

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Select Specialty Hospital-Escambia, Inc./CON #9701
2021 Church Street, Suite 202
Nashville, Tennessee 37203-2016

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

SemperCare Hospital of Pensacola, Inc./CON #9702
2745 North Dallas Parkway
Plano, Texas 75093

Authorized Representative: Gary A. Kagan
(972) 836-1300

2. Service District

District 1

B. PUBLIC HEARING

A public hearing was not held or requested with regard to the establishment of a long-term care hospital (LTCH) in District 1. However, letters in support of each applicant's proposal were received as follows:

Select Specialty Hospital- Escambia, Inc. (CON #9701) submitted letters of support from the following local organizations: Sacred Heart Healthcare System, Northwest Florida Community Hospital, North Okaloosa Medical Center, Healthmark Corporation, Cardiology and Cardiothoracic Surgical Associates of Northwest Florida, Pensacola Lung

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Group, Hospitalist Management Group, Gulf Coast Physician Partners, Infectious Disease Associates of Northwest Florida, and the Council for Aging of West Florida, Inc.

The letters of support basically state that the location of a LTCH in District 1 will enhance services and accessibility for residents. Several of the letters addressed the inability to place acute care patients that qualify for LTCH services. One of those letters was from Dr. F. James Fleischhauer, representing Cardiology and Cardiothoracic Surgical Associates of Northwest Florida, in which he states that during calendar year 2002, approximately 24 of his groups' patients would have been candidates for LTCH services if the services were available. Dr. Stephen Houff, representing the Hospitalist Management Group, stated that his group cared for approximately 99 patients that would have been candidates for LTCH services during the September 2002 through August 2003 period if one had been available.

The applicant also included 10 letters of support from various Select Specialty affiliates from around the country. Three of these were from representatives of the new Miami Select Specialty Hospital. In addition, there was one letter from a mother of Select Specialty Hospital Miami patient. These basically support the long-term care hospital concept and compliment the care given at Select Specialty Corporation Hospitals.

SemperCare Hospital of Pensacola, Inc. (CON #9702) submitted letters of support from representatives of the Baptist Healthcare System including several of its hospitals and Baptist Manor (nursing home), West Florida Hospital, the Council for Aging of West Florida, Inc., local businesses and community groups, 16 local physicians, and three local nursing homes: Azalea Trace, Pensacola Health Care Facility and Delta Health Group, Inc.

The letters of support from Baptist Healthcare System affiliates, local businesses and community groups basically state that the location of a LTCH in Baptist Hospital (District 1) will enhance services and accessibility for residents of the Pensacola area. Several of the letters addressed the inability to place acute care patients that qualify for LTCH services. West Florida Hospital's letter indicates that it had 172 patient discharges during calendar year 2002 that were appropriate for long-term care hospital placement. The applicant also includes a summary of the physician support letters which states that utilizing its length of stay methodology Baptist Hospital discharged 336 patients that were appropriate for long-term hospital care during 2002 and that 15 of the

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physicians who included letters of support for the project accounted for seven or more of these discharges. A listing of these physicians and the number each discharged was provided.

Letters of support from the above nursing homes all contend that they have patients whose level of care is higher than they can provide given the prospective payment system's reimbursement and that the long-term hospital reimbursement allows the long-term care hospital to provide the most effective treatment. All express their willingness to enter into a written transfer agreement with SemperCare upon approval of the project. The nursing homes do not provide the numbers of their patients who need long-term hospital care.

Janice Gilley, Escambia County Commissioner, submitted a letter of support for the project indicating that there are currently no facilities in the area providing this care and if the project is not approved patients and families will have to travel to Mobile, which is over 60 miles away or to Panama City, over 100 miles, to assess this care. She concludes that the project will be of great benefit to caregivers, friends and family members. John W. Noble, Mike Wiggins, Mike DeSorbo, Ron Townsend, Joseph D. Smith and Hugh King, all members of the Pensacola City Council signed a letter of support also reciting the same language as Ms. Gilley's letter.

While some of the letters of support quantified the actual number of patients who could be discharged for LTCH services; the emphasis is on the long-term care hospital being more appropriate for prospective payment system reimbursement. None document that these patients did not receive appropriate care in other settings.

C. **PROJECT SUMMARY**

Select Specialty Hospital-Escambia, Inc. (CON #9701), a wholly owned subsidiary of Select Medical Corporation, proposes to establish a 54-bed freestanding LTCH to be located at 5203 North Ninth Avenue in Pensacola, Escambia County. The applicant proposes to lease the building formerly used as the Haven of Our Lady of Peace, a licensed community nursing home that was replaced at a new location. The parent, Select Medical Corporation, currently has 72 LTCHs nationwide, including one operational LTCH in Miami that was licensed on December 23, 2002, and a recently approved 40-bed LTCH in District 7. Select Specialty has submitted seven proposals in the current review cycle to develop LTCHs within the State of Florida. These involve two proposals in District 8 and one each in Districts 1, 3, 4, 6, 8 and 9.

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The proposed hospital will consist of 46,944 gross square feet of renovation to the existing 61,337 GSF building with construction costs of \$4,686,000. Total project cost is estimated to be \$6,676,370. Select Medical Corporation will provide the funding for the proposed project. However, the Agency architectural review indicates that the project has significant problems to be corrected that will likely increase the project cost.

The applicant proposes to condition award of the certificate of need on the provision of 2.0 percent of the facility's total annual patient days to Medicaid patients and 0.8 percent to charity care patients.

SemperCare Hospital of Pensacola, Inc. (CON #9702), a wholly owned subsidiary of SemperCare, Inc., proposes to establish a 36-bed LTCH within Baptist Hospital in Pensacola, Escambia County. The parent, SemperCare, Inc. currently operates 13 LTCHs with five in the process of start-up and seven more in the regulatory process. In Florida, SemperCare has been approved for a 30-bed LTCH in Panama City and a 29-bed LTCH in Tallahassee, both in District 2. The applicant also has a 35-bed LTCH located within Florida Hospital in Orlando (District 7). SemperCare has submitted four separate proposals during the current review cycle to develop LTCHs in the state of Florida. These involve new LTCHs in Districts 1, 4, 6, and 8.

The proposed LTCH will be located on the fourth floor of Baptist Hospital and will contain 16,825 square feet, which encompasses 22 one-bed rooms and seven semi-private rooms at a renovation construction cost of \$1,109,770. Total project cost is estimated to be \$2,112,730. SemperCare, Inc will provide the funding for the proposed project.

The applicant proposes to condition award of the certificate of need on the provision of 2.0 percent of the facility's annual patient days to Medicaid patients and one percent of gross revenue to indigent/charity care. Though not proposed as a condition, the applicant indicates that following approval of this CON, Baptist Hospital will delicense 30 skilled nursing beds and six acute care beds.

D. REVIEW PROCEDURE

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes. These criteria form the basis for the goals of the review process. The goals represent desirable outcomes to be attained by successful applicants who demonstrate an overall compliance with the criteria. Analysis of an applicant's capability to undertake the proposed project successfully is conducted by assessing the responses provided in the application, and independent information gathered by the reviewer.

Applications are analyzed to identify strengths and weaknesses in each proposal. If more than one application is submitted for the same type of project in the same district (subdistrict), applications are comparatively reviewed to determine which applicant best meet the review criteria.

Chapter 59C-1.010(2)(b), Florida Administrative Code, allows no application amendment information subsequent to the application being deemed complete. The burden of proof to entitlement of a certificate rests with the applicant. As such, the applicant is responsible for the representations in the application. This is attested to as part of the application in the Certification of the Applicant.

As part of the fact-finding, the consultant, James B. McLemore, analyzed the application in its entirety with consultation from the Financial Analyst, Douglas E. Pierce, who evaluated the financial data, and the Architect, Joel Hill, who evaluated the architectural and the schematic drawings as part of the application.

