K. Cooke, President/CEO (Health Choice Network), Anthony E. Munroe, President/CEO (Economic Opportunity Family Health Center, Inc.), Gamaliel Rivera, President/CEO (Borinquen Health Care Center, Inc.), Alexandria Douglas, Executive Director (Alliance For Human Services), and Kathryn Abbate, Executive Director (Miami Beach Community Health Center, Inc.).

The majority of the letters stated that an increase in NICU beds at Jackson Memorial Hospital was needed in order to serve an increasing patient volume of high-risk pregnancies and neonates in need of specialized care. The support letters further stated that the increased bed capacity would enable the applicant to respond to the increasing number of uninsured patients along with others who rely on the Jackson Memorial's health care services.

### **C. PROJECT SUMMARY**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** Tenet Health System North Shore, Inc., a for-profit health care corporation, proposes to convert seven of its acute care beds in order to add seven Level II NICU beds to its existing eight-bed Level II NICU at North Shore Medical Center (NSMC), creating a 15-bed Level II NICU unit. The hospital, located in District 11, Miami-Dade County, is a 357-bed general acute care hospital currently licensed for 304 acute care beds, five Level III NICU beds, eight Level II NICU beds, and 40 adult psychiatric beds. The applicant has also filed a companion application during this batching cycle for the addition of two Level III NICU beds and a simultaneous reduction of two acute care beds.

According to the applicant's *Certificate of Need Predicated on Conditions* page, it will set aside a minimum of 40 percent of its Level II NICU patient days to Medicaid, Medicaid HMO, and charity patients combined.

The proposed total project cost is estimated to be \$1,167,300. Renovation costs are projected at \$493,000 and the project will involve 2,175 gross square feet (GSF) of renovated space.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** Jackson Memorial Hospital (JMH), owned and operated by Public Health Trust of Miami-Dade County, Florida, is an accredited, non-profit, quaternary and tertiary care hospital. In operation since 1918, JMH is the only public hospital of a government entity in Miami-Dade County and the largest teaching hospital in the state. The 1,498-bed facility consists of 1,053 acute care beds, 60 Level II NICU beds, 66 Level III NICU beds, 180 adult psychiatric beds, 44 child/adolescent psychiatric beds, 15 adult substance abuse beds, 80 rehabilitation beds, and five burn unit beds. JMH proposes to add five beds to its existing Level II NICU through via transfer of five Level II beds at Jackson Memorial North. Therefore, the applicant is not proposing to add Level II beds to the district. The applicant also filed an application to add 10 Level III NICU beds through delicensure of five Level II beds at Jackson North. The neonatology unit is located in the Holtz Children's Hospital, University of Miami-Jackson Memorial Hospital Medical Center (which is within JMH's campus).

According to the applicant's *Certificate of Need Predicated on Conditions* page, JMH is a public hospital under the government entity of Miami-Dade County as the Public Health Trust, and must provide all services without regard to an individual's ability to pay. This mission is further extended specifically into the Regional Perinatal Intensive Care Center (RPICC) Program. Therefore, the applicant contends that conditions are not relevant to this proposal.

The proposed project cost is estimated to be \$1,236,493~~2~~. Renovation costs are projected at \$500,000 and the project will involve 1,669 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, Jennifer Benghuzzi, 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.**

The fixed need bed pool published in Volume 29, Number 4 of the Florida Administrative Weekly dated January 24, 2003, shows zero need for additional Level II NICU beds in District 11.

As of January 24, 2003, District 11 had 164 licensed Level II NICU beds and 15 approved Level II NICU beds. The AHCA's publication, *Florida Hospital Bed and Service Utilization Data by District, January 2003 Batching Cycle*, originally reported that the 164 Level II NICU beds in District 11 experienced an occupancy rate of 80.91 percent during the period July 2001 through June 2002. However, several quarters were misreported to District 11 Local Health Council (LHC) and the corrected figure is slightly lower at 80.10 percent. The following table reflects the corrected utilization data provided by the LHC for Level II NICU beds in District 11 after the Agency's publication of utilization on January 24, 2003:

**Corrected Quarterly Utilization of District 11  
Level II NICU Beds  
07/2001—12/2001**

Facility	JULY-SEPT 2001				OCT-DEC 2001			
	Lic. Beds	Total Bed days	Rptd. Pt. Days	Occupancy %	Lic. Beds	Total Bed days	Rptd. Pt. Days	Occupancy %
<b>Baptist Hospital of Miami</b>	12	1,104	1,535	139.04%	12	1,104	1,653	149.73%
<b>Hialeah Hospital</b>	10	920	685	74.46%	10	920	642	69.78%
<b>Jackson Memorial Hospital</b>	60	5,520	5,015	90.85%	60	5,520	5,202	94.24%
<b>Jackson Memorial (North)</b>	10	920	0	0.00%	10	920	0	0.00%
<b>Mercy Hospital</b>	6	552	275	49.82%	6	552	321	58.15%
<b>Miami Children's Hospital</b>	7	644	759	117.86%	7	644	502	77.95%
<b>Mt. Sinai Medical Center</b>	8	736	362	49.18%	8	736	399	54.21%
<b>North Shore Medical Ctr.</b>	8	736	698	94.84%	8	736	536	72.83%
<b>South Miami Hospital</b>	23	2,116	1,609	79.81%	23	2,116	1,329	62.81%
<b>Palmetto General Hospital</b>	10	920	1,014	110.22%	10	920	768	83.48%
<b>Parkway Regional Medical Center</b>	10	920	833	90.54%	10	920	953	103.59%
<b>District 11 Total/Average</b>	<b>164</b>	<b>15,088</b>	<b>12,785</b>	<b>84.74%</b>	<b>164</b>	<b>15,088</b>	<b>12,305</b>	<b>81.55%</b>

Source: Data reported to AHCA 05/02/03 from the Health Council of South Florida, Inc.

**Corrected Quarterly Utilization of District 11  
Level II NICU Beds  
01/2002—06/2002**

Facility	JAN-MARCH 2002				APRIL-JUNE 2002			
	Lic. Beds	Total Bed days	Rptd. Pt. Days	Occupancy %	Lic. Beds	Total Bed days	Rptd. Pt. Days	Occupancy %
Baptist Hospital of Miami	12	1,080	1,589	147.13%	12	1,092	836	76.56%
Hialeah Hospital	10	900	396	44.00%	10	910	572	62.86%
Jackson Memorial Hospital	60	5,400	4,037	74.76%	60	5,460	4,270	78.21%
Jackson Memorial (North)	10	900	0	0.00%	10	910	0	0.00%
Mercy Hospital	6	540	205	37.96%	6	546	160	29.30%
Miami Children's Hospital	7	630	819	130.00%	7	637	527	82.73%
Mt. Sinai Medical Center	8	720	495	68.75%	8	728	475	65.25%
North Shore Medical Ctr.	8	720	1,134	157.50%	8	728	1,124	154.40%
South Miami Hospital	23	2,070	1,367	66.04%	23	2,093	1,610	76.92%
Palmetto General Hospital	10	900	871	96.78%	10	910	1,055	115.93%
Parkway Regional Medical Center	10	900	843	93.67%	10	910	651	71.54%
<b>District 11 Total/Average</b>	<b>164</b>	<b>14,760</b>	<b>11,756</b>	<b>79.65%</b>	<b>164</b>	<b>14,924</b>	<b>11,280</b>	<b>75.58%</b>

Source: Data reported to AHCA 05/02/03 from the Health Council of South Florida, Inc.

**Corrected District 11 Level II NICU Utilization  
July 2001 through June 2002**

Facility	12 MONTH TOTAL (July 2001-June 2002)		
	Total Bed Days	Total Patient Days	Occupancy %
Baptist Hospital of Miami	4,380	5,613	128.15%
Hialeah Hospital	3,650	2,295	62.88%
Jackson Memorial Hospital	21,900	18,524	84.58%
Jackson Memorial (North)	3,650	0	0.00%
Mercy Hospital	2,190	961	43.88%
Miami Children's Hospital	2,555	2,427	94.99%
Mt. Sinai Medical Center	2,920	1,731	59.28%
North Shore Medical Ctr.	2,920	3,492	119.59%
South Miami Hospital	8,395	5,915	70.46%
Palmetto General Hospital	3,650	3,708	101.59%
Parkway Regional Medical Center	3,650	3,280	89.86%
<b>District 11 Total/Average</b>	<b>59,860</b>	<b>47,946</b>	<b>80.10%</b>

Source: Data reported to AHCA 05/02/03 from the Health Council of South Florida, Inc.

