

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

SemperCare Hospital of Lakeland, Inc. (CON #9709)
2745 North Dallas Parkway
Plano, Texas 75093

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

Select Specialty Hospital-Marion, Inc. (CON #9710)
2021 Church Street, Suite 202
Nashville, Tennessee 37203-2016

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

2. Service District

District 6

B. PUBLIC HEARING

A public hearing was not held or requested with regard to the establishment of new and additional long-term care hospital beds in District 6. However, letters of support were submitted with the respective applications as follows:

SemperCare Hospital of Lakeland, Inc. (CON #9709) submitted 24 letters of support for the project. Letters of support were submitted by several area physicians associated with Lakeland Regional Medical Center (LRMC), as well as letters from public officials, business leaders and other health care providers. Several of the letters are similar in content and support the convenience, accessibility and continuity of care that will result from the proposed project. A letter from the director of

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the Polk County Health Department states that the closest LTCH for ventilator-dependent patients is 37 miles away in Tampa. Another letter from the Honorable Adam H. Putnam, Member of Congress (12th District) states that there are currently no facilities in Polk County that can effectively and efficiently treat patients who no longer require the intensity of treatment provided by critical care units, but are unable to be transferred to a skilled nursing unit. Several of the letters address the distance for Polk County residents who now travel to Tampa for services. There are several letters from area physicians identifying a total of 554 potential discharges that may be appropriate for a LTCH.

Select Specialty Hospital-Marion, Inc. (CON #9710) submitted five letters of support for the freestanding LTCH project. Two of the letters are from physicians affiliated with Winter Haven Hospital and the remaining letters are from the assistant administrator of Heart of Florida Regional Medical Center (Davenport, Florida), the utilization review nurse/case manager at Winter Haven Hospital, and the assistant director care management at Winter Haven Hospital. The physician letters are non specific with regard to potential LTCH discharges with one letter stating that "some" of the 72 patients he attended at Winter Haven hospital were appropriate for LTCH services. The letter from the Assistant Director/Care Management states that on any given day, Winter Haven Hospital has 13 to 16 patients that have been hospitalized for 20 days or longer. The letter from the utilization review nurse states that she tries to place two to three patients a day at Winter Haven Hospital who would benefit from a local LTCH.

C. PROJECT SUMMARY

SemperCare Hospital of Lakeland, Inc. (CON #9709) proposes the establishment of a new 30-bed long-term care hospital (LTCH) to be located within Lakeland Regional Medical Center (LRMC) in Polk County. SemperCare currently operates 13 long-term acute care hospitals with five in the process of start-up and seven more pending regulatory approval. In Florida, SemperCare has been approved for a 30-bed LTCH in Panama City, a 29-bed LTCH in Tallahassee. The applicant also has a 35-bed LTCH located within Florida Hospital in Orlando. 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 comprised of 12,489 gross square feet of leased space on the fourth floor of LRMC. Renovation costs are expected to be \$226,332 and the total project cost is projected to be \$1,126,839.

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The applicant agrees to condition award of the certificate of need on the provision of two percent of its patient days to Medicaid and a ratio of indigent/charity care to gross revenue that will average one percent.

Select Specialty Hospital-Marion, Inc. (CON #9710), a wholly-owned subsidiary of Select Medical Corporation, proposes the establishment of a 44-bed freestanding long-term care hospital (LTCH) to be located in Polk County, Florida. 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 to be located within Lucerne Medical Center in District 7. Select Specialty has submitted seven separate proposals in the current review cycle to develop LTCHs within the State of Florida. These involve new proposals in Districts 1, 3, 4, 6, 8 and 9.

The proposed hospital will be located on a selected site in the central eastern region of Polk County. The proposed LTCH will consist of 38,906 gross square feet of new construction. Construction costs are estimated to be \$6,819,750. Total project cost is estimated to be \$11,244,184. The project will be funded from related company financing.

The applicant agrees to condition award of the certificate of need on the provision of 2.8 percent of its patient days to Medicaid and indigent patients on a combined basis and upon becoming accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). However, section 408.043(3), Florida Statutes, directs that “accreditation by a private organization may not be a requirement for the issuance or maintenance of a certificate of need”.

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.

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

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

As part of the fact-finding, the consultant, M. Riley Gibson, analyzed the application in its entirety with consultation from the Financial Analyst, Douglas 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; 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, 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 based on the topics provided in rule and listed in Item b below.

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

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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.

According to a recent *MedPac* report to Congress:

“LTCHs are the post-acute 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 LTCH 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 LTC hospitals or not. Patients who used these hospitals were three to five times less likely to use SNF care, suggesting that SNFs and LTCHs may be substitutes. Compared with similar patients who did not use LTHCs, total payments and mortality rates for LTCH patients were considerably higher.”¹

b. 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.

¹ June 2003 MedPac Report to Congress: *Variations and Innovation in Medicare*, page 72.

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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.

In addition, rehabilitation facilities are required to have 75 percent of their admissions in one of 10 specific diagnoses related to conditions requiring rehabilitation services. LTCH's only condition of participation in addition to those required of all hospitals is to have an average Medicare length of stay greater than 25 days.

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.

In addition to similarities to rehabilitation providers noted above, as previously stated, *MedPac*, in a June 2003 *Report to Congress* indicted that data suggests that care provided in LTCHs is similar to that provided in skilled nursing facilities and that care in LTC hospitals is becoming a substitute for skilled nursing care rather than a different or higher level of care. However, despite similarities in care suggested by the data, payments for LTCH patients were considerably higher as were mortality rates.