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

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

1. Fixed Need Pool

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

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

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

b. Criteria for Determination of Need.

In the absence of agency policy regarding long-term care hospital beds and services, Chapter 59C-1.008 (2)(e), Florida Administrative Code, provides a needs assessment methodology which must include, at a minimum, consideration of the following topics, except where they are inconsistent with the applicable statutory or rule criteria:

- a. Population demographics and dynamics;
- b. Availability, utilization and quality of like services in the district, subdistrict or both;
- c. Medical treatment trends; and
- d. Market conditions.

The existence of unmet need will not be based solely on the absence of a health service, health care facility, or beds in the district, subdistrict, region or proposed service area.

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

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

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

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

- Most patients in LTCHs had several diagnosis codes on their Medicare claims, indicating that they had multiple co-morbidities and are probably less stable upon admission than patients admitted to other postacute care settings. Relative to intensive rehabilitation facilities (IRFs), LTCHs had a higher proportion of patient costs attributable to ancillary services (for example, pharmacy, laboratory, and radiology charges).
- LTCHs provide care to a disproportionately large number of Medicare beneficiaries who are eligible because of disability. While individuals with disabilities make up about 10 percent of the Medicare population, they make up 17 percent of the LTCH patients.
- LTCH admissions typically come from outlier acute care hospitals, nonoutlier acute care hospitals, and other (indicating direct admissions without acute stay).

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- In terms of age, those without prior acute care stays were younger and about twice as many were under the age of 65, with a mean age about five or three years lower than those with prior acute care stays (whether outlier or nonoutlier). When compared to intensive rehabilitation facilities (IRFs) the proportion of LTCH patients who are under 65 years of age (18 percent) was twice that of IRF patients (nine percent).
- About 1/3 of the LTCH Medicare stays were beneficiaries who are also eligible for Medicaid, compared to fewer Medicaid-eligible beneficiary stays at IRFs. CMS states that it is widely documented that dually eligible beneficiaries are generally much sicker than non-Medicaid eligible Medicare beneficiaries.

Note: The proposed rule (42 CFR Part 412) for the LTCH Prospective Payment System (PPS) with proposed annual payment rate updates and policy changes was published in Vol. 68, No. 45, of the Federal Register on March 7, 2003. The final rule was published in Vol. 68, No.109, of the Federal Register on June 6, 2003.

At present there are 11 long-term care hospitals with 769¹ beds licensed to operate in the State of Florida. These facilities are concentrated in six of the 11 AHCA health planning areas and are in the following counties: Dade (Miami), Hillsborough (Tampa), Broward (Ft. Lauderdale and Hollywood), Duval, Clay, Orange and Pinellas (St. Petersburg). There are an additional 165 beds approved but not yet operational. These consist of 20 beds at Kindred Hospital in District 4 and six beds at Kindred in Ft. Lauderdale in District 10 and the following approved new LTC Hospitals: SemperCare of Panama City (30 beds) and SemperCare of Tallahassee (29 beds) in District 2, Select Specialty (40 beds) at Lucerne Medical Center in Orlando/District 7 and HealthSouth (40 beds) in Sarasota in District 8. The average occupancy of the operational programs was 76.96 percent for calendar year 2002, ranging from a low occupancy rate of 52.21 percent for Specialty LTCH-Jacksonville to a high of 100.15 percent for Kindred LTCH-St. Petersburg.

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

¹ A total of 86 beds have been licensed since 12/31/02 utilization in chart on following page. These consist of 22 at Kindred Hospital –Bay Area-St. Petersburg licensed on April 23, 2003 and the licensure of two new facilities: SemperCare of Orlando (35 beds) on June 12, 2003 and Mercy Medical Development, Inc. d/b/a Sister Emmanuel Hospital For Continuing Care (29 beds) on July 15, 2003.

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Florida Long-term Care Hospitals Utilization Experience Calendar Year 2002

Hospital	District	Beds	Bed Days	Patient Days	Occupancy
Kindred-North Florida	4	60	21,900	19,821	90.51%
Specialty-Jacksonville	4	107	39,055	20,392	52.21%
Kindred-St. Petersburg	5	60	21,900	21,933	100.15%
Kindred-Central Tampa	6	102	37,230	29,569	79.42%
Kindred-Bay Area-Tampa	6	73	26,645	17,986	67.50%
Kindred-Hollywood	10	124	45,260	32,300	71.37%
Kindred-Ft. Lauderdale	10	64	23,620	21,409	91.65%
Kindred-Coral Gables	11	53	19,345	17,197	88.90%
*Select Specialty-Miami	11	40	360	Not Reported	Not Reported
Florida Total		683**	235,055*	180,607*	76.96%*

Source: Florida Hospital Bed Need and Service Utilization, 7/25/03.

*Select Specialty-Miami was licensed effective 12/23/02 but reported zero utilization. Utilization data shown above is based on 643 beds in operation for the 12-month reporting period deleting the 360 bed days credited to Select Specialty-Miami. While Specialty-Miami's license was effective 12-23-02, it was not issued until 1-3-03.

**Does not include Kindred Hospital-St Petersburg (District 5), which added 22 beds on 4/23/03 and a new 29-bed facility, sister Emmanuel Continuing Care in District 11 that was licensed effective July 15, 2003.

There are presently no existing or approved long-term care hospitals (LTCHs) located in District 1.

The current bed complement and average occupancy of these distinct other forms of care in District 1 are as follows:

Acute Care and Post Acute Care Providers District 1 Beds and Utilization

Facility Type	Total Beds District 1	District 1 Average Occupancy
Acute Care	1,763	53.94%
Comprehensive Med. Rehab	78	58.61%
Hospital-based Skilled Nursing	94	54.10%
Skilled Care Community Nursing Homes	3,088	91.26%

Source: Hospital Bed Need Projections 07/03 Projections for acute care and CMR beds for January - December 2002. HBSNU beds and Nursing Home Utilization January 2002-December 2002. from 4/11/03 AHCA publications.

Both Select Specialty (CON #9701) and SemperCare (CON #9702) contend that their respective proposals will provide LTCH services to patients with complex and medically unstable conditions that cannot be adequately addressed by licensed acute care beds, comprehensive medical rehabilitation beds, hospital-based skilled nursing unit beds, and nursing home beds in the service planning area. However, studies recently conducted suggest the opposite.

Although the applicants contend that the level of care provided by a LTCH is acute care, this is not the case. Acute care services are only provided in an acute care setting, whereas, the care provided in a LTCH is considered "post acute care", predominantly provided to patients discharged from an acute care setting. A LTCH distinguishes itself within the overall health care continuum based upon the high acuity

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level of the patients it treat, the interdisciplinary treatment model, and the duration of the patients' hospitalization. Typically, patients are medically unstable, require extensive care and often require extensive technological support (ventilator care, dialysis, etc.).

As noted earlier, when no need methodology exists, it is the applicant's responsibility to demonstrate need based upon the availability, utilization and quality of like services in the district. The Centers for Medicare and Medicaid, based on several studies, have determined that LTCH services are similar to home health services, skilled nursing services and comprehensive medical rehabilitation services. Applicants for LTCH services must therefore show that there is need based upon the availability, utilization and quality of LTCH, home health, skilled nursing and comprehensive medical rehabilitation services in the district. Both applicants contend that LTCH services are distinct.

The June 2003 MedPAC Report² found that "LTCHs are the post-acute care setting least used by beneficiaries and are not available in many areas. In general, policymakers regard rapid growth in any sector as a phenomenon that requires examination. As the number of LTCHs has almost doubled since 1993 and Medicare spending for such care has also quintupled from 1993-2001, questions have arisen about whether beneficiaries using LTCHs are different from patients using other settings. Our analysis found patients in market areas with LTCHs had similar acute hospital lengths of stay regardless of whether they used LTCHs or not. Patients who used these hospitals were found to be three to five times less likely to use skilled nursing facility (SNF) care, suggesting that SNFs and LTCHs may be substitutes. Compared with similar patients who did not use LTCHs, total payments and mortality rates for LTCH patients were considerably higher". Although the MedPAC report questions the role LTCHs play in providing acute and post-acute care and the relationship of patient outcomes and the high cost of care in this post-acute setting, the report admits that more information is needed on a number of issues regarding LTCHs before concluding that LTCHs represent a valid post-acute care option.