JMH's occupancy remained unchanged, however, corrected data reflected changes in North Shore Medical Center's occupancy, which decreased from a previously reported 130.03 percent to 119.59 percent. Although the drop at North Shore is significant to that facility's total occupancy, the reason the district occupancy dropped less than one percent is that North Shore only has eight Level III NICU beds and occupancy is calculated based on total patient days divided by the total number of beds days for any given period.

Each of the applicants in this co-batch cycle are applying outside of the fixed need pool under special (not normal) circumstances.

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

As stated above, the 164 Level II NICU beds in District 11 experienced an occupancy rate of 80.10 percent for the most recent reporting period. It is also significant to note that the 10 Level II NICU beds at Jackson Memorial (North) have not been operational for the entire reporting period. When this is taken into consideration, the utilization of the 154 Level II NICU beds in District 11 is 85.30 percent.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The applicant is not proposing to add Level II beds to the NICU inventory in District 11. Rather, it is proposing to transfer unused beds from its north campus to this Regional Perinatal Intensive Care Center (RPICC) therefore, discussion under E. 1. d. below centers around whether or not this is a better use of existing Level II NICU beds.

- 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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The occupancy for the applicant's 304 acute beds was 41.75 percent from July 2001 through June 2002. The applicant is proposing to convert seven of its underutilized acute care beds in order to expand its Level II NICU. As mentioned earlier, the applicant has also filed a companion application in this batching cycle for the addition of two Level III NICU beds and a simultaneous reduction of two acute care beds.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** As noted above, the applicant is not proposing to add Level II beds to the planning area.

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

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant currently has eight Level II NICU beds that were utilized at 119.59 percent for the reporting period July 2001-June 2002. Preliminary data reported to the agency for the next batching cycle, reflects a utilization rate of 120.61 percent for Level II NICU beds at NSMC. The applicant is consistent with this "special circumstances" provision of the rule.

The applicant further provides a demonstration of numeric need for seven Level II NICU beds. The applicant states that the average occupancy and average census of 12 patients within an eight-bed Level II NICU is unacceptable. With the historical ADC of 12 patients and an average occupancy of 150 percent, the applicant states that it would have to increase its unit by at least seven beds to achieve an acceptable 80 percent occupancy rate. Based on the revised utilization figures, the table below calculates the applicant's Level II net bed need to be 3.96 for the reporting period (July 2001-June 2002) and 6.79 for CY 2002.

**North Shore Medical Center  
Level II NICU Bed Need**

<b>July 2001-June 2002 Level II NICU Utilization and Bed Need</b>		<b>CY 2002 Level II NICU Utilization and Bed Need</b>	
July 2001-June 2002 Level II Patient Days	3,492	CY 2002 Level II Patient Days	4,319
July 2001-June 2002 Level II Avg. Daily Census (Patient days divided by 365)	9.57	CY 2002 Level II Avg. Daily Census (Patient days divided by 365)	11.83
July 2001-June 2002 Level II Gross Bed Need (ADC divided by .80)	11.96	CY2002 Level II Gross Bed Need (ADC divided by .80)	14.79
July 2001-June 2002 Level II Net Bed Need (Gross beds minus existing beds (8))	3.96	CY 2002 Level II Net Bed Need (Gross beds minus existing beds (8))	6.79

**Source: LHC corrected utilization data.**

The applicant has conservatively demonstrated that by the planning horizon of July 2005, there will be need for seven additional Level II NICU beds at the hospital.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** As noted above, the applicant is not proposing to add Level II beds to the planning area. Rather, it plans to move beds from its north campus to the main campus. (see discussion below under E.1.d.).

**d. Other Special Circumstances:**

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The applicant states that need for the proposal is indicated by the following factors: high occupancy, demand for NICU beds by the mothers' condition and emergency presentation, and the impact of other Level III units on Jackson Memorial Hospital's NICU Level II program.

**High Occupancy**

Jackson Memorial Hospital's Level II NICU program experienced an annual occupancy rate of 84.58 percent. The hospital's experience, considered in light of the source of admission and the type of admission for the mother and their babies, creates an unplanned demand for Level II NICU services, which the applicant believes constitutes special circumstances outside of the annual 90 percent occupancy rate criterion used to trigger the award of beds for existing providers. Because it is transferring five unused beds from its north campus, this proposal demonstrates a better use of existing beds.

- Demand for NICU beds by the mothers' condition and emergency presentation

The applicant maintains that the mothers delivering at JMH, as well as their neonates, are sicker and have more complications. In addition, JMH has an obstetrical emergency department and neonates delivered at its facility predominately enter through the emergency room. The condition of the mother at delivery impacts the type of NICU services and the demand within the NICU. A review of all the MDC 14 (*Major Diagnostic Category, Pregnancy, Childbirth, and the Puerperium*) cases in District 11 reveals that JMH treated 7,814 mothers whose condition fell within the MDC 14 category during the period July 1, 2002 through June 30, 2002. These cases represent 22 percent of all the cases in District 11. However, within the caseload of the hospital, 7,061 (90 percent) of JMH's total MDC 14 cases were classified as emergencies. Of the 10,486 emergency cases within District 11, JMH treated 67 percent (7,061) of them. The data below shows the number of MDC 14 cases by type of admission of the applicant.

**Number of MDC 14 Cases,  
Pregnancy, Childbirth, and Puerperium,  
by Type of Admission in District 11  
July 2001-June 2002**

Type of Admission of Mother	Jackson Memorial Hospital	All Others	Total	Jackson Memorial % Of Category
<b>CASES</b>				
<b>EMERGENCY</b>	<b>7,061</b>	<b>3,425</b>	<b>10,486</b>	<b>67.34%</b>
<b>URGENT</b>	657	11,751	12,408	5.29%
<b>ELECTIVE</b>	96	12,540	12,636	0.76%
<b>TOTAL</b>	7,814	27,716	35,530	<b>21.99%</b>
<b>PERCENT OF TOTAL</b>				
<b>EMERGENCY</b>	<b>19.87%</b>	<b>9.64%</b>	<b>29.51%</b>	
<b>URGENT</b>	1.85%	33.07%	34.92%	
<b>ELECTIVE</b>	0.27%	35.29%	35.56%	
<b>TOTAL</b>	<b>21.99%</b>	<b>78.01%</b>	<b>100.00%</b>	
<b>PERCENT OF JMH</b>				
<b>EMERGENCY</b>	<b>90.36%</b>	<b>12.36%</b>	<b>29.51%</b>	
<b>URGENT</b>	8.41%	42.40%	34.92%	
<b>ELECTIVE</b>	1.23%	45.24%	35.56%	
<b>TOTAL</b>	100.00%	100.00%	100.00%	

Source: CON #9673 Application, pg. 1-6. Data from AHCA's *Patient Data Discharge File*, July 2001-June 2002. During this period, a total of 14 hospitals provided MDC 14 services.

The applicant also provided a Table on page 1-8 of the application to demonstrate the source of admission for mothers compared to “all other” Level II NICU hospitals in the district. When data from this table is looked at with the data from the above table, the applicant states that the following conclusion is reached: of the 35,530 pregnant women treated at District 11 hospitals, 7,211 of them were admitted from the emergency department. JMH treated 76 percent (5,499/7,211) or 15.48 percent (5,499/35,530) of the district’s total cases.

The applicant maintains that a priority for additional Level II NICU capacity has been established by vast majority of mothers’ who present at JMH rated as an “Emergency” and must be immediately treated. Therefore, the number of beds at JMH must always be available to meet the demand.

- **Impact of Other Level III Units on Jackson Memorial Hospital’s NICU Level II Program**

JMH is a Medicaid Regional Perinatal Intensive Care Center (RPICC) provider, caring for large number of Medicaid and charity care patients. The applicant maintains that these cases are usually associated with increased risks and a greater severity of illness that generating longer lengths of stays in the unit. Moreover, these extremely low birth weight babies also require step-down care provided by Level II beds.

According to the RPICC program’s 2000-2001 report, JMH excelled when its NICU mortality statistics were compared to other RPICC facilities in the state of Florida.

<b>Birth Weight in Grams</b>	<b>Mortality Rate Florida RPICC</b>	<b>Mortality Rate UM-JMH</b>
500-749	35.7%	23.3%
750-999	7.6%	3.8%

Source: CON #9673 application, Pg. 1-16.

For very critically ill neonates, JMH’s program has a mortality rate of 23.3 percent, which is lower than the RPICC programs statewide. For those neonates weighing between 750 and 999 grams, JMH’s mortality rate is half of that experienced by the other RPICC programs in Florida. The following chart demonstrates JMH’s mortality rate in a nationwide comparison:

<b>Birth Weight in Grams</b>	<b>Mortality Rate United States</b>	<b>Mortality Rate UM-JMH</b>
500-749	42.5%	23.3%
750-999	12.2%	3.8%

Source: CON #9673 application, Pg. 1-16.