At present there are 11 long-term care hospitals with 769 beds licensed to operate in the state of Florida. These facilities are located in seven 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 (Orlando) and Pinellas (St. Petersburg). There are an additional 165 beds approved but not yet operational: 20 beds at Kindred Hospital in District 4, 6 beds at Kindred in Ft. Lauderdale in District 10 and the following approved new LTCHs hospitals: SemperCare (30 beds) in Panama City and SemperCare (29 beds) in Tallahassee, both in District 2, HealthSouth (40 beds) in Sarasota in District 8; and Select Specialty (40 beds) in Orlando. The average occupancy of the operational programs reporting utilization was

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76.84 percent for the period January 2002 through December 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 calendar year 2002 reporting period:

**Florida Long Term Care Hospitals
Utilization Experience January 2002-December 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-Tampa	6	73	26,645	17,986	67.50%
Kindred-Hollywood	10	124	45,260	32,300	71.37%
Kindred-Ft. Lauderdale	10	64	23,360	21,409	91.65%
Kindred-Coral Gables	11	53	19,345	17,197	88.90%
**Select Specialty-Miami	11	40	360	-0-	0.00%
Florida Total		683	235,055*	180,607*	76.84%

Source: Florida Hospital Bed Need and Service Utilization, 1/24/03

Kindred-North Florida approved under CON 9650 to add 20 LTCH beds

**Kindred-St. Pete added 22 licensed beds on 04/23/03 increasing total beds to 82.*

***Select Specialty-Miami was licensed 12/23/02, reporting zero utilization for the quarter. Not listed but recently licensed LTCHs include Sister Emmanuel Hospital For Continuing Care (29 beds) licensed 07/15/03 in District 11 and SemperCare (35 beds) in Orlando in District 7 licensed 06/12/03.*

As shown above, there are currently 175 long-term care hospital beds in District 6, distributed between two existing Kindred LTCH's, both located in Tampa, Florida (Hillsborough County). Kindred-Central Florida is licensed for 102 beds and Kindred-Tampa is licensed for 73 beds. The Kindred facilities in Tampa experienced average occupancy rates of 79.42 percent and 67.50 percent, respectively in CY 2002.

The current bed complement, patient days and average occupancy of other forms of care in District 6 is presented as follows:

**Acute Care and Post-acute Care Providers
District 6 Beds and Utilization**

Facility Type	Total Beds District 6	District 6 Average Occupancy
Long Term Hospital Care	175	74.45%
Acute Care	5,523	54.70%
Comprehensive Med. Rehab	131	75.89%
Hospital Based Skilled Nursing	*110	35.54%
Skilled Care Community Nursing Homes	9,087	86.27%

Source: Hospital Bed Need Projections 07/03 for LTCH, acute care, CMR beds for January 2002-December 2002. Skilled care community nursing home, and HBSNU beds by district for July 2002-June 2003.

**HBSNU bed total does not reflect approved CON' to delicense 29 beds at St. Joseph's Hospital in Tampa. This will reduce total HBSNU beds to 81 beds.*

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As previously noted, LTCHs are designed to treat patients with medical conditions requiring extended hospital-level services, for a lengthy period of time (generally more than 25 days). Both co-batched applicants state 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, as noted earlier, studies recently conducted suggest the opposite.

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. Although both applicants contend that LTCH services are distinct, neither demonstrated that its proposal addressed a quantifiable distinct population or showed that there was need for additional services regardless of the venue of care, beyond those beds already licensed and operating District 6. A discussion of each applicant's need analysis is presented below following general findings regarding expected population growth in the district within the next five years.

**Population Estimates for District 6 Counties and Percent Change by County
For Total Population, 65 and over, and 75 and Over Population**

County	Total July 2003	Total July 2008	Percent Change	65+ Percent Change	75+ Percent Change
Hardee	27,742	30,199	8.86%	14.20%	18.73%
Highlands	91,352	99,654	9.09%	11.92%	12.87%
Hillsborough	1,068,183	1,143,026	7.01%	12.00%	10.49%
Manatee	282,656	306,671	8.50%	9.24%	8.56%
Polk	514,952	550,338	6.87%	12.72%	14.18%
Total District	1,984,885	2,129,888	7.31%	11.65%	11.44%

Source: AHCA Pop. Projections, published June 2003.

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As shown above, the overall population in District 6 is expected to increase by 7.31 percent during the next five years, with the 65 and over and 75 and over age cohort increasing by 11.65 percent and 11.44 percent, respectively. Polk County is expected to increase by 6.87 percent in total population, less than the district average. However, the 65 and over and 75 and over population is expected to increase at a rate higher than the district averages.

SemperCare Hospital of Lakeland, Inc. (CON #9709) is proposing to create a 30-bed LTCH within leased space at Lakeland Regional Medical Center in Lakeland, Florida (Polk County) to serve residents of District 6.

The applicant contends that the closest LTCHs do not meet the needs of the long-stay acute care patient population of District 6 and attempts to demonstrate that clinical, socio-demographic, and utilization profiles of the patient population in District 6 and specifically in Polk County supports the need for the proposed project.

In response to population demographics and dynamics, the applicant's analysis focuses on the historical population increase for Polk County and District 6 from January 1995 until January 2003 to show a significant increase in the 65 and over population group for both the county (19 percent) and the district (17 percent). Although Polk County, the second most populous county in District 6, is showing an increase in population, an examination of the June 2003 through June 2008 projections, indicates that Polk County actually experienced the lowest percentage increase in total population while having the second highest increase in the 65 and over (12.72 percent) and 75 and over (14.18 percent) population groups of the five counties that comprise District 6. These older age groups tend to use LTCH services at a higher rate than younger age groups. The increase in these age groups is expected to exceed the district averages. Polk County currently accounts for 26 percent of the total population and 29 percent of the total 65 and over population in District 6. Hillsborough County, contiguous to Polk County, accounts for 53.8 percent of the total population and 38 percent of the 65 and over population. District 6 is currently served by two LTCHs located in Hillsborough County and specifically in the Tampa area (Kindred Hospital Bay Area and Kindred Hospital Central Tampa). The applicant acknowledges that residents from Polk County utilize these facilities located approximately 40 miles in distance from the city of Lakeland but state that the majority of these referrals did not originate from LRMC. The applicant references a case management discharge tracking study performed by LRMC to demonstrate that of the 101 Polk County residents discharged from Kindred Hospital Central Tampa during 2002, the majority was not referred from LRMC. A copy of this