It was not definitively demonstrated by either co-batched applicant that patients cannot be treated in one of three other venues (rehabilitation, home health and skilled nursing).

² Source: MedPac Report to Congress: Variation and Innovation in Medicare, June 2003, Chapter 5 Monitoring post-acute care, pages 72-73.

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Population Estimates for District 1 Counties and Percent Change by County For Total Population, 65 and over, and 75 and Over Population

County	Total Jan. 2004	Total Jan. 2009	Percent Change	65+ Percent Change	75+ Percent Change
Escambia	302,774	314,297	3.81%	4.92%	6.33%
Okaloosa	180,356	192,655	6.82%	7.77%	17.58%
Santa Rosa	130,225	146,327	12.37%	25.71%	30.03%
Walton	46,100	52,054	12.92%	29.63%	33.47%
Total District	659,455	705,333	6.96%	11.75%	15.36%

Source: AHCA Pop. Projections, published June 2003.

As shown above, the overall population in District 1 is expected to increase by 6.96 percent during the next five years, with the 65 and over and 75 and over age cohort increasing by 13.43 percent and 15.36 percent, respectively³. For Escambia County, the increase is anticipated to be 3.81 percent overall, while the 75 and over population is expected to increase by 6.33 percent during the next five years.⁴ The percentage increase over the next five years in all three population groupings in Escambia County is expected to be below the overall District 1 increases. Escambia County is the most populous county in the district with a total population of 302,774. The Escambia County aged 65 and over population is 40,303 or 46.75 percent of the District 1 total of 86,225. Escambia County's age 65 and over population is projected to increase to 42,284, which projects to 43.89 percent of District 1's total age 65 and over population for 2008.

There were 4,276 patients discharged from the eight Florida LTCH's reporting during calendar year 2002. Patients aged 65 and over accounted for 76.64 percent of total LTCH discharges and patients aged 75 and over accounted for 53.02 percent. Three patients from District 1 were discharged from Florida LTCHs during CY 2002⁵.

Both applicants present an analysis of the population demographics that are consistent with the above data. **Select Specialty** utilizes population projections from the AHCA population projections published June 2003 to July 1, 2006, which result in an age 65 and over growth rate of 2.14 percent for the district for a three year period. **SemperCare** also utilizes

³ AHCA population projections published June 2003 indicate that District 1's age 65 and over population is projected to be 86,225 as of January 1, 2004 and will increase to 96,357 by January 1, 2009. The age 75 and over population is projected at 38,063 in 2004 increasing to 43,907 in 2009.

⁴ AHCA population projections published June 2003 indicate that Escambia County's age 65 and over population is projected to be 40,303 as of January 1, 2004 and will increase to 42,284 by January 1, 2009. The age 75 and over population is projected at 19,259 in 2004 increasing to 20,477 in 2009.

⁵ AHCA Discharge Data Summary Reports for CY 2002 ran on 9/24/03.

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AHCA population projections published June 2003 and uses population numbers to January 1, 2008, which result in an age 65 and over growth rate of 4.6 percent for a five year period. A discussion of each applicant's need analysis is presented below.

Select Specialty Hospital-Escambia, Inc. (CON #9701) indicates that the project will primarily serve Escambia County and surrounding area residents. The applicant presents an analysis of CY 2002 discharges from eight of the long-term care facilities in Florida, which indicates that greater than 50 percent of a long-term hospital's patients come from the county in which it is located. There were two exceptions to this one was Kindred Hospital-Bay Area Tampa which due to its location Hillsborough County patients accounted for 39.5 percent, while Polk County residents accounted for 18.1 percent and Kindred Hospital – North Florida which is in Clay County which increases access to five rural counties.

Select Specialty presents two methodologies for consideration in support of the proposed project. The first methodology utilizes an average length of stay to identify acute care patients with lengths of stay in acute care hospitals that exceed the acceptable DRG stay. The second method involves statewide age-specific LTCH use rates applied to population projections for July 2006 to predict the number of LTCH patient days in District 1.

Select Specialty states that both methods have the same objectives. These include the calculation of the number of long-term care patient days that the district would generate, conversion of the patient days to an average daily census, calculation of the number of LTCH beds needed at an 80 percent occupancy, inflation of the forecast to calendar year 2006 using July 2006 population estimates and among the options in the models, finding the option that is most consistent with the district's utilization of health care resources for CMR, HBSNU and community nursing homes.

The length of stay methodology projects patient days for a new LTCH using the ALOS for LTCH appropriate patients in acute care hospitals to calculate an estimated number of patient days that may be generated by area hospitals. The applicant used Florida's Hospital Discharge Data for calendar year 2002 for hospitals within its proposed service area to identify patient days appropriate for LTCH services.

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The applicant contends that the Major Diagnostic Code (MDC) that creates the longest length of stays is not associated with DRGs but the DRGs that appear are tracheotomies of head, neck and throat with or without complications, that are assigned the MDC is "ALL" meaning that the result can occur within any of the MDCs. Likewise, DRGs 468 and 477, extensive operating room procedure related/unrelated to principle diagnosis, are assigned the MDC "PRE" meaning that it is a pre-event that can occur across all the MDCs. Since not all diagnoses are appropriate for the services offered at a LTCH (neonates with complications or their mothers with complications in delivery, psychiatric and substance abuse diagnoses), the applicant has deleted these DRGs from inclusion in the analysis. The applicant provided two options under the length of stay methodology: (1) patients with a length of stay greater than 25 days and (2) patients with a the geometric mean plus seven days which adds seven days to each of the 527 DRGs' GMLOS. (*Note: The GMLOS represents an adjusted value for all cases for a given DRG, assigned by the CMS*). It is therefore assumed that if patients stayed in the acute care hospital more than a few days beyond the GMLOS, they are potential candidates for a LTCH.

The applicant indicates that an analysis of District 1 Florida Hospital Discharge Data for CY 2002 for patients with a length of stay 25 days identified 1,345 cases and of those 919 were selected after including only adults, aged 18 and older and excluding psychiatric and substance abuse cases. These 919 cases had an ALOS of 39.3 days, which is approaching the statewide LTCH ALOS of 42.7. Option two, the geometric mean plus seven days produced 281 cases, having an average length of stay of 54.3 days.

The patient days for both categories were divided by 365 days to yield an average daily census (ADC) and the value of the ADC was divided to 0.8, to obtain the number of beds needed if the ADC corresponded to an 80 percent occupancy rate. The 919 cases accounted for 36,159 patient days or an average stay of 39.3 days. The applicant divides 36,159/365, which results in an ADC of 99. Therefore, 124 beds would be needed at 80 percent occupancy. The use of the GMLS plus seven-day method yielded 281 cases and a total of 15,391 patient days. This results in an ALOS of 54.8 days and an average daily census of 41.14. Therefore, to reach 80 percent occupancy, 53 beds would be needed utilizing this method.

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The following chart shows the applicant's calculated number of discharges LTCH patient days for the acute care hospitals in District 1 for CY 2002 and the projected for CY 2006. The applicant indicates that the population increase to July 2006 for District 1 is applied and a compound annual growth rate of 0.0132 is utilized in the projections below.

**Long-term Hospital Patient Days
District 1 Service Area Hospitals
July 2003 - July 2006**

	Discharges LOS > 25 days	Discharges GMSOS + 7 days
ALOS	39.3	54.8
ADC July 2003	99	42
ADC July 2006	103	44
Beds Needed @ 80% Occupancy	129	56

Source: CON Application page 1-37. July 2003 figures are based on CY 2002 Hospital Discharge Data.