NOTE: Data for Mortality Rate is July 1997-June 1998 for UM-JMH. For the rest of the United States, the data is from CY 1998.

The applicant has requested to transfer five beds from its north campus, creating a 65-bed Level II unit. The applicant provided the following projections:

**JMH Utilization Projections  
Level II NICU Beds - CY 2004 and 2005**

	<b>Year 1 CY 2004</b>	<b>Year 2 CY 2005</b>
Females 14-44	522,240	522,780
Birth Rate	0.0638	0.0640
Births	33,334	33,453
Dist. NICU Admits	3,140	3,151
Proportion of Admits/ Births	0.094202	0.094202
JMH Births	6,638	6,662
JMH Level II admits	1,446	1,451
JMH Patient Days @ 12.90 LOS	18,649	18,716
Occupancy		
60 beds	85.16%	85.46%
65 beds	78.61%	78.89%

Source: CON 9673, page 1-18

The applicant states that these projections present a forecast of births and the rate of births to Level II admission obtained after applying JMH's corresponding market shares to them. Although the number of patient days in the existing Level II NICU decreased between year ending June 2001 and June 2002, these projections do not appear unreasonable.

**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 care services:

- a. Preferences should be given to the following applicants for tertiary 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 through Florida's "Disproportionate Share Program" of the Public 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 following table provides an indication of the co-batched applicant's commitment to charity and Medicaid, with comparison to the district, based on fiscal year (FY) 2001 actual data prepared by AHCA:

**Medicaid and Charity Care of the Co-Batching Applicants Compared to the District for Fiscal Year 2001**

Applicant	FY 01 Conventional Medicaid Days	FY 01 Gross Charity Percentage of Charges
North Shore Med. Ctr.	27.59%	3.3%
Jackson Memorial Hosp.	35.78%	30.4%
District 11 Weighted average	12.87%	3.1%

Source: FY 2001 Actual Data/AHCA

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** As reflected in the table, North Shore's provision of Medicaid and charity care exceeds the district average. Although the applicant states that it is a disproportionate share provider with a long history of providing service to charity and Medicaid patients, and was classified as a disproportionate share provider in state fiscal years 2000-2001 and 2001-2002, it is not eligible to be a Disproportionate Share Provider for fiscal year 2002-2003. This is due to an amendment to Section 409.911, Florida Statutes. As a condition of this application, the applicant commits that at least 40 percent of the Level III NICU days will be provided to Medicaid, Medicaid HMO and charity patients combined.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** As reflected in the table, JMH's provision of Medicaid and charity care exceeds the district average. The applicant is a Medicaid Disproportionate Share Provider as a RPICC, as a public hospital, as a teaching hospital, and as a primary care hospital for state fiscal year 2002-2003.

***Level Two - Lower Priorities***

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

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant did not respond to this preference.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** JMH is a statutorily designated teaching hospital and is affiliated with the University of Miami School of Medicine. The applicant stated that it is committed to ensuring its staff is properly trained and has the necessary skills to perform the type of services needed. The applicant submitted information (See Section 4d, Education), which demonstrates that it has training programs in place to support this project.

The District 11 October 2000 CON Allocation Factors Report provides the following preferences in the review of applications pertaining to Level II Neonatal Intensive Care Services:

**a. 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.**

Please refer to A.1. above.

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

Please refer to E.4.i. below.

- (3) **Applicants who provide onsite interpreters for Creole.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant states that it provides on-site interpreters for several languages, including Creole.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** According to the applicant, Jackson Health Systems Interpreter Service Office arranges all requests for interpreter services. Jackson Health Systems oral interpreters are available for several different languages including Creole.

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

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant is requesting expansion of an existing Level II NICU program and is part of an organized district-wide network. The facility has transfer agreements in place for its NICU services.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The applicant is an existing provider of Level II and Level III neonatal intensive care services, as well as a Regional Perinatal Intensive Care Center. The RPICC program is a regionalized health care delivery system designed to deliver optimal medical care to women identified as having a high-risk pregnancy and critically ill/low birth weight newborns.

As a RPICC provider, JMH cannot refuse an eligible patient, which requires sufficient bed availability to admit referred patients. The applicant stated that it has a variety of transport and transfer procedures in place for patients requiring transfer from other hospitals. The applicant has sufficiently demonstrated that it contributes to the development of an organized district-wide neonatal program.

- (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 NICU II beds proposed, or who accurately project an occupancy rate of 75 percent for the applicable planning horizon for all acute care beds, excluding specialty beds.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672)** is proposing to convert seven acute care beds. Refer to previous discussion in E. 1.c above.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673)** indicates that it will delicense five unused Level II NICU beds at its north campus and therefore, will not be adding Level II NICU beds to the planning area.

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

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant states that it would welcome the opportunity to provide NICU services to CMS however, the organized system implemented as part of Children's Medical Services in District 11 is affiliated with Jackson Memorial Hospital for both Level II and Level III NICU services.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** JMH states that it currently provides neonatal intensive care services to Children's Medical Services patients and will continue to do so. The applicant further states that it is the only RPICC in District 11 providing Level III as well as step-down or Level II services.

**(7) Hospitals that have both Level II & Level III NICU beds.**

Both of the co-batching applicants provide Level II and Level III NICU services.

**Level Two – Lower Priority**

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

Both NSMC and JMH demonstrated that they had mechanisms in place to assess and publicly report on quality.

Please see E.4.b. below for further discussion regarding quality.

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

Neither of the co-batched applicants agreed to condition award of the CON upon timely completion of the project.

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** In Schedule 10 of the application, the applicant projects that the proposed service would be initiated in May 2004.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** In Schedule 10 of the application, the applicant projects that the proposed service would be initiated in January 2004.

**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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** North Shore is not a Regional Perinatal Intensive Care Center Program. As previously stated, the applicant will set aside a minimum of 40 percent of its Level II NICU patient days to Medicaid, Medicaid HMO, and charity patients combined.

The applicant projects its NICU payor mix to be:

<u>Payor</u>	<u>Percent of Patient Days</u>
Other Managed Care	0.00%
Medicaid	48.70%
HMO/PPO	41.03%
Commercial Insurance	1.51%
Self-Pay	<u>8.76%</u>
Total	100.00%

Please refer to E.4.i. below for further discussion.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** Jackson Memorial Hospital is a Regional Perinatal Intensive Care Center and the applicant states that it is the exclusive district provider for Children's Medical Services under the RPICC Program. JMH provides both Level III and step-down services.

The applicant projects its Level II NICU payor mix to be:

<u>Payor</u>	<u>Percent of Patient Days</u>
Self-Pay	15.3%
Medicaid	67.2%
Medicaid HMO	5.6%
Commercial Insurance	2.6%
HMO/PPO	9.0%
Other Payors	<u>0.4%</u>
Total	100.1%

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:**

**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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** NSMC conforms to this preference. The applicant is currently licensed for eight Level II NICU beds and five Level III NICU beds.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** JMH conforms to this preference. The applicant is currently licensed for 60 Level II NICU beds and 66 Level III NICU beds.

- (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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant did not respond to this agency rule preference.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The applicant is an existing provider of Level II NICU services and has an established protocol to ensure developmental follow-up on patients discharged from the program.

- c. **Ch. 59C-1.042(5), Florida Administrative Code - Minimum Unit Size. Hospitals proposing the establishment of new Level II neonatal intensive care services shall propose a Level II neonatal intensive care unit with a minimum of 10 beds. Hospitals under contract with the Department of Health and Rehabilitative Services' Children's Medical Services Program for the provision of regional perinatal intensive care center or step-down neonatal special care unit are exempt from these requirements.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** North Shore is already an established Level II and Level III NICU provider. The applicant is requesting to add seven beds to its existing eight-bed Level II NICU, creating a 15-bed Level II NICU at North Shore Medical Center.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (ON #9673):** The applicant is an existing provider of Level II and Level III services. The applicant proposes to add fives to its existing 60-bed Level II NICU, creating a 65-bed Level II NICU at Jackson, which is far above the minimum requirement.

- 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.

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** North Shore Medical Center experienced 1,255 births for the reporting period of July 2001-June 2002 and therefore, exceeded the minimum service volume specified in this rule preference.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** JMH experienced 6,501 births for the reporting period of July 2001-June 2002 and therefore, exceeded the minimum service volume specified in this rule preference.

- 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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant states that 18 neonatologists staff its Level II and Level III NICU, all of who are board-certified or board-eligible in pediatrics and neonatology. The applicant also states that these physicians provide 24-hour coverage at North Shore.