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tracking study was not provided. The applicant contends that although the majority of these patients were not referred from LRMC, these patients could have been served more efficiently if a LTCH was available. The applicant did not specifically show how many patients from Polk County and specifically LRMC referrals were discharged from the Kindred Hospital Bay Area facility. The applicant does contend that based on the analysis of what it considers to be LTCH appropriate patient days from discharged patients at LRMC, there were at least 422 patients discharged who would have benefited from LTCH services but did not or could not access the services in Tampa. There was no indication provided regarding the eventual placement of these patients. The applicant references the support of area physicians in further justification of the project. The support letters as previously addressed, identify a total of 554 potential discharges that may be appropriate for a LTCH. There is no indication given as to whether these patients duplicate either in total or partially, the 422 patients identified by LRMC as suitable for LTCH services. Support letters provided by physicians and other providers in the area attested to the appropriateness of LTCH services rather than other modes of post-acute care.

In an attempt to further demonstrate need, the applicant states that discharge planners at LRMC were provided the admissions criteria for the proposed LTCH and asked to estimate the number of patients that would be transferred to a LTCH if available. While the discharge planners apparently agree with the patient level data report previously addressed which has determined that 422 patients met LTCH criteria in 2002, the planners also reviewed patient charts and chose a sample of 22 patients who would benefit from LTCH services. From this sample, the discharge planners identified a total of 776 potential LTCH patient days that were provided in a less than optimal short-term acute care setting. According to the applicant, each of these patients could not be placed in another venue of care as a result of their complex medical conditions and extensive need for nursing and medical care and remained in an acute care setting as long as 188 days past the GMLOS for their respective DRGs.

To calculate the potential number of patients in need of LTCH services, the applicant chose to use a length of stay methodology. This approach targets patients whose lengths of stay are above national averages for the respective DRG. The methodology uses the geometric mean length of stay (GMLOS) for each DRG provided as a part of the Medicare Prospective Payment System and applies the GMLOS to all potential discharges from the host hospital and other area hospitals. The applicant provided an extensive listing of DRGs considered not

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appropriate for LTCH services and deleted those from consideration as well as all lengths of stay totaling less than the sum of 15 days plus the Medicare GMLOS for that DRG.

The applicant states that according to Agency data, LRMC accounted for 422 of what it considers to be LTCH appropriate discharges and a total of 10,526 patient days for CY 2002. The applicant states that this volume alone supports a need for 37 LTCH beds at 80 percent occupancy. Although the applicant identified additional LTCH appropriate patients from other hospitals in the area, the applicant is assuming that no other appropriate patients will be admitted due to what it considers an exclusive need at LRMC only.

As noted above, it appears that patients treated in LTCHs in the United States are similar to those treated in skilled nursing facilities and units and that LTCHs are becoming a substitute for skilled nursing facilities and units.

Using the 422 discharges that it considers would be appropriate for LTCH services, the applicant applies an 80 percent utilization rate and an expected ALOS of 25.1 days resulting in a perceived need for 36 beds and an average daily census of 29 patients. However, it should be noted that certain variations in patient characteristics can alter these need assumptions. These include the patient's functional ability, availability of caretakers at home, ethnicity, age, socio-demographics, and dependence on technology. In addition, as stated above it was not demonstrated that patients are being denied access to needed services whether LTCH or another appropriate post-acute service. According to Agency utilization data Kindred-Central Tampa had an average utilization of 79.42 percent for CY 2002 while Kindred-Tampa experienced an occupancy average of 67.50 percent. These utilization averages do not indicate capacity constraints at either facility within District 6. Additionally, as shown in the chart above, which provides average utilization in other District 6 post-acute care settings, there is no evidence that high acuity patients needing post-acute care are unable to obtain it.

Select Specialty Hospital-Marion, Inc. (CON #9710) proposes a freestanding 44-bed long-term care hospital to be located in the central eastern region of Polk County. The applicant contends that the proposed location of the LTCH will maximize convenience and continuity of care for patients, families and physicians. In support of the project, the applicant basically contends that LTCH appropriate patients are remaining in acute care hospitals in the county as no appropriate or available alternatives exist. The applicant identified 181 patients at the

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Winter Haven affiliated hospitals (130 patients) and Heart of Florida Regional Medical Center (51 patients) who may be appropriate for the proposed LTCH. The applicant contends that county wide there are nearly 600 LTCH appropriate patients remaining in general acute care beds.

The applicant acknowledges the two Kindred facilities in the district but states that these facilities are located in Hillsborough County, approximately 50 miles in distance and not available or accessible to Polk County residents. The applicant states that in aggregate, Winter Haven Hospital, Lake Wales Regional Medical Center and Heart of Florida had only eight discharges to a LTCH during CY 2002. The applicant contends that this low number of discharges is directly related to the distance and travel times for Polk County residents in accessing LTCH services. The applicant did not demonstrate that patients are being denied services at the Tampa LTCH's or that access is limited due to nonavailability of LTCH beds and services. Additionally, as discussed above, there appears to be adequate availability to post-acute care services in District 6.

The applicant addresses population estimates for the period July 2002 to July 2007 to demonstrate the expected increase in total population as well as an increase in the 65 and over and 75 and over age cohorts. Although Polk County, the second most populous county in District 6, is showing an increase in population, an examination of the June 2003 through June 2008 projections, indicates that Polk County actually experienced the lowest percentage increase in total population but the second highest increase in the 65 and over (12.72 percent) and 75 and over (14.18 percent) population groups of the five counties that comprise District 6. The increase in these aged groupings is expected to exceed the district averages. Polk County currently accounts for 26 percent of the total population and 29 percent of the total 65 and over population in District 6. Hillsborough County, contiguous to Polk County, accounts for 53.8 percent of the total population and 38 percent of the 65 and over population.