Based on the above discharges, the applicant arrives at a total bed need for 129 LTCH beds or 56 beds, based on extended acute care lengths of stay. The applicant contends that the two estimates provide a reasonable upper and lower range of projected LTCH patient days. As with any LOS methodology, certain variations in patient characteristics can alter assumptions of need. These include the patient's functional ability, availability of caregivers at home, ethnicity, age, socio-demographics, and dependence on technology. The applicant's Exhibit 1-2 provided specific supporting data, including specific DRG data by hospital and attending physician. This documentation indicated that a total of 3,211 cases were patients with a length of stay over 25 days. However, there was no documentation presented from area hospital discharge planners with regard to discharges of potential LTCH patients. Further, no evidence has been presented by the applicant indicating that area residents who need LTCH services have been unable to obtain them from one of the several venues of post acute services currently available, within reasonable distance, in District 1.

With regard to the use rate method, the applicant calculated a statewide utilization rate using District 4, District 5, District 6 and District 10 patient days and populations. The applicant concludes that the use rates for each district are very different with District 11 lowest and District 5 next, so the statewide use rate understates actual experience. Rather than illustrating need, this methodology, as explained by the applicant is not a valid method of calculating need because, in at least two areas of the state, the applicant itself does not consider actual experience in determining the use rate.

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The applicant presents what it characterizes as a “best fit” use rate approach, which is based on the assumption that the District 1 LTCH proposal will perform, on average, the same District 6 facilities. The applicant indicates this is based on the District 1’s experience of CMR, HBSNU, and skilled nursing days being most similar to District 6 when compared with the other districts in the state. In other words the District 1 LTCH facility is projected to perform like the two District 6 Kindred facilities. These facilities place much of their patient care on respiratory system cases. However, the applicant’s analysis does not take into account other variables that may impact utilization such as the availability of other care options and a change in referral patterns or demographic differences. There is no clear correlation between these two areas of the state and there are likely to be as many or more differences than similarities.

In summary, the applicant's two methodological approaches to need are not supported by DRG admission criteria from area hospitals regarding potential need. The applicant's use rate approach is based on the experience of other LTCHs in other parts of the state and relies on assumptions that may or may not occur in the proposed service area. With regard to the LOS methodological approach, the applicant's projections are based on assumed capture rates with no supporting data or indication of potential referrals from area hospitals. It was further not demonstrated by the applicant that patients that may meet the definition of a LTCH patient are not currently being placed or that an access problem exists in the district.

SemperCare Hospital of Pensacola, Inc. (CON #9702) indicates that the project will primarily serve Escambia County residents and residents of the surrounding counties discharged from acute care facilities. The applicant states that based on CY 2002 Hospital discharge data, 1,228 patients in District 1 were long-stay patients that met the utilization screening criteria indicating they might have benefited from an LTCH.

SemperCare states that other post-acute care providers are not appropriate sites for the delivery of the type and intensity of long-term care services it proposes. While the applicant contends that the services it provides are an “extension of acute care services”, a review of the literature confirms that these services are considered post acute. The applicant further states that the intensity of care provided by LTCHs is generally much greater than care delivered by other post-acute care providers such as medical rehabilitation, hospital-based skilled units, or nursing homes. The applicant contends that LTCH patients can receive restorative care, such as aggressive ventilator weaning, and restorative care, such as rehabilitation, that other providers are ill-suited to provide

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or cannot provide. However, as previously stated, the June 2003 MedPac Report to Congress indicates that patients in market areas with LTCHs had similar acute hospital lengths of stay regardless of whether they used LTCHs or not and that patients who used these hospitals were found to be three to five times less likely to use skilled nursing facility (SNF) care, suggesting that SNFs and LTCHs may be substitutes.

The applicant discusses three of the other venues of post acute care: comprehensive medical rehabilitation (CMR), hospital-based skilled nursing unit (HBSNU) beds and community skilled nursing beds, indicating that none are appropriate for the patients it intends to serve. However, data used to define the number of LTCH patients the applicant indicates need LTCH services does not clearly show that these patients could not be appropriately treated in other post acute settings. The applicant is proposing to locate within an existing acute care hospital and work with West Florida Hospital, a second existing acute care hospital stating that it anticipates the majority of its admissions will come from these two hospitals. As previously stated, the applicant presents a summary of the patient discharges it indicates were appropriate for long-term care. However, the number of patients needing LTCH services but who were unable to receive them because of the unavailability of LTCH beds in the area or because patients refused services because of the distance they would be required to travel to receive them is not known.

The applicant intends to use the hospital-within-a-hospital model and states that the host hospital, Baptist Hospital is projected to refer over 95 percent and West Florida Hospital 60 percent of its long-term care patients to SemperCare. Sacred Heart is assumed to provide at least 10 percent of its LTCH appropriate patients as a number of physicians in the area are on both Baptist and Sacred Heart staff. Only five percent of the LTCH appropriate patients are to come from Okaloosa and Santa Rosa county facilities. The applicant states that Walton County residents are not included in the projections because these patients are closer to Panama City and will be served by SemperCare Hospital of Panama City in Bay County.

These potential referral hospitals are shown as follows with the number of patients and aggregate number of patient days shown that represent a stay in acute care beds beyond the average for their particular diagnosis:

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Potential LTCH Referrals From Area Acute Care Hospitals

Facility	Patients	Patient Days
Baptist Hospital	319	8,162
West Florida Hospital	106	3,046
Sacred Heart Hospital	38	990
Fort Walton Beach Medical Center	12	310
All other Okaloosa & Santa Rosa County Acute Care Hospitals	5	100
Total	479	12,607

Source: CON Application, Exhibit 20 page 78.

As shown above, the applicant presents a caseload of 479 patients that might benefit from LTCH services. Using the 12,607 patient days the applicant shows above, occupancy in the 36-bed LTCH would be 95.95 percent. This results in a need for 43 beds at 80 percent occupancy. However, the applicant indicates that while it is interested in meeting the need for Baptist Hospital and West Florida Hospital and District 1 patients now and in the future, it “must consider the ability of the host hospital to accommodate such a unit”. SemperCare indicates that it worked with Baptist Hospital to determine an appropriate physical location for the proposed project. SemperCare indicates that it quickly discarded developing a freestanding LTCH because it does not fit the company’s structure and goals and is more costly to develop. The applicant contends that due to Baptist Hospital’s high acute care utilization, it is not possible to relinquish enough space to establish a new 43-bed LTCH at this time. However, Baptist Hospital’s 367 acute care beds averaged 50.36 percent occupancy during calendar 2002 and have averaged around 50 percent from CY 1997-2002.

The applicant’s projections are based on a potential LTCH patient base of at least 479 patients as identified for the CY 2002 by the length of stay methodology and summary of potential patients discharged from physicians whose letters of support are in the application. With regard to the LOS methodological approach, the applicant's projections are based on assumed capture rates. It was not demonstrated by the applicant that patients that may meet the definition of a LTCH patient are not currently being placed or that an access problem exists in the district. The subsequent placement of these patients was not disclosed although it is stated in hospital letters that the patient’s condition was such that transfer to an existing post-acute facility was not a reasonable option. With only three patients leaving the area for LTCH services in Florida, it is assumed that these patients remained in an acute care bed or were treated in other post-acute settings either in Florida or Alabama. It was not disclosed how many of these patients were eligible for hospital-based skilled nursing care. As previously noted, the applicant states that Baptist Hospital will delicense 30 of its existing 57 SNU beds and six acute care beds subsequent to the approval of this project. Baptist

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Hospital's 57-bed unit provided 10,647 days of care during CY 2002, and if the unit had 27 beds, these patient days would result in an occupancy rate of 108.04 percent. As noted earlier, a recent study shows that LTCH care may be a substitute for skilled nursing care.