The NICU medical director at North Shore Medical Center is Dr. Albert Tano, MD. He is board-certified in pediatrics and has completed a Neonatal-Perinatal Fellowship from Georgetown University. In addition to his current position as NICU medical director at North Shore, Dr. Tano is the Director of Kidz Medical Services and a Managing Partner of Emergency Pediatric Services and South Florida Pediatric Critical Care.

Curricula vitae for each of the physicians were included in Volume III, Attachment 26 of the application. Schedule 6 of the application does not reflect any physician FTE's for existing staff or for new physician staff.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** JMH is a teaching and research hospital operating in conjunction with the University of Miami School of Medicine, which provides staff and services under an annual operating agreement. The director of the Division of Neonatology, Department of Pediatrics, University of Miami School of Medicine, is Eduardo Bancalari, M.D. He is board-certified by the American Board of Pediatrics and by the Neonatal – Perinatal Medicine Subspecialty Board. The NICU Medical Director is Shahnaz Duara, M.D. Dr. Duara is board-certified by the American Board of Pediatrics and by the Neonatal-Perinatal Medicine Subspecialty Board. The applicant provided the names of the neonatologists on active staff in JMH's NICU who have unlimited privileges and provide 24-hour coverage.

Curricula vitae for key physicians/directors involved in the provision of NICU services at JMH are included in Exhibit 3-1 of the application. The applicant does not project the addition of staff physicians to accommodate the proposed project.

- (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.**

**Tenet Health System North Shore, Inc. #9672 d/b/a North Shore Medical Center (CON #9673):** North Shore Medical Center's NICU is under the direction of Hortense Martin, RN, BS. Ms. Martin has been the director of Women's and Children's Services since April 2002. Annette Bradley, RN is the assistant nurse manager of North Shore's NICU and has over 18 years of neonatal care experience. Please see Volume III, Attachment 27 for their curriculum vitae. The applicant states that 85 percent of its current nursing personnel assigned to each work shift in the NICU are registered nurses.

According to Schedule 6A, the applicant anticipates the addition of 1.37 registered nurses by the second year of operations of the Level II NICU program. The applicant provided current total facility staffing showing 442 registered nurses and no LPN's.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** Maureen M. McLaughlin, RN, MSN, is the director of Patient Care Services at Holtz Children's Hospital/Jackson Memorial Hospital. Ms. McLaughlin is responsible for the coordination and management of pediatric nursing and patient care services that include: 11 critical and acute areas, pediatric dialysis unit, pediatric pharmacy services, and Jackson Pediatric Center. Ms. McLaughlin has served in her current position since 1995. Her curricula vitae can be found in composite Exhibit 3-1.

Since 1995, Anne Scupholme, CNM, MPH, FACNM has served as the director of Patient Care Services at JMH's Women's Center. Ms. Scupholme directs and coordinates the clinical activities of staff in all areas of the Hospital's Women's Center. This includes 120 adult beds, 90 newborn cribs, labor & delivery suite, five operating rooms, and an OB/GYN emergency room. Ms. Scupholme also provides administrative coordination between all health disciplines. Her curricula vitae can be found in composite Exhibit 3-1.

Schedule 6 of the application indicates that the applicant intends to add 14.6 FTE nursing positions to the existing nursing staff 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 co-batched applicants are existing Level II NICU providers and insist that the nurses in their Level II NICU programs are already 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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9673):** The applicant states that it has the sufficient staff to meet the requirements of at least one certified respiratory care practitioner therapist with expertise in the care of neonates available 24 hours, seven days a week. Furthermore, there is at least one respiratory therapist technician for every four infants receiving assisted ventilation.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The applicant states that the respiratory care department is operated and staffed 24 hours, seven days a week. Since 1994, Lucille Fasone-Roy has been the respiratory care coordinator and supervises a respiratory therapy staff of 35 employees. The applicant states that its NICUs meet the staffing requirements as delineated in the rule. According to the applicant, each respiratory therapist is certified and supplemented by continuing education. Schedule 6 is not definitive regarding the number of existing and/or proposed respiratory therapist working in the NICU.

- (5) **Blood Gases Determination. 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.**

Each of the co-batched applicants states that its facility has blood gas determinations available on a 24-hour basis.

- (6) **Ancillary Service Requirements: 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.**

Each of the co-batched applicants provides on site x-ray, obstetric ultrasound, and clinical laboratory services with the ability to perform microstudies 24 hours a day, seven days a week. In addition, anesthesia is available within 30 minutes, 24 hours a day.

- (7) **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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** Although the applicant states that it is in conformance with this criterion, no documentation was submitted. No FTE's are reflect in Schedule 6A for dietary services.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The chief clinical dietitian for JMH is Rachel Freeman-During, RD, MPH, CDE, and the administrator of Nutrition Services at JMH is Sandra Gaunt Sternal, RD, LD. Their curricula vitae are included in Exhibit 3-1 of the application. A sampling of information provided to the family upon discharge was furnished by the applicant and is included in the "Additional Information" section. According to

Schedule 6A, dietary services are “included in other departments”. No FTE’s are reflect in Schedule 6A for dietary services.

- (8) **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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** North Shore Medical Center has a case management department to assist families in their supportive needs, including identification and referral to needed resources in the community.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** 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. JMH employs clinical social workers that are members of an interdisciplinary team responsible for assessing and intervening with families of acute and chronically ill newborns. JMH also has social workers and case managers who are assigned to particular programs to ease patients’ transitions at time of discharge.

- (9) **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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant states that it provides intervention and referral services for infants identified as being high risk for developmental disabilities. And while North Shore does not have an in-

house development center, it coordinates this initiative with the mailman center and refers the patient and family to that source upon the patient's discharge.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The applicant states that it will provide in-hospital intervention services for infants identified as being high-risk for developmental disabilities. Should the neonate require services from development services, the clinical coordinator will work with the parents and the assigned case manager at the hospital to arrange for eligibility determination. The clinical coordinator, as well as the assigned hospital case manager, provides information and referrals to the family to ensure a continuum of care. Additional coordination also occurs through the discharge planning process and the aftercare program.

- (10) 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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** According to the applicant, the NICU has a weekly multi-disciplinary round for every infant in the Level II program. These conferences are attended by neonatologist, nursing staff, social workers, case managers, respiratory therapist, occupational therapist and physical therapist. Each infant is discussed and problems/needs are identified during these conferences. Special needs are provided to the family prior to the patient's discharge. The person with the overall responsibility for discharge planning is Patty Wilds, Director of Case Management. The lead social worker in the NICU for discharge planning is Chinyere S. LeWars, BSW. Her curriculum vita is located in Volume III, Attachment 27 of the application.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The discharge plan at JMH's Level II NICU requires that the nursing staff demonstrate to the family how to provide the required care and services in response to the neonate's needs. In addition to the basic discharge demonstrations, aftercare services that appear in the discharge plan are

reviewed. Any appointments made for the neonate or family will be reviewed with written instructions. All social services consultants will be identified and contact numbers supplied to the family. At the time of discharge, a responsible family member will review, sign, and receive a copy the discharge plan. Copies of the discharge plan are also provided to the attending physician and furnished to all aftercare service providers.

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

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

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant states its nurse-to-neonate ratio is 1:4 at all times in its Level II NICU. The requirement that 50 percent of the nurses be registered nurses is exceeded as the applicant states that nearly 85 percent of its NICU nurses are registered nurses; 1.37 RN FTEs will be added by this project.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The applicant states that its Level II NICU is staffed at a nurse to patient ratio of 1:4 at all times. According to the applicant, the nurse manager is responsible for staff coverage and direction. The applicant did not address the percentage of registered nurses in its response to this element of the rule. Schedule 6A does not distinguish RN's from the rest of the nursing staff. The applicant indicates that 14.6 nursing FTEs will be added by this project.

- (2) Requirements for Level II NICU Patient Stations. Each patient station in a Level II NICU shall have, at a minimum:**
  - a. Fifty square feet per infant;**
  - b. Two wall mounted suction outlets preferably equipped with a unit alarm to signal loss of vacuum;**

- c. **Eight electrical outlets;**
- d. **Two oxygen outlets and an equal number of compressed air outlets and adequate provisions for mixing these gases;**
- e. **An incubator or radiant warmer;**
- f. **One heated humidifier and oxyhood;**
- g. **One respiration or heart rate monitor;**
- h. **One resuscitation bag and mask;**
- i. **One infusion pump;**
- j. **At least one oxygen analyzer for every three beds;**
- k. **At least one non-invasive blood pressure monitoring device for every three beds;**
- l. **At least one portable suction device; and**
- m. **Not less than one ventilator for every three beds.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant states that it is in compliance with all of the requirements above. Refer to the architectural review below in E.4.h. There are issues related to this application and the applicant's proposal to add Level III NICU beds being reviewed in this cycle under CON #9668.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The applicant states that the proposed Level II NICU patient stations meet the square footage, mechanical/electrical and equipment requirements for Level II NICU services. Refer to the architectural review below in E. 4. h. as there are architectural issues with this project. For example, plans submitted do not meet some existing requirements.