In the absence of an approved methodological approach to need for LTCH beds, the applicant presented five different methods for estimating need as discussed below.

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The first method involves an extended length of stay analysis based on Polk County short-term acute care hospital long-stay discharges. The second and third methods address the geometric mean length of stay plus 15 days and seven days, respectively. The fourth method analyzes long-stay in short-term acute care (STAC) versus LTCH penetration, and the fifth method focuses on a UB -92 (Universal Billing form 92) patient discharge analysis for Polk County hospitals.

With regard to the extended length of stay analysis, the applicant analyzed discharges by DRG from Polk County hospitals to arrive at the top DRGs experienced by these hospitals in aggregate. The evaluation of the hospital discharges excluded lengths of stay of less than 24 days (it is assumed that the exclusion of length of stay less than two days was incorrectly stated by the applicant), patients under the age of 14, psychiatric diagnosis, substance abuse diagnosis, obstetric diagnosis, newborn diagnosis and rehabilitation diagnosis. The net number of discharges was then identified in an attempt to show potential need for LTCH beds. The applicant arrived at a total of 587 hospital discharges with a length of stay 24 days and greater. The applicant multiplied the potential number of patients by the average length of stay for LTAC hospitals in Florida (42.7 days) to arrive at total patient days and then divided this number by 365 to arrive at the average daily census of 69 patients. Based on a 75 percent occupancy rate, the applicant arrived at a need for 92 beds in support of its 44 bed request. The expected length of stay of 42.7 days may be overstated. The ALOS for LTCH patients in the state is obviously inflated due to the Kindred facilities focus on ventilator/pulmonary services and a corresponding longer length of stay. Kindred currently operates seven of the total 11 LTCHs in the state. A more realistic method using a 25 to 30-day length of stay supports an average daily census of 40 to 48 patients or a potential need, absence other factors, for 54 to 64 beds based on a 75 percent occupancy rate. As noted earlier, no evidence has been presented by the applicant indicating that area residents needed LTCH services but were unable to obtain them from one of the several venues of post-acute services currently available, within a reasonable distance, in District 6.

The second method examines the geometric mean length of stay plus 15 days to arrive at 764 potential LTCH discharges from Polk County hospitals and a need for 119 beds. This method results in a count similar to the extended length of stay method previously discussed and is also based on an average length of stay of 42.7 beds. The third method using a GMLOS plus seven days obviously results in a higher projected need (456 beds). Again, the application of 25 and 30-day lengths of stay supports hospital specific needs of 39 and 47 beds, before consideration of other factors. The applicant used the same method, utilizing the

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aggregate of Heart of Florida Regional Medical Center and Winter Haven Hospital's discharges (262) to arrive at an average daily census of 31 and a bed need of 41 beds. Again, using lengths of stay of 25 days and 40 days results in a theoretical need for 24 to 29 beds, less than the 44 beds requested. Additionally, the occupancy standard used in this calculation is lower than typically used in a post-acute setting and there is no evidence that the patients the applicant projects it can serve cannot be served in existing health care settings, including LTCHs, in District 6.

The fourth method looks at a statewide analysis of all long stay patients by county residents to determine where acute care patients receive services. Based on this analysis, the applicant determined that total counties without LTCHs had 7.2 percent of long stay patients (24 plus days) receiving LTCH services outside of the county with Polk County residents receiving 12.8 percent outside the county. This is less than the counties with LTCH's that range from a low of 13.7 percent in Miami-Dade to a high of 31 percent in Duval County. The higher percentage of Polk County residents receiving LTCH services outside the county as opposed to the statewide average for counties without LTCH's is likely due to the existence of two LTCH's within the district in contiguous Hillsborough County. The applicant basically contends that this illustrates that Polk County residents have an access problem to LTCH services due to the distance to these Hillsborough facilities as well as the stabilized occupancies and waiting lists. However, it was not demonstrated that patients are being denied access to the LTCH services offered at the two Kindred LTCHs located in Tampa. According to Agency utilization data Kindred-Central Tampa had an average utilization of 79.42 percent for CY 2002 while Kindred-Tampa experienced an occupancy average of 67.50 percent. These utilization averages do not indicate capacity constraints at either facility within District 6.

The fifth method provides a more detailed, patient specific extended stay analysis conducted of all Polk County hospital discharges with average length of stays greater than 24 days. For CY 2002, the applicant identified 587 discharges with 24 days or greater length of stay. According to this analysis, 13 percent of the patients had a length of stay exceeding 46 days and more than 42 percent had a length of stay exceeding one month. The applicant contends that these patients were in a critical state and may have benefited from a stay at a LTCH. The applicant states that many of these patients were eventually discharged to a skilled nursing facility, after spending months in an acute care setting. This analysis does not provide a potential bed need but rather presents specific discharge data in support of the applicant's perceived need for LTCH services and to show that these patients are not candidates for other post-acute settings. There was no supporting

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documentation provided that patients are being denied admission to LTCH services in the district and/or elsewhere in the state or that patients are being inappropriately cared for.

As discussed above, no evidence was presented that patients needing care were unable to obtain it in an appropriate setting. Had there been evidence that patients were unable to access care, the applicant's methodological approaches appear to overstate bed need in view of a questionable ALOS for the level of LTCH services proposed and the use of a low occupancy standard. In addition, the availability of LTCH services at the Kindred facilities located in District 6, specifically in adjacent Hillsborough County is evidence that access to this specific venue of care is not limited within reasonable travel distances to the identified patient population. The applicant did not demonstrate that patients are being denied access to the LTCH services offered at the two Kindred LTCHs located in Tampa.