In summary: the applicant's hospital within a hospital projections are based on the potential LTCH patient base of at least 479 patients as identified by the length of stay methodology and summary of potential patients discharged from physicians whose letters of support are in the application. However, the subsequent placement of these patients was not disclosed although it is stated in hospital letters that the patient's condition was such that transfer to an existing post-acute facility was not a reasonable option. It was not disclosed how many of these patients were eligible for hospital-based skilled nursing care. It was further not demonstrated that patients that qualify for LTCH services are not currently being served or that an access problem exists for residents in District 1.

2. **Local Health Plan Preferences**

Is need for the project evidenced by the applicable district health plans? Please indicate how each applicable preference is met. ss. 408.035(1) and 408.037(1), Florida Statutes, and Ch. 59C-1.030(2)(c), Florida Administrative Code.

The October 2003 District 1 CON Allocation Factors Report does not have preferences for the development of long-term care hospital beds. SemperCare Hospital of Pensacola, Inc. (CON #9702) acknowledges this fact. However, Select Specialty Hospital-Escambia, Inc. (CON #9701) presents a discussion of acute care preferences it considers relevant to the project. Review of these indicate that the preferences for Medicaid and charity patient care and quality of care and JCAHO accreditation are relevant to the projects. The applicants' responses to these are found in Items 4. b. and i.

3. **Agency Rule Criteria** *(The Agency does not currently have adopted preferences relating to LTCHs. Please see the Section 1 b. need section for discussion of criteria relevant to the applicants projects.)*

4. **Statutory Review Criteria**

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

Select Specialty Hospital-Escambia, Inc. (CON #9701) states that due to the location of the existing LTCHs, few residents of District 1 use long-term acute care hospital services because of the lack of availability and accessibility of LTCH services. The applicant contends that patients tend to remain for extended stays in general acute care hospitals.

The applicant does acknowledge that some residents in the northern portion of the district live closer to facilities in District 4 and others in the southern portion of the district are closer to the LTCH services in District 6. The applicant provided a letter of support for the project from Sacred Heart Hospital indicating interest in implementing a transfer agreement with the facility. In addition, support letters were received from area physicians. However, there were no other tentative transfer agreements or indication of interest in developing a transfer agreement with the LTCH from any other area hospitals. Specific documentation from area providers with regard to delays in care would have been supportive and beneficial in showing an access problem to long-term care in the area.

The applicant did not demonstrate need for the project as evidenced by the availability, quality of care, accessibility, and extent of utilization of existing health care facilities and health services in the applicant's service area.

SemperCare Hospital of Pensacola, Inc. (CON #9702) states that the proposed project will increase the availability and accessibility to care in District 1 because of the lack of any LTCH services in the district and the distance that residents must travel for these services. The applicant identifies the primary service area for its project to be Escambia County, while the secondary service area will consist of the remaining counties in District 1 with the exception of Walton County; which it indicates will be served by the Bay County LTCH.

The applicant contends that the proposed hospital within hospital program will improve efficiency of services by working with area providers to integrate a continuum of care to promote efficient use of area resources and placement of patients. The applicant also states that efficiency will be improved as a result of centralized sharing with Baptist

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Hospital (purchasing, management, clinical and quality management, etc.). However, any centralized benefits to be realized were not outlined, specifically with regard to financial cost savings.

As previously discussed, the applicant provided a letter from Baptist and other hospitals indicating a potential caseload of LTCH patients based on length of stay. The applicant also provided a summary of supporting documentation from area hospitals and physicians regarding potential LTCH referrals. Specific documentation from area providers with regard to delays in care would have been supportive and beneficial in showing an access problem to long-term care in the area.

The applicant did not demonstrate need for the project as evidenced by the availability, quality of care, accessibility, and extent of utilization of existing health care facilities and health services in the applicant's service area.

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

Select Specialty Hospital-Escambia, Inc. (CON #9701) is a new, development stage corporation, and as such has no operating history. However, the applicant is a controlled entity of Select Medical Corporation, an existing provider of LTCH services nationwide with 72 existing facilities, including one in Miami, Florida that was licensed on December 23, 2002. The applicant states that all existing Select Medical facilities have a current JCAHO accreditation, except those that have recently opened and are awaiting survey. The JCAHO accreditation is an indication that quality of care is being delivered and that the components are in place to ensure the delivery of quality of care.

The applicant provided a description of its performance improvement plan that establishes specific methods and techniques for monitoring and improving care delivery. The applicant also described the makeup of the Organizational Improvement Committee, an interdisciplinary group that connects all of the quality improvement activities and structures together. Pages in the applicant's need section numbered 1-45 through 1-47 contained a thorough discussion of key corporate personnel expertise.

SemperCare Hospital of Pensacola, Inc. (CON #9702) does not have an operational history of providing quality of care in Florida. The applicant states that its parent, SemperCare, Inc., has a variety of mechanisms that have been used to ensure and maintain quality care in its other

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facilities, which will be implemented by the applicant. These mechanisms include a comprehensive performance improvement system called QualMax, constant maintenance of regulatory compliance and readiness, outcomes measurement systems, utilization and risk management programs, credentialing and privileging systems, a corporate compliance program, and a customer satisfaction system. The applicant's narrative indicates that it includes the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) survey results for the five currently operational SemperCare facilities. However, the chart (Exhibit 27 on page 86) shows eight facilities. The eight facilities scored above the benchmark score of 92 on their most recent JCAHO surveys.

The applicant points out that the facility will be separately licensed and responsible for securing and completing all appropriate state licensure requirements, Medicare and Medicaid certification, and JCAHO accreditation. The applicant states that Baptist Hospital, the host hospital, is currently fully licensed and accredited.

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

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

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

Neither of the proposed projects are to be located in a statutorily defined teaching hospital nor will the primary purpose of either project involve research or physician education.

Select Specialty Hospital-Escambia, Inc. (CON #9701) states that its program will provide increased clinical training and expertise in the medical management of complex patients requiring specialized services. The applicant's parent company clinical scholarship, tuition reimbursement and continuing education programs are also described.

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SemperCare Hospital of Pensacola, Inc. (CON #9702) states that it coordinate with Baptist Hospital to provide access to health professional programs. The applicant provides a list of area universities, colleges and other educational training programs that Baptist Hospital currently has arrangements with to provide educational experiences and preceptorship programs for their students. The applicant indicates that by being located within Baptist Hospital, it anticipates that many of the programs will also use its hospital as a clinical training site.

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

The audited financial statements were reviewed to assess the financial position of both co-batched applicants as of the balance sheet date and the financial strength of its operations for the applicable period presented.

Select Specialty Hospital-Escambia, Inc. (CON #9701) is a start-up company with \$10 in assets as of February 4, 2003. The applicant is a wholly owned subsidiary of Select Medical, Inc. The company had, at December 31, 2002, \$56.1 million in cash on hand, \$346.9 million in current assets and \$739.1 million in total assets. Revenue from operations was \$1.1 billion with cash flows of \$120.8 million. This is a financially strong company.

Select Specialty Hospital - Escambia, Inc. will lease the space required to operate the hospital from Sacred Heart Hospital of Pensacola. The applicant did not disclose the terms of the lease.

Capital requirements:

Total capital costs for this project from Schedule 1 are \$6.7 million. Schedule 2 indicates the applicant has no other capital projects.

Available capital:

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

Conclusion:

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

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Health Manpower:

Select Specialty Hospital - Escambia, Inc. (CON #9701) provided a description of the qualifications, training and experience required for each of the various LTCH positions and the names of the personnel consisting of the start up team for the facility. The applicant also provided a detailed description of the company's recruitment and retention policies and procedures. According to Financial Schedule 6, the applicant intends to employ a total of 95.0 FTE staff in the first year of operation, increasing to 127.0 FTE staff in year two. The applicant intends to staff the facility based upon the operating experience of the parent company. The majority of the positions involve nursing (65.0 positions) and ancillary/therapy (35.0 positions).