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

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

Each of the co-batching applicants states it has all the required equipment above. Refer to the architectural review below in E.4.h.

**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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** North Shore operates a 24-hour transport team using a third party ambulance company. The transport team consists of North Shore's neonatologists, nurses, respiratory therapist, and nurse practitioners.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** Jackson Memorial Hospital currently provides neonatal 24-hour emergency transport by ground and air via the hospital's neonatal transport team. The transport team is composed of a special group of physicians, nurses, and respiratory therapists who have received specific and intensive training in the stabilization and care of the critically ill neonate during transport. The applicant states that its emergency transportation system conforms to federal, state, and local rules and regulations.

- 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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant states that North Shore has transfer relationships in place with several area providers from within the district. Within District 11, transfer relationships are with Palmetto General Hospital, Miami Children's Hospital, and Hialeah Hospital. North Shore also has a transfer relationship with JMH for services such as cardiac surgery, neurological evaluations, and neurological surgeries. However, the applicant did not include copies of the transfer agreements in its application.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** JMH is a provider of Level II and Level III neonatal intensive care services and therefore, doesn't transfer its patients to other providers. However, it does accept patients from other hospitals that are in need of Level II and Level III NICU service. (Refer to composite Exhibit 3-1 for the applicant's written protocol governing these transfers).

**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.**

- 1. Utilization Data.**
- 2. Patient Origin Data**

Each of the co-batched applicants agreed to continue reporting all data as required by this provision.

**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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** As noted above, District 11's Level II NICUs experienced an average annual occupancy rate for the appropriate reporting period of 80.10 percent and need for additional Level II NICU beds were not published by the Agency. Refer to E. 1 above for the applicant's discussion of hospital-specific need for an addition seven Level II beds.

As indicated earlier, North Shore Medical Center is an existing provider of Level II NICU services and experienced 2,920 total beds days, 3,492 total patient days, and total occupancy of 119.59 percent for the July 2001 through June 2002 reporting period. Preliminary data received from the LHC reveals that the applicant experienced a 12-month Level II NICU occupancy of 149.14 percent for CY 2002.

According to the financial analysis, the project should have a relatively minor positive impact on competition to promote quality assurance and cost-effectiveness. Please refer to E.4.b, below regarding quality.

The applicant did not question the quality of care of existing health care facilities and health services in the applicant's service area.

The applicant has shown hospital-specific need for additional beds. Need for the project is evidenced by the availability, efficiency, quality of care, accessibility, and extent of utilization at North Shore Medical Center.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** As noted above, District 11's Level II NICUs experienced an average annual occupancy rate for the appropriate reporting period of 80.10 percent and need for additional Level II NICU beds were not published by the Agency. Refer to E. 1 above for the applicant's discussion of hospital-specific need for an addition five Level II beds.

The applicant is a RPICC provider and maintains that sufficient capacity in the NICU must be available since its facility experiences a large number of patients arising from the emergency department. The applicant maintains that a priority for additional Level II NICU capacity has been established since 90 percent of the mothers who present at JMH are rated as an "Emergency" and must be immediately treated. The condition of the mother at delivery impacts that type of NICU services and the demand within the NICU.

The applicant is proposing to add five Level II NICU beds at JMH through the transfer of five unused Level II beds at Jackson North. The applicant is not proposing to add beds to the planning area and has shown that the transfer of these five Level II beds from Jackson Memorial North is a better use of its resources. The transfer of these is not expected to negatively impact existing Level II NICU providers.

According to the financial analysis, this project should have minimal impact on competition to promote quality assurance and cost-effectiveness.

Please refer to E.4.b, below regarding quality.

- 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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The facility is accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). A copy of the JCAHO accreditation is included in Volume II, Tab 1 of the application. The application also includes excerpts of the applicant's performance improvement plan and a copy of the 2002 overall hospital rating of the physician satisfaction survey. A copy of the PIP and physician survey can be found behind Tab 18 and 19 in Volume III of the application.

According to AHCA data, the applicant had 16 confirmed complaints (three without deficiencies), during the past three years. Five of the confirmed complaints were patient care related, one was medical services related, two were patient rights violations, one was emergency access, two medicine problem/error, one untrained/unqualified staff deficiency, one patient abuse/neglect violation, one billing deficiency, and one administrative deficiency. The emergency access violation was not related to the NICU.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** JMH is a full-service tertiary care hospital and a statutorily designated teaching/research hospital. The facility is accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for the maximum three-year period (See Exhibit 5-1). The applicant is also a designated Medicaid Disproportionate Share Provider and a Regional Perinatal Intensive Care Center (RPICC). As a RPICC provider, there is tremendous oversight of the neonatology department. In addition to the monitoring of the NICU for its RPICC designation, the Department of Neonatology at JMH operates under the Holtz Children's Hospital to provide a continuum of care in pediatrics.

According to AHCA data, the applicant had 32 confirmed complaints (10 without deficiencies) during the past three years. Five of the confirmed complaints were patient care related, three were medical services related, five were patient rights violations, four were emergency access, two medicine problem/error, one untrained/unqualified staff deficiency, one staffing deficiency, three restraint complaints, one administrative deficiency, one nursing service deficiency, one inappropriate discharge, one discharge planning deficiency, and one lack of assessment. The remainder of the complaints was of a miscellaneous nature. The emergency access violations were not related to the NICU.

- 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 of the co-batching applicant's proposed projects involves 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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant is not a statutory teaching hospital nor is the proposed project's primary purpose research or physician education. However, the applicant states that North Shore does have affiliation agreements with various schools, junior colleges, universities and vocational schools for student training and recruitment. These affiliation agreements include, but are not limited to: ATI Health Education Center, Barry University, EMT Professional Training Centers, Institute of Allied Health, Nova Southeastern University, Miami Dade Community College, Miami Lakes Technical Center, Florida International University, Miami Dade Community College, National School of Technology, and University of Miami.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The proposed project will be located in a statutorily designated teaching hospital. JMH is an accredited, not-for-profit, tertiary care hospital and the major teaching facility for the University of Miami School of Medicine. The school's education program occurs at the undergraduate, graduate, and post-graduate levels throughout the medical center and is complimented by research performed in the basic science and clinical departments.

The applicant stated that over the past two decades, the neonatal program has been internationally recognized for its research, reputation, and expertise. The applicant further stated that the facility's neonatal program has been repeatedly selected as one of the centers of the Neonatal Intensive Care Units Network for Clinical Trials funded by the NIH. (Refer to Exhibit 7-1 for a description of research and clinical studies).

- 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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The audited financial statements for the periods ending May 31, 2002 and 2001 were analyzed for the purpose of evaluating the applicant's ability to provide the capital and operational funding necessary to implement the project. The following is a list of accounts and ratios used in the analysis:

	<u>05/31/2002</u>	<u>05/31/2001</u>
Current Assets	\$ 21,617,218	\$ 22,795,785
Cash and Current Investment	\$ 124,649	\$ 0
Assets Restricted for Capital Projects	\$ 0	\$ 0
Total Assets	\$ 82,060,994	\$ 82,861,717
Current Liabilities	\$ 12,865,455	\$ 10,542,970
Total Liabilities	\$ 19,130,110	\$ 23,623,160
Total Equity	\$ 62,930,884	\$ 59,238,557
Net Operating Revenues	\$ 92,766,322	\$ 86,766,364
Interest Expense	\$ 45,359	\$ 51,360
Net Profit - Operations	\$ 4,304,991	\$ 3,419,420
Net Income	\$ 3,692,327	\$ 2,570,865
Cash Flow from Operations	\$ 11,107,970	\$ 7,302,656
Working Capital	\$ 8,751,763	\$ 12,252,815
Current Ratio (CA/CL)	1.7	2.2
Cash Flow to Current Liabilities (CFO/CL)	0.9	0.7
Long-Term Debt to Equity (TL-CL/TE)	0.1	0.2
Times Interest Earned (NPO+Int/Int)	95.9	67.6
Equity to Total Assets (TE/TA)	76.7%	71.5%
Operating Margin (NPO/NOR)	4.6%	3.9%
Total Margin (NI/NOR)	4.0%	3.0%
Return on Assets (NI/TA)	4.5%	3.1%
Operating Cash Flow to Assets (CFO/TA)	13.5%	8.8%

**Short-term position:**

The applicant's current ratio of 1.7 indicates current assets are approaching twice that of short-term liabilities, a satisfactory position. The working capital (current assets less current liabilities) of \$8.8 million is good. The most recent year had an operating profit of \$4.3 million resulting in a margin of 4.6 percent, which is somewhat average for Florida hospitals. The ratio of cash flow to current liabilities of 0.9 is good. The applicant has an adequate short-term position.