2. Local Health Plan Preferences

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

The 2003 District 6 CON Allocation Factors Report, contains the following preference statements pertaining to long term care beds as well as appropriate generic preference statements:

Long Term Care Hospital Beds:

- 1. Preference shall be given to Certificate of Need applicants who propose to convert underutilized acute care beds either for the establishment or the addition of a long-term care hospital within a hospital.**

Neither applicant is proposing to convert underutilized acute care beds at an existing area hospital to establish its project.

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SemperCare Hospital of Lakeland, Inc. (CON #9709) proposes to establish a 30-bed long-term care hospital through the use of unused acute care bed space at Lakeland Regional Medical Center but not the conversion of acute care beds at LRMC. For CY 2002, LRMC's 768 acute care beds were utilized at an average occupancy of 48.89 percent.

Select Specialty Hospital-Marion, Inc. (CON #9710) proposes a new 44-bed freestanding long-term care hospital that will not incorporate the use of an existing facility.

- 2. Certificate of Need applicants who have received accreditation from a voluntary accreditation organization, such as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).**

SemperCare Hospital of Lakeland, Inc. (CON #9709) is a new corporate entity and does not operate an existing LTCH. However, the applicant indicates that its parent corporation currently operates 13 LTCH's nationwide, all of which have or are currently seeking JCAHO accreditation. The applicant provided documentation to show that each of the SemperCare Hospitals that have become accredited have been scored above the national average by JCAHO. The applicant states that it intends to seek JCAHO accreditation for the proposed facility.

Select Specialty Hospital-Marion, Inc. (CON #9710) is a new corporate entity and does not operate an existing LTCH. However, the applicant's parent corporation does operation numerous JCAHO accredited hospitals nationwide. The applicant states it's intention to seek JCAHO accreditation and implement appropriate protocols to maintain quality of care and has agreed to condition award of the CON upon receiving this accreditation. The applicant meets the intent of this preference through its agreement to condition award of the CON upon becoming JCAHO accredited.

Generic Preference Statements (*Only as applicable*):

Access for Medicaid and Indigent

- 1. Preference shall be given to an applicant who proposes to locate a new facility in an area that will improve access for Medicaid and indigent patients.**

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SemperCare Hospital of Lakeland, Inc. (CON #9709) states that its requested condition to provide a minimum of two percent Medicaid and one percent charity care is an indication that the project will improve access to LTCH services by Medicaid and indigent patients. In view of the high Medicare (83 percent), managed care (12 percent) and commercial insurance (three percent) reimbursement proposed for the project, any improvement in access for Medicaid and indigent patients (three percent) is considered minimal.

Select Specialty Hospital-Marion, Inc. (CON #9710) did not respond to this preference. In view of similar proposed reimbursement as above, with primary emphasis on Medicare, any improvement in access for Medicaid and charity care (2.8 percent) is considered minimal.

Timely Project Completion

- 2. In cases where an applicant is a corporation with previously awarded certificates of need, preference shall be given to those which follow through in a timely manner to construct and operate the additional facilities or beds, and do not use them for later negotiations with other organizations seeking to enter or expand the number of beds they own or control.**

SemperCare Hospital of Lakeland, Inc. (CON #9709) is a new corporation that has not previously applied for a certificate of need. However, its parent company affiliates have been awarded three certificates of need to develop LTCHs in Florida (SemperCare Hospital of Orlando/CON #9544, SemperCare Hospital of Panama City/CON #9596, and SemperCare Hospital of Tallahassee/CON #9644). The applicant states that the approved projects have been developed and/or expected to be completed on or before scheduled completion dates.

Select Specialty Hospital-Marion, Inc. (CON #9710) did not respond to this preference. While the applicant has a licensed facility in Florida, it was not obtained through the CON process. The applicant was only recently awarded (October 30, 2003) a CON to establish a LTCH within Lucerne Medical Center.

3. Agency Rule Criteria

The Agency does not currently have adopted preferences relating to LTCHs.

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.**

SemperCare Hospital of Lakeland, Inc. (CON #9709) basically contends that Polk County is underserved with regard to the accessibility and availability of LTCH services. The applicant further states that the existing LTCHs in District 6 are located at a prohibitive travel distance from LRMC. However, it was not demonstrated that patients are being denied access to LTCH services, especially those provided at the two Kindred LTCHs located in Tampa. According to Agency utilization data Kindred-Central Tampa had an average utilization of 79.42 percent for CY 2002 while Kindred-Tampa experienced an occupancy average of 67.50 percent. These utilization averages do not indicate capacity constraints at either facility within District 6. Travel distances to existing LTCHs, skilled nursing facilities, or comprehensive medical rehabilitation facilities were not demonstrated to be unreasonable.

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 proposed service area.

Select Specialty Hospital-Marion, Inc. (CON #9710) states that there are no like and existing LTCHs in Polk County and that clinically appropriate patients are remaining in inappropriate bed situations. However, it was not shown that existing LTCH or other post-acute services in District 6 are not in sufficient supply or that Polk County residents are being denied access to LTCH or other appropriate post-acute services within reasonable travel times.

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 proposed service area.

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- 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.**

SemperCare Hospital of Lakeland, Inc. (CON #9709) is a new, development stage corporation with no operating history. 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 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 included the Joint Commission of Accreditation of Healthcare Organizations (JCAHO) survey results for five currently operational SemperCare facilities.

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 Lakeland Regional Medical Center, the host hospital, is currently fully licensed and accredited.

Select Specialty Hospital-Marion, Inc. (CON #9710) is a new, development stage corporation, and as such has no operating history. The applicant is a controlled entity of Select Medical Corporation, an existing provider of LTCH services nationwide with 77 existing facilities, including one in Miami, Florida that was licensed on December 23, 2002, and an approved facility that will be located in Orlando. The applicant does not indicate that all existing Select Medical facilities have current JCAHO accreditation. 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 states that Quality Improvement Programs already in place at other Select locations nationwide will be implemented in the proposed facility. The applicant states its commitment to implementing an effective quality improvement program.

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

The co-batched applicants are not 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 will be located in a statutorily defined teaching hospital nor will the primary purpose of the proposed projects involve research or physician education.