SemperCare Hospital of Pensacola, Inc. (CON #9702) is a start-up company with \$100 in assets as of October 14, 2003. SemperCare, Inc., the parent, was formed in 1999 for the purpose of developing a network of facilities providing long-term hospital care. The company had, at June 30, 2002, \$13.7 million in cash on hand, \$20.1 million in current assets and \$23.3 million in total assets. Capital has been raised through the issuance of stock and long-term debt. The company has a shareholders' deficit of \$13.6 million, a net operating loss for the period of \$3.1 million with negative cash flows from operations of \$4.7 million. The SemperCare opened its first LTC hospital in April 2000. Currently, the company has twelve facilities operational as of the date of the balance sheet. The facilities are too new to judge the financial strength of the parent based on their revenue. The short-term financial position of the company depends on its continued ability to raise sufficient capital to support its operating losses. On August 18, 2003, the company established with General Electric Capital Corporation (GECC) a \$55 million credit facility to support its development strategy and ongoing working capital requirements. The long-term future of the company will depend on its being able to operate the facilities at a profit level that will support the company's debt. It is too early to determine the long-term financial strength of the parent.

SemperCare Hospital of Pensacola, Inc. will lease the space required to operate the hospital from Baptist Health Care Corporation, with SemperCare paying no rent for the first six months and \$1,000 per month per licensed LTC bed thereafter. The initial term of the lease is for five years, with options to extend.

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Baptist Health Care Corporation will be responsible for funding part of the part of the project. Audited financial statements were submitted for the period ended September 30, 2002. Those statements reported cash and short-term investments of \$52.2 million, current assets of \$122.5 million, with an operating profit of \$8.4 million and operating cash flows of \$22.9 million.

Capital requirements:

Total capital costs for this project from Schedule 1 are \$2.1 million. Schedule 1 did not include the estimated loss during the initial six months of operation of \$1,200,844, bringing the total project costs for the applicant to \$3,314,574. Schedule 2 indicates the applicant has no other capital projects.

Available capital:

Funding for the proposed project is coming from the parent, SemperCare, Inc. and Baptist Health Care Corporation Each provided a letter in support of their commitment to fund the project. BHCC agreed to provide up to \$750,247. SemperCare, Inc.'s financial resources are discussed above.

Conclusion:

Funding for this project is likely to be available as needed.

Health Manpower:

SemperCare Hospital of Pensacola, Inc. (CON #9702) provided a description of the qualifications, training and experience required for each of the various LTCH positions in the supporting materials section 5 and recruitment in section 6 of the application. According to Financial Schedule 6, the applicant intends to employ a total of 90.8 FTE staff in the first year of operation, year two staffing is not provided. The applicant intends to staff the facility based upon the operating experience of the parent company. The majority of the positions involve nursing (49.0 positions) and ancillary/therapy (25.5 positions).

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

A comparison of each of the 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 that are achievable through the management skills of the applicant). In general, projections that approximate the median are the most desirable, and balance the opposing forces of feasibility and efficiency. In other words, as estimates approach the highest in the group, it is more likely that the project is feasible, because fewer economies must be realized to achieve the desired outcome. Conversely, as estimates approach the lowest in the group, it is less likely that the project is feasible, because a much higher level of economies must be realized to achieve the desired outcome. These relationships hold true for a constant intensity of service through the relevant range of outcomes. As these relationships go beyond the relevant range of outcomes, revenues and expenses may, either go beyond what the market will tolerate, or may decrease to levels where activities are no longer sustainable.

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

Comparative data were derived from hospitals in peer groups that reported data in 2002; the applicant will be compared to the hospitals in peer group 12. Per Diem rates are projected to increase by an average of 3.3 percent per year. Inflation adjustments were based on the 2003 2nd Quarter Health Care Cost Review, New CMS Hospital Market Basket Index.

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Select Specialty Hospital-Escambia, Inc. (CON #9701): Medicare requires a six-month period (demonstration period) before a hospital is eligible for reimbursement under the LTCH PPS. This period is required to demonstrate a minimum 25-day average length of stay. During the demonstration period the hospital is reimbursed at the acute care rate. The applicant did not disclose how this period was accounted for in their financial projections. However, the net revenue per patient day for year one from Schedule 7, adjusted for inflation, approximates that for year two, which leaves open the question as to whether they properly accounted for revenues during the demonstration period.

Projected net revenue per adjusted patient day (NRAPD) of \$988 in year two is between the control group lowest and median values of \$874 and \$1,147. The lowest value is generally viewed as the practical lower limit on economies of operation. With net revenues per adjusted patient day falling between the lowest and median the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table).

Projected cost per adjusted patient day of \$921 in year two is between the control group lowest and median values of \$749 and \$1,067. Compared to the control group these costs are efficient. (See Comparative Table).

The year two operating profit for the hospital of \$1,020,939 computes to an operating margin per adjusted patient day of \$67, which falls between the peer group lowest and median values of \$-31 and \$125 respectively. The operating margin of 6.7 percent indicates that net revenues are proportional to costs.

This project appears to be financially feasible.

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Select Specialty Hospital-Escambia, Inc.

**Comparative Table
PEER GROUP 12**

	2007 YEAR 2 ACTIVITY	YEAR 2 ACTIVITY PER DAY	INFLATION ADJ. VALUES		
			Highest	Median	Lowest
ROUTINE SERVICES	14,563,500	950	1,177	873	643
INPATIENT AMBULATORY	30,281,273	1,975	12	0	0
INPATIENT SURGERY	320,325	21	0	0	0
INPATIENT ANCILLARY SERVICES	0	0	3,668	2,810	2,283
OUTPATIENT SERVICES	0	0	217	1	0
TOTAL PATIENT SERVICES REV.	45,165,098	2,946	5,074	3,684	2,926
OTHER OPERATING REVENUE	0	0	4	2	0
TOTAL REVENUE	45,165,098	2,946	4,601	3,706	2,928
DEDUCTIONS FROM REVENUE	30,019,083	1,958	*	*	*
NET REVENUES	15,146,015	988	2,128	1,147	874
EXPENSES					
ROUTINE	3,493,172	228	545	308	186
ANCILLARY	5,539,154	361	625	290	198
AMBULATORY	0	0	0	0	0
TOTAL PATIENT CARE COST	9,032,326	589	1,170	598	384
ADMINISTRATIVE & OVERHEAD	3,068,159	332	915	492	360
PROPERTY	2,024,593	*	*	*	*
TOTAL HOSPITAL EXPENSE	14,125,078	921	2,182	1,067	749
OTHER OPERATING EXPENSE	0	0	0	0	0
TOTAL EXPENSE	14,125,078	921	2,182	1,067	749
OPERATING INCOME (MARGIN)	1,020,937	67	280	125	-31
PERCENT OPERATING MARGIN	6.7%				
PERCENTAGES NOT INFLATION ADJUSTED					
PATIENT DAYS	15,330				
ADJUSTED PATIENT DAYS	15,330				
TOTAL BED DAYS AVAILABLE	19,710				
ADJ. FACTOR	1.0000				
TOTAL NUMBER OF BEDS	54				
PERCENT OCCUPANCY	77.8%		100.2%	84.2%	52.2%
PAYER CLASS					
	PATIENT DAYS	PERCENT OF TOTAL			
SELF-PAY	123	0.8%	4.1%	0.9%	0.0%
MEDICAID	307	2.0%	13.3%	0.2%	0.0%
MEDICAID HMO	0	0.0%			
MEDICARE	11,934	77.8%	97.3%	75.4%	67.4%
MEDICARE HMO	0	0.0%			
INSURANCE	2,225	14.5%			
HMO/PPO	741	4.8%	23.4%	10.5%	0.0%
OTHER	0	0.0%			
TOTAL	15,330	100.0%			

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SemperCare Hospital of Pensacola, Inc. (CON #9702): The estimated revenues submitted by the applicant for the project were developed based on the prospective payment system. In order to qualify for an exemption under CFR Part 412.23 for reimbursement under the prospective payment system a long-term acute care facility, operating as a hospital within a hospital, must not exceed more than 15 percent of its total inpatient operating costs in services obtained under contract with the host hospital *or* at least 75 percent of the hospital's inpatient population must be referred from a source other than the host facility. The applicant stated it intends to comply with this provision. Failure to comply would have a material negative impact on revenues.