**Long-term position:**

The long-term debt to equity of 0.1 means this debt is not significant in relation to the net worth of the entity, a good position. The cash flow to assets of 13.5 percent is high. The total equity of \$63 million with the equity to assets of 76.7 percent is very good. The applicant has a strong long-term position.

The applicant is a subsidiary of Tenet HealthSystem Medical, Inc., which is a wholly owned subsidiary of Tenet Healthcare Corporation.

**Capital requirements:**

Schedule 2 indicates the applicant had \$20.9 million in capital projects planned or underway. The audited financial statements disclosed no long-term debt; therefore \$20.9 million is the total funding needed.

**Available capital:**

Schedule 2 indicates funding for these projects will come from operating cash flows of \$19.6 million and \$1.3 million from Tenet Healthcare Corporation. The applicant's most recent audited financial statement indicates it had cash flows of \$11 million. With three years from the audit date until completion of the capital projects, the applicant has a potential of \$33 million in cash flows. A letter from Tenet Healthcare Corporation indicates it is committed to providing the capital required to fund all capital commitments.

**Conclusion:**

The applicant should be able to fund all capital requirements as needed.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The audited financial statements for the periods ending September 30, 2002 and 2001 were analyzed for the purpose of evaluating the applicant's ability to provide the capital and operational funding necessary to implement the project. The following is a list of accounts and ratios used in the analysis:

	<u>09/30/2002</u>	<u>09/30/2001</u>
Current Assets	\$ 306,735,849	\$ 268,111,209
Cash and Current Investment	\$ 14,885,671	\$ 26,179,931
Assets Restricted for Capital Projects	\$ 148,588,426	\$ unknown
Total Assets	\$ 1,042,334,118	\$ 1,035,186,357
Current Liabilities	\$ 221,092,327	\$ 203,129,693
Total Liabilities	\$ 444,516,251	\$ 429,967,425
Total Equity	\$ 597,817,867	\$ 605,218,932
Net Operating Revenues	\$ 951,706,580	\$ 788,856,448
Interest Expense	\$ 9,285,126	\$ 10,681,094
Net Profit - Operations	\$ -272,462,180	\$ -257,662,499
Net Income	\$ -7,401,065	\$ 17,065,025
Cash Flow from Operations	\$ -253,801,010	\$ -238,736,069
Working Capital	\$ 85,643,522	\$ 64,981,516
Current Ratio (CA/CL)	1.4	1.3
Cash Flow to Current Liabilities (CFO/CL)	-1.1	-1.2
Long-Term Debt to Equity (TL-CL/TE)	0.4	0.4
Times Interest Earned (NPO+Int/Int)	-28.3	-23.1
Equity to Total Assets (TE/TA)	57.4%	58.5%
Operating Margin (NPO/NOR)	-28.6%	-32.7%
Total Margin (NI/NOR)	-0.8%	2.2%
Return on Assets (NI/TA)	-0.7%	1.6%
Operating Cash Flow to Assets (CFO/TA)	-24.3%	-23.1%

**Short-term position:**

The applicant's current ratio of 1.4 indicates current assets are approaching one and one half times that of short-term liabilities, an acceptable position. The working capital (current assets less current liabilities) of \$85.6 million is significant. The ratio of cash flow to current liabilities of -1.1 is weak, reflecting the negative operating cash flows of \$(254) million. The applicant had non-operating revenue of \$265 million in 2002 and \$274 million in 2001. This non-operating revenue comes primarily from Miami-Dade County funding and sales tax revenues. Assuming continuation and consistency of this non-operating revenue, the applicant has a satisfactory short-term position.

**Long-term position:**

The long-term debt to equity of 0.4 is good, reflecting a relatively low amount of long-term debt. The poor cash flow to assets of -24.3 percent is due to the large negative flows. The most recent year had an operating loss of \$272 million, which resulted in a margin of -28.6 percent, a very poor level of operating earnings. As indicated above the applicant has a consistent source of non-operating revenues, which make the net income after the non-operating revenues a better indicator of the financial health than the operating profit or loss. The total equity of \$598 million with the equity to assets of 57.4 percent is among the strongest for Florida hospitals. This significant amount of net assets and the non-operating revenues support the weak operations and give the applicant a satisfactory long-term position.

**Capital requirements:**

Schedule 2 shows \$93 million in capital projects planned or underway. The applicant has \$8 million in long-term debt due before this project will be completed; making the total funding needed \$101 million.

**Available capital:**

Schedule 2 indicates funding for these projects will come from cash on hand. The applicant's audited financial statement shows cash and assets restricted for capital projects of \$163 million.

**Conclusion:**

The applicant has the ability to fund all capital needs.

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

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** 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 2001; the applicant will be compared to the hospitals in group 3. Per diem rates are expected to increase by an average of 3.6 percent per year. Inflation adjustments were based on the 3<sup>rd</sup> Quarter 2002 New CMS Hospital Market Basket 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 \$1,117 in year one and \$1,115 in year two are between the control group lowest and median values of \$793 and \$1,246 in year one and \$818 and \$1,286 in year two. The lowest level is generally viewed as the practical lower limit on economies of operation. With net revenues falling between the lowest and median level, the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table). The 2001 actual NRAPD for this hospital was \$917. Inflated forward to year one the NRAPD would be \$1,048.

Anticipated costs per adjusted patient day of \$1,066 in year one and \$1,063 in year two are between the group lowest and median values of \$804 and \$1,195 in year one and \$830 and \$1,223 in year two. This application is considered cost efficient when compared to the control group. (See Comparative Table). The 2001 actual CAPD for this hospital was \$877 and inflated to year one would be \$1,002.

The year two operating profit for the hospital of \$5.1 million computes to an operating margin per adjusted patient day of \$52 which is between the peer group median and highest of \$40 and \$378. The

operating margin computes to 4.7 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 \$3.4 million. This project is expected to contribute \$14,267 to the operating margin.

The projections fall within an acceptable range when compared to the group and are similar to its own historical amounts inflated forward. The projections are considered reasonable and financially feasible.

**COMPARATIVE TABLE**

<b>CON # 9672</b>					
<b>North Shore</b>	2006	YEAR 2			
<b>2001 DATA Peer Group 3</b>	YEAR 2	ACTIVITY	<u>INFLATION ADJ. VALUES</u>		
	ACTIVITY	PER DAY	Highest	Median	Lowest
ROUTINE SERVICES	0	0	1,476	603	322
INPATIENT AMBULATORY	0	0	214	62	6
INPATIENT ANCILLARY SERVICES	0	0	3,763	2,103	926
OUTPATIENT SERVICES	0	0	2,662	1,558	361
OTHER OPERATING REVENUE	0	0	38	7	0
TOTAL REVENUE	487,831,153	5,054	6,533	4,324	2,080
DEDUCTIONS FROM REVENUE	380,199,355	3,939	*	*	*
NET REVENUES	107,631,798	1,115	2,794	1,286	818
EXPENSES					
ROUTINE	30,800,695	319	304	205	124
ANCILLARY	35,615,558	369	671	373	165
AMBULATORY	5,152,545				
OVERHEAD	30,699,380	318	1,268	584	431
OTHER	312,875	3			
TOTAL EXPENSES	102,581,053	1,063	2,265	1,233	830
OPERATING INCOME	5,050,745	52	378	40	-458
		4.7%			
PATIENT DAYS	67,321		NOT INFLATION ADJUSTED		
ADJUSTED PATIENT DAYS	96,518				
TOTAL BED DAYS AVAILABLE	130,305				
ADJ. FACTOR	0.6975				
TOTAL NUMBER OF BEDS	357				
PERCENT OCCUPANCY	51.7%		87.5%	53.9%	27.6%
<u>PAYER TYPE</u>					
MEDICARE	20,581	30.6%	64.6%	34.9%	12.8%
COMMERCIAL	364	0.0%			
MEDICAID	16,016	23.8%	29.3%	12.2%	2.8%
PRIVATE	4,095	6.1%			
HMO/PPO	26,265	39.0%	65.4%	39.2%	5.0%
OTHER	0	0.0%			
TOTAL	67,321	100.0%			

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** 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 2001; the applicant will be compared to the hospitals in group 8. Per diem rates are projected to increase by an average of 3.6 percent per year. Inflation adjustments were based on the 3<sup>rd</sup> Quarter 2002 New CMS Hospital Market Basket 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 revenue per adjusted patient day (NRAPD) of \$1,795 in year one and \$1,849 in year two is between the control group median and highest values of \$1,767 and \$2,014 in year one and \$1,824 and \$2,079 in year two. The highest level is generally viewed as the practical upper limit on economies of operation. With net revenues falling between the median and highest level, the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table). The 2001 actual NRAPD for this hospital was \$1,221. This projected increase in NRAPD from \$1,221 in 2001 to \$1,795 in 2004 is not likely.