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

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

SemperCare Hospital of Lakeland, Inc. (CON #9709) 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 parent 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 first long-term care hospital owned by SemperCare opened in April 2000 with twelve facilities operational as of the date of the balance sheet. These 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 8, 2003 the company established a \$55 million credit facility with General Electric Capital Corporation (GECC) to support its development strategy and ongoing

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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 Lakeland, Inc. will lease the space required to operate the hospital from Lakeland Regional Medical Center, Inc. with SemperCare paying no rent for the first six months and \$1,000 per month per licensed long-term care bed thereafter. The initial term of the lease is for five years, with options to extend.

Lakeland Regional Medical Center, Inc. will be providing funding for a small 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 \$359,000, current assets of \$52.8 million, with an operating profit of \$7.3 million and operating cash flows of \$44.6 million.

Capital requirements:

Total capital costs for this project from Schedule 1 are \$1,126,839. Schedule 1 did not include the estimated loss during the initial six months of operation of \$1,011,999, bringing the total project costs for the applicant to \$2,138,838. 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 Lakeland Regional Medical Center, Inc. Each provided a letter in support of their commitment to fund the project. LRMC agreed to provide up to \$19,500. SemperCare, Inc.'s financial resources are discussed above.

Staffing:

According to Schedule 6, the proposed project will require 80 FTE staff in the first year of operation ending in November 2005. Nursing staff including aides will fill 42 FTE positions, with ancillary staff filling 22.1 FTE positions. The applicant did not describe any staff recruitment plans or discuss retention incentives for staff.

Conclusion:

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

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Select Specialty Hospital-Marion, Inc. (CON #9710), a wholly-owned subsidiary of Select Medical, Inc., is a start-up company with \$10 in assets as of February 4, 2003. The applicant submitted Form 10K for Select Medical, Inc. for the period ended December 31, 2002. The company reported \$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. The parent company is considered financially strong.

Capital requirements:

Total capital costs for this project from Schedule 1 are \$11.2 million. Schedule 2 indicates the applicant has one other capital project in the amount of \$12.2 million. The addition of routine capital costs for both projects of \$200,000 brings the total capital budget to \$23.7 million.

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.

Staffing:

According to Schedule 6, the proposed project will require a total of 61 FTE staff in year one, increasing to 90 FTE staff in year two. The nursing staff, including aides will fill 25 FTE positions in year one, increasing to 49 FTE positions in year two. Ancillary positions, including therapists will fill 17 positions in year one, increasing to 21 positions in year two. The applicant states that salaries are based on an evaluation of the area and its own experience in staff recruitment. The applicant states that it is confident it will be able to effectively recruit and maintain appropriately qualified staff to meet the needs of its patients. The applicant did not discuss specific recruitment and staff retention plans.

Conclusion:

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

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

A comparison of each of the co-batched applicant's estimates to the corresponding control group values provides for an objective evaluation of financial feasibility, (the likelihood that the services can be provided under the parameters and conditions contained in Schedules 7 and 8), and efficiency, (the degree of economies achievable through the management skills of the applicant). In general, projections that

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

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

The estimated revenues submitted by both SemperCare (CON #9709) and Select Specialty (CON #9710) were developed based on the prospective payment system. However, with regard to the SemperCare proposal, 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. SemperCare (CON #9709) states they intend to comply with this provision. Failure to comply would have a material negative impact on revenues.

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.

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During the demonstration period the hospital is reimbursed at the acute care rate. SemperCare (CON #9709) submitted schedules for this six-month demonstration period, whereas Select Specialty (CON #9710) did not disclose how this period was accounted for in their financial projections.

Comparative data for the three co-batched applicants were derived from hospitals in peer groups that reported data in 2002. The co-batched applicants 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.

SemperCare Hospital of Lakeland (CON #9709): Projected net revenue per adjusted patient day (NRAPD) of \$1,097 in year one and \$1,139 in year two is between the control group median and lowest values of \$1,1141 and \$869 in year one and \$1,177 and \$897 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 \$1,046 in year one and \$1,055 in year two is between the control group median and lowest values of \$1,062 and \$745 in year one and \$1,096 and \$769 in year two. Compared to the control group these costs are efficient. (See Comparative Table).

The year two operating profit for the hospital of \$767,671 computes to an operating margin per adjusted patient day of \$84, which falls between the peer group median and lowest values of \$125 and \$-31 respectively. The operating margin of 7.4 percent indicates that net revenues are proportional to costs.

This application appears to be financially feasible.

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SemperCare Hospital of Lakeland (CON #9709)