The applicant submitted schedules for a six-month period (demonstration period) required for Medicare reimbursement under the LTCH PPS. This period is required to demonstrate a minimum 25-day average length of stay. During the demonstration period the hospital is reimbursed at the acute care rate. For the best estimation of long-range financial feasibility the two years subsequent to the demonstration period are being used in this analysis.

Projected net revenue per adjusted patient day (NRAPD) of \$1,039 in year one and \$1,068 in year two is between the control group median and lowest values of \$1,073 and \$818 in year one and \$1,108 and \$844 in year two. The lowest value is generally viewed as the practical lower limit on economies of operation. With net revenues per adjusted patient day falling between the lowest and median the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table).

Projected cost per adjusted patient day of \$1,026 in year one and \$1,022 in year two is between the control group median and highest values of \$999 and \$2,043 in year one and \$1,031 and \$2,108 in year two. Compared to the control group these costs are efficient. (See Comparative Table).

The year two operating profit for the hospital of \$487,439 computes to an operating margin per adjusted patient day of \$46, which falls between the peer group median and lowest values of \$125 and \$-31 respectively. The operating margin of 4.3 percent indicates that net revenues are proportional to costs.

This application appears to be financially feasible.

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

Comparisons Between Applicant's Projections

	Beds	Net Rev. per day	Total Cost per day	Oper Profit per day	Managed Care percent	Medicaid percent
Select Specialty (9701)	54	\$988	\$921	\$67	4.8%	2.0%
SemperCare (9702)	36	\$1,068	\$1,022	\$46	11.5%	2.0%

Select Specialty Hospital-Escambia, Inc. (CON #9701) projects managed care to represent 4.8 percent of its patient days. This is between the control group lowest and median level of activity of 0.0 and 10.5 percent. The projected levels, if realized, will not have a slightly positive impact on competition to promote quality assurance and cost-effectiveness.

SemperCare Hospital of Pensacola, Inc. (CON #9702) projects managed care to represent 11.5 percent of its patient days. This is between the control group median and highest level of activity of 10.5 and 23.4 percent. The projected levels, if realized, will have a positive impact on competition to promote quality assurance and cost-effectiveness.

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

Select Specialty Hospital-Escambia, Inc. (CON #9701) proposes to convert a building formerly used as a nursing home and licensed under Chapter 400 as a freestanding skilled nursing facility rather than as a part of the hospital, to a 54-bed freestanding long-term care hospital on the campus of Sacred Heart Hospital in Pensacola. This building was never a part of the hospital, so it will be considered new construction by the Agency.

When a building is converted from another type of occupancy to a hospital, it must comply with the requirements of Chapter 419 and Institutional Occupancy-Group I, Unrestrained, of the Florida Building Code (FBC) 2003 edition. With a few exceptions, a long-term care hospital must have all the required spaces and functions of a Class 1 hospital. A complete emergency department is not required, however, there must be an emergency room in the facility.

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New hospital construction must meet the requirements of disaster preparedness in the Florida Building Code, Section 419.4. These provisions not only prescribe the protection of the exterior shell of the facility, but also affect the location of the generator and other mechanical and electrical systems. Any potential use of the existing basement will have to be considered based on its elevation relative to the flood plain.

There is a list of applicable building codes on the drawings, but it is somewhat incorrect. The narrative states that the renovations were designed in accordance with Chapter 59A-3 of the Florida Administrative Code and that the AIA Guidelines for Design and Construction was also “consulted”. The design professional is obviously aware that the Florida Building Code is currently in use, but may not understand that the AIA guidelines are almost totally included by reference in the Florida Building Code. The requirements in the guidelines have supplanted most of the required code issues of Chapter 59A-3, Florida Administrative Code that is scheduled to be repromulgated.

The surgical suite is located on the first floor of the three-story building. This wing does not meet all the code requirements. Although the path that the staff must take to reach the operating room provides a one-way traffic pattern, spaces for changing of clothes with lockers, showers and toilets for both sexes are not provided.

The pre-op and post-op area does not have all the ancillary spaces (such as a staff toilet) required to support the nurse station. The semi-restricted corridor leading from the OR to the nurse station is not closed off from the unrestricted corridor in the wing.

There is no dining room in the facility, nor is there a space dedicated for a laboratory or radiographic equipment. Since there is a significant portion of the existing building, which will not be utilized for the new hospital, these unused spaces will have to be fire-rated as storage rooms. There is a potential problem with a dead-end corridor on the second floor where several patient rooms are on each side of the corridor leading to the Chapel, which will be unoccupied.

Most of the patient room toilets do not have the required outswinging door and room Type K does not have the requisite 120 square feet. All new hospital patient rooms must have a hand washing station within the room itself in addition to the lavatory in the bathroom. The room types shown do not have this required fixture.

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On floors 2 and 3, the toilet rooms across the corridor from the nurse station might be the required staff toilets, but they not appear to be sized for handicapped accessibility. Staff toilets may be unisex.

Estimated project budget of more than \$6.6 million appear to be lower than might be expected based on the scope of the project and the proposed expenditure would necessarily increase when the deficiencies noted in this review are corrected. The project schedule would probably be extended for the same reason.

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.

As presented with this application, the plans for the renovation of the existing former nursing home could not be recommended for approval as a hospital by the AHCA Office of Plans and Construction without some fairly extensive changes, some of them noted above and others in the Florida Building Code and other standards. Most of the deficiencies can be overcome by having the design professional comply with the requirements of the guidelines referenced above.

SemperCare Hospital of Pensacola, Inc. (CON #9702) proposes to establish a 36-bed long-term care hospital on the fourth floor of Baptist Hospital in Pensacola. The area is currently being used as a skilled nursing unit.

There is a list of applicable building codes in the narrative, but it is partially incorrect. The Florida Building Code is referenced but with the wrong edition. No separate reference is made to the AIA guidelines, which are almost totally included by reference in the Florida Building Code. The requirements in the guidelines have supplanted most of the required code issues of Chapter 59A-3, Florida Administrative Code that is scheduled to be repromulgated.

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Although a pharmacy is included in the new hospital, there is no space for basic radiographic equipment as required. There is no staff toilet room convenient to the nurse station. Additional hand washing stations near the nurse station will need to be provided and the design professional should insure that all other required ancillary spaces are provided. Operating room services will be contracted with the host hospital as will maintenance and other items as stated in the proposed lease agreement included in the application.

The application included only one sheet of drawings, and there is no indication of what the existing conditions and spaces are nor the extent of demolition. Some demolition will take place to accommodate the conversion of the skilled nursing patient rooms to hospital beds since the narrative mentions plan changes and new wall construction.

This could be a somewhat significant issue. If an existing space is not being used as a licensed patient room (such as a dining or activity room), then it must meet new patient room sizes and other code requirements if it is converted to a new patient room. However, converting a licensed SNU patient room to be a patient room in a new long-term care hospital does not require these rooms to meet current codes.

Some indication of the existing functions of the spaces would be necessary to evaluate which of the above scenarios applies to this application. This could affect the plan, the proposed budget, and possibly the schedule. Most of the patient rooms show a hand washing station within the room itself in addition to the lavatory in the bathroom. This is required for new construction and may be existing.

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.