Projected cost per adjusted patient day of \$1,788 in year one and \$1,841 in year two is just below the group median values of \$1,805 in year one and \$1,863 in year two. This application is considered cost-efficient when compared to the control group. (See Comparative Table). The 2001 actual CAPD for this hospital was \$1,675.

The year two operating profit for the hospital of \$5.1 million computes to an operating margin per adjusted patient day of \$8 which is between the peer group median of \$-50 and highest of \$99. The 2001 financial data submitted to the agency shows the hospital with an operating margin of \$(226) million. Historically this facility has operating losses and relies heavily on county and sales tax revenues to supplement its revenues. It is not likely that will have profitable operations. The projections indicate the addition of these five NICU II beds will add incremental profits of \$398,608. Although the operating profit projected is not probable, this project appears to be financially feasible.

COMPARATIVE TABLE

CON # 9673					
Public Health Trust Miami-Dade 2001 DATA Peer Group 8	2005	YEAR 2	INFLATION ADJ. VALUES		
	YEAR 2	ACTIVITY	Highest	Median	Lowest
	ACTIVITY	PER DAY			
ROUTINE SERVICES	2,042,126,894	3,121	997	735	434
INPATIENT AMBULATORY	0	0	252	60	49
INPATIENT ANCILLARY SERVICES	0	0	4,122	2,393	1,992
OUTPATIENT SERVICES	558,871,391	854	1,666	1,118	891
OTHER OPERATING REVENUE	388,204,623	593	64	38	29
TOTAL REVENUE	2,989,202,908	4,568	6,135	4,574	3,881
DEDUCTIONS FROM REVENUE	1,779,597,451	2,720	*	*	*
NET REVENUES	1,209,605,457	1,849	2,079	1,824	1,379
EXPENSES					
ROUTINE	316,387,540	484	477	281	254
ANCILLARY	427,137,775	653	722	653	595
AMBULATORY	74,050,478				
OVERHEAD	386,933,305	591	1,023	762	642
OTHER	0	0			
TOTAL EXPENSES	1,204,509,098	1,841	2,166	1,863	1,562
OPERATING INCOME	5,096,359	8 0.4%	99	-50	-454
PATIENT DAYS	447,005		NOT INFLATION ADJUSTED		
ADJUSTED PATIENT DAYS	654,312				
TOTAL BED DAYS AVAILABLE	643,130				
ADJ. FACTOR	0.6832				
TOTAL NUMBER OF BEDS	1,762				
PERCENT OCCUPANCY	69.5%		64.7%	57.9%	48.1%
<u>PAYER TYPE</u>	<u>PATIENT DAYS</u>	<u>% TOTAL</u>			
MEDICARE	64,279	14.4%	55.7%	32.2%	13.3%
COMMERCIAL	36,035	0.0%			
MEDICAID	82,416	18.4%	32.2%	20.6%	5.6%
PRIVATE	60,575	13.6%			
HMO/PPO	88,455	19.8%	43.3%	30.0%	8.4%
OTHER	115,243	25.8%			
TOTAL	447,003	100.0%			

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

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant forecasts managed care to represent 39.0 percent of its patient days. This is similar to the control group's median level of 39.2 percent and is below the hospital's own 2001 managed care level of 42.2 percent. The level of managed care will not exert much pressure on competition; however the fact that this

level actually dropped will minimize the influence even further. The managed care test indicates this project will not have any significant impact on competition.

The proposed NICU II project was compared to all other hospitals in the state with approved NICU II programs. Schedule 7, total gross revenue for the project only is projected to be \$577,157 for year two. With 476 patient days anticipated the gross revenue (gross charges) per patient day computes to \$1,213. This amount is between the lowest and median of \$600 and \$2,147 respectively. With the NICU II charges between the lowest and median, some competitive impact will be felt.

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

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The applicant projects managed care to represent 19.8 percent of its patient days. This is between the control group lowest and median levels of 8.4 percent and 30.0 percent and is a little above the hospital's own 2001 managed care level of 17.7 percent. Judging from the managed care forecast it does not appear that this project will have any significant impact on competition.

The proposed NICU II project was compared to all other hospitals in the state with approved NICU II programs. Schedule 7, total gross revenue for the project only is projected to be \$2,841,807 for year two. With 1,522 patient days anticipated the gross revenue (gross charges) per patient day computes to \$1,867. This amount is between the lowest and median of \$581 and \$2,081 respectively.

The project should have minimal 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.**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant proposes to convert seven existing acute care beds to seven new Level III NICU beds to augment the existing eight Level II beds. There is also a companion CON application (CON #9668) from the same parties to add two new Level III beds through additional acute care bed conversion. Both applications use the same wording to indicate that they are "related", but neither says that they are contingent on each other.

The applications also use essentially the same language to describe the work to be done, and the plans submitted are identical. Both the Level II and Level III beds are designed to occupy the same physical space with isolettes separated by cubicle curtains and two 5' high partial walls. Several existing rooms will be demolished to provide space for the nine new NICUs. In addition, an adjacent corridor is also planned to become part of the new space.

The rooms to be demolished include a holding nursery, a sizable staff workroom, a supply/workroom and a med prep room. It must be assumed that the loss of these spaces and the corridor will not adversely affect the total hospital.

Although both plans are the same and the two CON applications are not said to be mutually contingent, the plans could appear to indicate otherwise. If CON #9668 for two Level III beds were not granted and this application for seven Level II beds was granted, then the extent of renovation shown might still be reasonable for seven new beds. The same logic might not apply to CON #9668.

It appears that the existing central nurse/control station is also going to serve the prospective nine new beds in both applications. None of the new beds can be directly observed from that location. This may not present a problem, depending on the level of staffing in the entire NICU area. A physician sleeping space with a toilet/shower room is not shown, but one is presumably located nearby since this floor houses the existing NICU beds as well as delivery rooms and physician's spaces have been required in the past.

The new beds will also use the existing ancillary spaces. If these spaces were sized to accommodate the existing 13 NICU beds, it is possible that they might not be large enough to accommodate up to nine more NICU beds as proposed in the two applications. This application will, in itself, almost double the number of Level II beds. The facility should review this issue and determine if the spaces will serve their needs if this has not already been considered.

It is required that each NICU bed has a minimum of 120 square feet exclusive of sinks and aisles. It appears that this requirement has been met as well as the hand-washing station requirements. Several minimum size requirements for ancillary spaces will change with the adoption of the new codes.

The application included a cover sheet with code listings, a site and location plan, an overall plan of the 3<sup>rd</sup> floor and 1/8" scale demolition and renovation plans. No larger scale plans of the new NICU space were provided, but the ones presented were more than adequate to

review the project architecturally. The codes listed are essentially correct for the current situation and the applicant's design professionals are quite familiar with the code situation in Florida.

Total cost data and schedules submitted seem to be reasonable for the work to be done. However, the cost information, though pro-rated between the two applications, can't be totally verified since there is the possibility that the entire project might not go forth as submitted if both CON applications are not granted.

Although the costs are pro-rated, the ones listed in this application are somewhat less than the actual percentage of the proposed beds. This is illustrated by the differences in the costs per square feet and the costs per bed.

At some point, the facility will have to address the disposition of the spaces where the existing acute care beds to be delicensed are located. Unallocated space is usually reviewed as "storage" with fire rating and construction issues taken into consideration.

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.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The applicant proposes the addition of five new Level II NICU beds to augment the existing 60 beds in the 1,498-bed facility. The new beds will be located in the Holtz Children's Hospital and will be transferred from Jackson Memorial North. There is another CON application (CON #9670) for adding Level III NICU beds, but the two applications are not contingent on each other.

The anticipated renovation will take place on the 3<sup>rd</sup> floor in an area that is occupied by nursery and office spaces that are currently not in use. The space for the new beds does not appear to be particularly related to other neo-natal care areas according to the space names, but the facility program on Page 4 of the application indicates that the surrounding spaces are actually neonatal spaces. There is a nursery unit noted in an adjacent wing.