**TABLE TWO
PEER GROUP 12**

	2007 YEAR 2 ACTIVITY	YEAR 2 ACTIVITY PER DAY	<u>INFLATION ADJ. VALUES</u>		
			Highest	Median	Lowest
ROUTINE SERVICES	30,755,180	3,371	1,208	896	660
INPATIENT AMBULATORY	0	0	12	0	0
INPATIENT SURGERY	0	0	0	0	0
INPATIENT ANCILLARY SERVICES	0	0	3,767	2,885	2,345
OUTPATIENT SERVICES	0	0	223	2	0
TOTAL PATIENT SERVICES REV.	30,755,180	3,371	4,720	3,803	3,007
OTHER OPERATING REVENUE	0	0	4	2	0
TOTAL REVENUE	30,755,180	3,371	4,724	3,805	3,007
DEDUCTIONS FROM REVENUE	20,359,261	2,231	N/A	N/A	N/A
NET REVENUES	10,395,919	1,139	2,185	1,177	897
EXPENSES					
ROUTINE	2,600,588	285	560	316	191
ANCILLARY	3,670,862	402	641	298	203
AMBULATORY	0	0	0	0	0
TOTAL PATIENT CARE COST	6,271,450	687	1,201	614	394
ADMINISTRATIVE & OVERHEAD	1,758,590	334	940	505	370
PROPERTY	1,286,330	*	*	*	*
TOTAL HOSPITAL EXPENSE	9,316,370	1,021	2,241	1,096	769
OTHER OPERATING EXPENSE	311,878	0	0	0	0
TOTAL EXPENSE	9,628,248	1,055	2,241	1,096	769
OPERATING INCOME (MARGIN)	767,671	84	280	125	-31
PERCENT OPERATING MARGIN	7.4%				
PERCENTAGES NOT INFLATION ADJUSTED					
PATIENT DAYS	9,124				
ADJUSTED PATIENT DAYS	9,124				
TOTAL BED DAYS AVAILABLE	10,950				
ADJ. FACTOR	1.0000				
TOTAL NUMBER OF BEDS	30				
PERCENT OCCUPANCY	83.3%		100.2%	84.2%	52.2%
PAYER CLASS					
	PATIENT DAYS	PERCENT OF TOTAL			
SELF-PAY	91	1.0%	3.8%	0.9%	0.0%
MEDICAID	182	2.0%	13.3%	0.2%	0.0%
MEDICAID HMO	0	0.0%			
MEDICARE	7,528	82.5%	97.3%	75.4%	67.4%
MEDICARE HMO	0	0.0%			
INSURANCE	274	3.0%			
HMO/POP	1,049	11.5%	23.4%	10.5%	0.0%
OTHER	0	0.0%			
TOTAL	9,124	100.0%			

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Select Specialty Hospital-Marion, Inc. (CON #9710): Projected net revenue per adjusted patient day (NRAPD) of \$965 in year one and \$1,028 in year two is between the control group lowest and median values of \$872 and \$1,145 in year one and \$900 and \$1,181 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 \$1,249 in year one and \$979 in year two is between the control group median and highest values of \$1,065 and \$2,178 in year one and the control group lowest and median values of \$772 and \$1,099 in year two. Compared to the control group these costs are efficient. (See Comparative Table).

The year two operating profit for the hospital of \$574,012 computes to an operating margin per adjusted patient day of \$49, which falls between the peer group median and lowest values of \$125 and \$-31 respectively. The operating margin of 4.8 percent indicates that net revenues are proportional to costs.

This project appears to be financially feasible.

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Select Specialty Hospital-Marion, Inc (CON #9710)

**TABLE TWO
PEER GROUP 12**

	2007 YEAR 2 ACTIVITY	YEAR 2 ACTIVITY PER DAY	<u>INFLATION ADJ. VALUES</u>																																																																				
			Highest	Median	Lowest																																																																		
ROUTINE SERVICES	11,096,000	950	1,212	899	662																																																																		
INPATIENT AMBULATORY	24,535,775	2,101	12	0	0																																																																		
INPATIENT SURGERY	284,225	24	0	0	0																																																																		
INPATIENT ANCILLARY SERVICES	0	0	3,778	2,894	2,352																																																																		
OUTPATIENT SERVICES	0	0	0	0	0																																																																		
TOTAL PATIENT SERVICES REV.	35,916,000	3,075	5,002	3,793	3,014																																																																		
OTHER OPERATING REVENUE	0	0	224	2	0																																																																		
TOTAL REVENUE	35,916,000	3,075	4,739	3,817	3,016																																																																		
DEDUCTIONS FROM REVENUE	23,903,504	2,047	N/A	N/A	N/A																																																																		
NET REVENUES	12,012,496	1,028	2,192	1,181	900																																																																		
EXPENSES																																																																							
ROUTINE	2,468,475	211	562	317	192																																																																		
ANCILLARY	3,968,784	340	643	298	204																																																																		
AMBULATORY	0	0	0	0	0																																																																		
TOTAL PATIENT CARE COST	6,437,259	551	1,205	615	396																																																																		
ADMINISTRATIVE & OVERHEAD	2,934,625	428	942	506	371																																																																		
PROPERTY	2,066,600	*	*	*	*																																																																		
TOTAL HOSPITAL EXPENSE	11,438,484	979	2,248	1,099	772																																																																		
OTHER OPERATING EXPENSE	0	0	0	0	0																																																																		
TOTAL EXPENSE	11,438,484	979	2,248	1,099	772																																																																		
OPERATING INCOME (MARGIN)	574,012	49	280	125	-31																																																																		
PERCENT OPERATING MARGIN	4.8%																																																																						
PERCENTAGES NOT INFLATION ADJUSTED																																																																							
PATIENT DAYS	11,680																																																																						
ADJUSTED PATIENT DAYS	11,680																																																																						
TOTAL BED DAYS AVAILABLE	16,060																																																																						
ADJ. FACTOR	1.0000																																																																						
TOTAL NUMBER OF BEDS	44																																																																						
PERCENT OCCUPANCY	72.7%		100.2%	84.2%	52.2%																																																																		
<table border="1" style="margin: auto;"> <thead> <tr> <th></th> <th>PATIENT DAYS</th> <th>PERCENT OF TOTAL</th> <th></th> <th></th> <th></th> </tr> </thead> <tbody> <tr> <td>PAYER CLASS</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>SELF-PAY</td> <td>93</td> <td>0.8%</td> <td>4.1%</td> <td>0.9%</td> <td>0.0%</td> </tr> <tr> <td>MEDICAID</td> <td>234</td> <td>2.0%</td> <td>13.3%</td> <td>0.2%</td> <td>0.0%</td> </tr> <tr> <td>MEDICAID HMO</td> <td>0</td> <td>0.0%</td> <td></td> <td></td> <td></td> </tr> <tr> <td>MEDICARE</td> <td>9,061</td> <td>77.6%</td> <td>97.3%</td> <td>75.4%</td> <td>67.4%</td> </tr> <tr> <td>MEDICARE HMO</td> <td>0</td> <td>0.0%</td> <td></td> <td></td> <td></td> </tr> <tr> <td>INSURANCE</td> <td>1,719</td> <td>14.7%</td> <td></td> <td></td> <td></td> </tr> <tr> <td>HMO/PPO</td> <td>573</td> <td>4.9%</td> <td>23.4%</td> <td>10.5%</td> <td>0.0%</td> </tr> <tr> <td>OTHER</td> <td>0</td> <td>0.0%</td> <td></td> <td></td> <td></td> </tr> <tr> <td>TOTAL</td> <td>11,680</td> <td>100.0%</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>							PATIENT DAYS	PERCENT OF TOTAL				PAYER CLASS						SELF-PAY	93	0.8%	4.1%	0.9%	0.0%	MEDICAID	234	2.0%	13.3%	0.2%	0.0%	MEDICAID HMO	0	0.0%				MEDICARE	9,061	77.6%	97.3%	75.4%	67.4%	MEDICARE HMO	0	0.0%				INSURANCE	1,719	14.7%				HMO/PPO	573	4.9%	23.4%	10.5%	0.0%	OTHER	0	0.0%				TOTAL	11,680	100.0%			
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- g. Will the proposal foster competition to promote quality and cost-effectiveness? ss. 408.035(9), Florida Statutes.**