The architectural issues noted above need to be resolved before the proposal could be presented as a project, reviewed and recommended for licensure by the AHCA Office of Plans and Construction. Most of the items above could most likely be overcome by relatively minor plan changes.

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

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

Select Specialty Hospital-Escambia, Inc. (CON #9701) is a new development stage company with no operating history. The applicant proposes to condition award of the certificate of need on the provision of 2.0 percent Medicaid and 0.8 percent charity care patient days. Schedule 7A shows that the applicant projects provide two percent of its total patient days to Medicaid patients and 0.8 percent of total patients will be charity care. The applicant's charity care provision is lower than the state average of 1.7 percent and the applicant's projected Medicaid provision is consistent with the state average of 2.0 percent.

SemperCare Hospital of Pensacola, Inc. (CON #9702) proposes to condition award of the certificate of need on the provision of 2.0 percent Medicaid and 1.0 percent charity/indigent patient days. According to Financial Schedule 7A, the applicant is projecting that Medicaid patients will account for 2.0 percent and charity care 1.0 percent of total patient days in year two. The applicant's charity care provision is lower than the state average of 1.7 percent and the applicant's projected Medicaid provision is consistent with the state average of 2.0 percent.

F. SUMMARY

Select Specialty Hospital-Escambia, Inc. (CON #9701), a wholly owned subsidiary of Select Medical Corporation, proposes to establish a 54-bed freestanding LTCH to be located at 5203 North Ninth Avenue in Pensacola, Escambia County. The applicant proposes to lease the building formerly used as the Haven of Our Lady of Peace, a licensed community nursing home that was replaced at a new location.

The proposed hospital will consist of 46,944 gross square feet of renovation to the existing 61,337 GSF building with construction costs of \$4,686,000. Total project cost is estimated to be \$6,676,370. Select Medical Corporation will provide the funding for the proposed project.

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The applicant proposes to condition award of the certificate of need on the provision of 2.0 percent of the facility's total annual patient days to Medicaid patients and 0.8 percent to charity care patients.

SemperCare Hospital of Pensacola, Inc. (CON #9702), a wholly owned subsidiary of SemperCare, Inc., proposes to establish a 36-bed LTCH within Baptist Hospital in Pensacola, Escambia County.

The proposed LTCH will be located on the fourth floor of Baptist Hospital and will contain 16,825 square feet, which encompasses 22 one-bed rooms and seven semi-private rooms at a renovation construction cost of \$1,109,770. Total project cost is estimated to be \$2,112,730. SemperCare, Inc will provide the funding for the proposed project.

The applicant proposes to condition award of the certificate of need on the provision of 2.0 percent of the facility's annual patient days to Medicaid patients and one percent of gross revenue to indigent/charity care.

Need:

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

Select Specialty Hospital-Escambia, Inc. (CON #9701)

- The applicant's two methodological approaches to demonstrate need are somewhat supported by discharge studies and other data, including DRG admission criteria from area hospitals regarding potential need. The applicant also provided some letters of supporting documentation from area physicians and other providers regarding potential referrals. However, it was not disclosed how many of these patients were eligible for hospital-based skilled nursing care which offers a full continuum of care and is currently available in hospital-based skilled nursing units. It was further not demonstrated that patients that qualify for LTCH services are not currently being served or that an access problem exists for residents in District 1.

SemperCare Hospital of Pensacola, Inc. (CON #9702)

- The applicant's hospital within a hospital projections are supported by the potential LTCH patient base of at least 479 patients as identified for the CY 2002 by the length of stay methodology and summary of potential patients discharged from physicians whose letters of support are in the application. However, the subsequent

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placement of these patients was not disclosed although it is stated in hospital letters that the patient's condition was such that transfer to an existing post-acute facility was not a reasonable option. It was not disclosed how many of these patients were eligible for hospital-based skilled nursing care. It was further not demonstrated that patients that qualify for LTCH services are not currently being served or that an access problem exists for residents in District 1.

Quality of Care:

Select Specialty Hospital-Escambia, Inc. (CON #9701)

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

SemperCare Hospital of Pensacola, Inc. (CON #9702)

- The applicant states that all of its currently licensed LTCH's are accredited by JCAHO, an indication that quality of care is being delivered and that the necessary components are in place to ensure delivery of care. The applicant provided a reasonable description of its quality management functions.

Cost/Financial Analysis:

Select Specialty Hospital-Escambia, Inc. (CON #9701)

- The applicant is a start-up company with limited assets. However, the parent, Select Medical, Inc. is a financially strong company with total assets of \$739.1 million and revenue from operations of \$1.1 billion. The funding for the proposed project should be available, with the support of the parent company.
- With net revenues falling between the lowest and median values in the first two years of operation, the facility is expected to consume health care resources in proportion to the services provided. The projected operating margin of 6.7 percent indicates that net revenues are proportional to costs. This project appears to be financially feasible.

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- The applicant projects managed care to represent 4.8 percent of its patient days. This is between the control group lowest and median level of activity of 0.0 and 10.5 percent. The projected levels, if realized, will have a slightly positive impact on competition to promote quality assurance and cost-effectiveness.

SemperCare Hospital of Pensacola, Inc. (CON #9702)

- The applicant is a start-up company with limited assets. The parent company, SemperCare, Inc., opened its first long-term care hospital in April 2000, so it is a relatively new financial entity. However, SemperCare, Inc. has a \$55 million credit facility to support its development strategy and ongoing working capital. The funding for the proposed project is likely to be available as needed.
- With net revenues falling between the lowest and median values in the first two years of operation, the facility is expected to consume health care resources in proportion to the services provided. The projected operating margin of 4.3 percent indicates that net revenues are proportional to costs. The applicant also accounted for the six month demonstration period required to be eligible for Medicare funding. The project appears to be financially feasible.
- The applicant projects managed care to represent 11.5 percent of its patient days. This is between the control group median and highest level of activity of 10.5 and 23.4 percent. The projected levels, if realized, will have positive impact on competition to promote quality assurance and cost-effectiveness.

Architectural Analysis:

Select Specialty Hospital-Escambia, Inc. (CON #9701)

- The project involves the conversion of an unoccupied building formerly used as a nursing home to a 54-bed freestanding LTCH. The applicant indicates this involves the renovation of 46,944 GSF at a total building cost of \$5,365,500. However, since the building has never been licensed as a hospital, it will be considered to be new construction by the Agency and as such must meet new hospital construction requirements to conform with Chapter 419 and the revised Florida Building Code (FBC 2003). The disaster preparedness requirements of the applicable codes will also have to be met.

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- As presented, the Plans for the renovation of the existing former nursing home could not be recommended for approval as a hospital by the AHCA Office of Plans and Construction without some fairly extensive changes, some of them noted in the review and others in the Florida Building Code and other standards.
- The applicant's projected cost may be low because expenditures would be increased with the correction of deficiencies noted by the architectural reviewer. The project schedule would probably be extended because of additional time needed to correct deficiencies.

SemperCare Hospital of Pensacola, Inc. (CON #9702)

- The project involves a 36-bed hospital within a hospital in collaboration with Baptist Hospital in 16,825 GSF of renovation with a total building cost of \$1,109,770.
- As the application included only one sheet of drawings, and a demolition plan was not submitted, it is not possible to determine the actual extent of the renovation on the fourth floor of the hospital. Some demolition will need to take place to accommodate the conversion of the skilled nursing patient rooms to hospital beds since the narrative mentions plan changes and new wall construction.
- The list of applicable building codes is partially incorrect. A precise indication as to the proposed utilization of several rooms of the new hospital was not provided. There is also no indication as to the location of space for radiographic equipment. However, most of the problems with the project could most likely be overcome by relatively minor changes.
- Most of the problems with the project could most likely be overcome by relatively minor changes. However, the proposed budget and possibly the construction schedule may be affected.

G. RECOMMENDATION

Deny CON #9701 and CON #9702.

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