Each of the proposed new beds is in an individual room. Each has a hand-washing station and a glass wall facing the open central workspace. In addition to the five patient rooms, there are numerous charting and dictation spaces, a unit reception area, a visitor waiting area, soiled holding, housekeeping, a multi-purpose room and storage facilities. None of the patient rooms provide space for parents' sleeping and accessible toilet rooms. These functions may be located in another nearby area of the facility and are required by the codes that this project will be reviewed under.

The scrub/gown area near the entrance has only one scrub sink and not two as required by the Florida Building Code, Chapter 419. It must be assumed that an isolation room for at least one level of nursery care is provided elsewhere in the facility since one is not provided in the area to be renovated. Additionally, several required ancillary support spaces such as staff toilets are not included in the new unit but are said to be adjacent to the new spaces.

Although the current Chapter 419 of the Florida Building Code and Chapter 59A-3 of the Florida Administrative Code require a minimum of six feet clear from the side of a neonatal platform to a side wall, this specific clearance will not be required with the anticipated adoption of the new edition of the Florida Building Code and the revised Chapter 59A-3. However, it will be required that each patient care space have a minimum of 120 square feet exclusive of sinks and aisles. It appears that this requirement has been met from the plans submitted.

The application included a large-scale plan of the existing space as reconfigured by the renovation as well as a 1/16" life safety plan of the 3<sup>rd</sup> floor showing the existing spaces that will be demolished.

There was no readily apparent list of applicable building codes included in the application, but codes will change as noted above. The projected timetable appears to be reasonable, given the scope of the project.

Cost data and schedules submitted seem to be reasonable for what is essentially rather minor renovation of existing space.

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.

- i. Does the applicant have a history of providing health services to Medicaid patients and the medically indigent? Does the applicant propose to provide health services to Medicaid patients and the medically indigent? ss. 408.035(11), Florida Statutes.**

The following table provides an indication of the co-batched applicant’s commitment to charity and Medicaid, with comparison to the district, based on fiscal year (FY) 2001 actual data prepared by AHCA:

**Medicaid and Charity Care of the Applicant Compared to the District for Fiscal Year 2001**

<b>Applicant</b>	<b>FY 01 Conventional Medicaid Days</b>	<b>FY 01 Gross Charity Percentage of Charges</b>
North Shore Med. Ctr.	27.59%	3.3%
Jackson Memorial Hosp.	35.78%	30.4%
District 11 Average	12.87%	3.1%

Source: FY 2001 Actual Data/AHCA

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9673):** As reflected in the table, North Shore’s provision of Medicaid and charity care exceeds the district average. Although the applicant was classified as a Disproportionate Share Provider in state fiscal years 2000-2001 and 2001-2002, it is not eligible to be a Disproportionate Share Provider for fiscal year 2002-2003. As a condition of this application, the applicant commits that at least 40 percent of the Level II NICU days will be provided to Medicaid, Medicaid HMO and charity patients combined.

The applicant provided the historical payer mix experience for neonates (excluding normal newborns) for the past three calendar years and 2002 (first nine months) using DRG 385 through DRG 390:

**Percent of DRG 385 through DRG 390 Admissions by Payor at North Shore Medical Center**

<b>Payor</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>01/2002-09/2002</b>
Medicaid	39.1%	41.9%	59.1%	69.6%
Self Pay/Under-insured	9.1%	8.6%	11.5%	6.7%
All Other	51.8%	49.5%	29.4%	23.7%
Total	100.0%	100.0%	100.0%	100.0%

Source: CON #9672 Application

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** As reflected in the table above, JMH’s provision of Medicaid and charity care exceeds the district average. The applicant is Medicaid Disproportionate Share Provider as a RPICC.

The application also contains the projected payer distribution in the second year of operation of the proposed project:

**Payer Distribution in the Level II NICU  
by Category  
Second Year of Operation**

<b>Payer Category</b>	<b>Percent of Patient Days</b>
Self Pay	15.3%
Medicaid	67.2%
Medicaid HMO	5.6%
Commercial Ins	2.6%
HMO/PPO	9.0%
Other Payers	0.4%
<b>Total</b>	<b>100.0%</b>

Source: CON Application 9673

**F. SUMMARY**

**Tenet Health System North Shore, Inc. d/b/a North Shore Medical Center (CON #9672):** The applicant proposes to convert seven of its acute care beds in order to add seven Level II NICU beds to its existing eight-bed Level II NICU at North Shore Medical Center (NSMC), creating a 15-bed Level II NICU unit.

The proposed total project cost is estimated to be \$1,167,300. Renovation costs are projected at \$493,000 and the project will involve 2,175 gross square feet (GSF) of renovated space.

**Need:**

A fixed need pool of zero was published for Level II NICU services in District 11. The applicant is applying outside of the fixed need pool and indicated it is applying under hospital-specific special (not normal) circumstances, which it demonstrated based on current occupancy. Need for seven Level II beds were also demonstrated by the applicant based on conservative projections.

**Quality of Care:**

The applicant is JCAHO accredited and a quality care provider.

**Medicaid/Indigent Care:**

According to the applicant's *Certificate of Need Predicated on Conditions* page, it will set aside a minimum of 40 percent of its Level II NICU patient days to Medicaid/Medicaid HMO/charity patients combined.

**Financial/ Cost:**

The applicant has an adequate short-term position. The applicant has a strong long-term position. The applicant should be able to fund all capital requirements as needed.

**Architectural:**

The applicant has filed a companion CON application in this batching cycle for two additional Level III beds. Although both plans are the same and the two CON applications are not said to be mutually contingent, the plans could appear to indicate otherwise. Both the Level II and Level III beds are designed to occupy the same physical space. If CON #9668 for two Level III beds were not granted and this application for seven Level II beds was granted, then the extent of renovation shown might still be reasonable for seven new beds. The same logic might not apply to CON #9668.

**Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital (CON #9673):** The applicant proposes to add five beds to its existing Level II NICU via transfer of five Level II beds at Jackson Memorial North.

The proposed project cost is estimated to be \$1,236,493. Renovation costs are projected at \$500,000 and the project will involve 1,669 gross square feet (GSF) of renovated space.

**Need:**

A fixed need pool of zero was published for Level II NICU services in District 11. The applicant is not applying to add beds to the planning area and has shown that the transfer of these five Level II beds from Jackson North is a better use of its resources. The transfer of these beds is not expected to negatively impact existing Level II NICU providers.

**Quality of Care:**

The applicant is JCAHO accredited and a quality care provider. As a RPICC provider, there is tremendous oversight of the neonatology department.

**Medicaid/Indigent Care:**

JMH is a designated Medicaid Disproportionate Share Provider as a Regional Perinatal Intensive Care Center, a public hospital and a teaching hospital and currently provides the highest percentage of care to the medically indigent in the district. Further, as a public hospital, the applicant is prohibited from denying admission to anyone needing services.

**Financial/Cost:**

The applicant has a satisfactory short-term and long-term financial position. The applicant has a consistent source of non-operating revenue coming primarily from Miami-Dade County funding and sales tax revenues. Funding for this project will come from cash on hand. The applicant has the ability to fund all capital needs.

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

**Architectural:**

The scrub/gown area near the entrance has only one scrub sink and not two as required by the Florida Building Code, Chapter 419. It must be assumed that an isolation room for at least one level of nursery care is provided elsewhere in the facility since one is not provided in the area to be renovated. Additionally, several required ancillary support spaces such as staff toilets are not included in the new unit but are said to be adjacent to the new spaces.

The projected timetable appears to be reasonable given the scope of the project and cost data and schedules submitted seem to be reasonable for what is essentially minor renovation of an existing space.

**G. RECOMMENDATION**

Approve CON # 9672 to add seven Level II neonatal intensive care unit (NICU) beds to North Shore Medical Center's existing 8-bed Level II NICU, creating a 15-bed Level II unit through the delicensure of seven acute care beds at North Shore Medical Center. Total project cost is \$1,167,300. Renovation costs are \$493,000 and the project will involve 2,175 GSF of renovated space.

CONDITION: A minimum of 40 percent of 15-bed Level II NICU patient days shall be provided to Medicaid, Medicaid HMO, and charity patients on a combined basis.

Approve CON #9673 to add five Level II neonatal intensive care unit (NICU) beds to Jackson Memorial Hospital's existing 60-bed Level II NICU, creating a 65-bed Level II unit through the transfer and delicensure of five Level II NICU beds at Jackson Memorial Hospital (North). Total project cost is \$1,236,493. Renovation costs are \$500,000 and the project involves 1,669 GSF of renovated space.

**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**