A comparison of the co-batched applicants is presented as follows:

**Comparison Chart For Proposed Long-Term Care Hospital
Projects in District 6 for the Second Year of Operation**

	SemperCare (CON #9709)	Select Specialty (CON #9710)
Net Revenue per adjusted patient day	\$1,139	\$1,028
Cost per adjusted patient day	\$1,055	\$ 979
Operating profit per patient day	\$ 84	\$ 49
Estimated Managed Care level	11.5%	4.9%
Estimated Medicaid level	2.0%	2.0%

SemperCare Hospital of Lakeland, Inc. (CON #9709) 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.

Select Specialty Hospital-Marion, Inc. (CON #9710) projects managed care to represent 4.9 percent of its patient days. This is between the control group lowest and median level of activity of 0.0 and 10.5 percent. The projected levels, if realized, will have a slight 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.**

It is required that schematic drawings be submitted as part of the CON application. Although the drawings for the 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 applications 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.

SemperCare Hospital of Lakeland, Inc. (CON #9709) proposes to establish a 30-bed long-term care hospital on the fourth floor of Lakeland Regional Medical Center. The new hospital will occupy one T-shaped wing the floor. The space to be converted is currently used for medical/surgical patients, so the rooms must currently be patient rooms.

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There was a list of applicable building codes on the drawings and in the narrative. They appear to be current.

A pharmacy is included in the new hospital but there is no space designated for basic radiographic equipment unless the hospital plans to use the equipment storage room for this purpose. Space for radiographic equipment is required by code. Operating room services will be contracted with the host hospital as will maintenance, dietary and others as stated in the lease agreement included in the application.

The application had a site plan, an overall floor plan of the fourth floor and large-scale plans of the patient rooms. There was a renovations scope schedule on the drawings, but there was no demolition plan. It appears that there will be only minimal renovation will be necessary for the conversion.

If an existing non-patient bedroom is to be converted to be a new-patient bedroom for the new hospital, then it must meet new patient room sizes and other code requirements. However, a new patient bedroom that is currently used as such is not required to meet new codes and architectural standards. All the patient rooms are sized to meet current spatial requirements and so there should not be an architectural problem.

All new hospital patient rooms must have a hand washing station within the room itself in addition to the lavatory in the bathroom. If the new rooms are existing as patient rooms, which is assumed, then the additional lavatory does not have to be provided.

Some indication of the existing functions of the existing spaces would have been helpful to evaluate the renovations scope better and relate it to the budget. Based on the information presented, the projected costs and schedules appear to be reasonable.

Select Specialty Hospital-Marion, Inc. (CON #9710) included a floor plan of the proposed one-story building, larger scaled plans of patient rooms and a smoke compartment plan. The main part of the building is almost identical to several other facility plans that have been previously reviewed for certificates of need. The surgery/procedure wing has been revised for this submittal and most of the architectural concerns have been satisfactorily addressed.

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Obviously new construction standards will be applied when and if the Office of Plans and Construction reviews the proposed building. The 2003 revisions of the Florida Building code are currently in effect, but the new edition of Chapter 59A-3 of the Florida Administrative Code has not yet been promulgated. There was a list of applicable building codes presented and it is mostly correct.

The building is laid out quite efficiently. There is a large central nurse station with three patient wings radiating from it. One wing leads to an ICU area with its own nurse station and required support spaces.

In the two other patient wings, the more critical areas and the semi-private rooms are located near the central nurse station. There are several toilet/shower configurations. Some patient rooms have handicapped accessible showers and some do not, which is acceptable. There is a five-station central bathing space, which includes a shower that will accommodate a patient on a stretcher. This bathing area is located conveniently to the nurse station and the non-ICU patient wings, which it serves. There is also a sizable administrative/dining/visitor area.

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

The surgery/procedure wing has undergone extensive revision since previous reviews. The traffic pattern for doctors and staff has been improved and there is a locker/changing space provided for both men and women with adjacent toilet/shower spaces. However, as before, there are no comparable spaces for the nursing staff. In most facilities, the staff support spaces are separate from those of the doctors. This was commented upon in previous architectural reviews for Select Specialty projects, and so it could be assumed that the nursing staff will use these spaces along with the doctors. If this is the case, labeling the spaces "DR'S" is misleading.

A nurse station and its ancillary spaces has been provided in the holding and recovery area and there is good visibility for the three patient stations in the area. One station is Isolation and has its own toilet room. The surgery waiting room has been relocated and functions much better as redesigned.

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Throughout the facility, there are several storage spaces as well as visitor and staff/patient amenities. The required pharmacy and space for radiographic equipment are provided.

The schedule appears to be reasonable. The cost data submitted appear to be reasonable if somewhat high. Costs are projected to be somewhat more than for the proposed comparable facility in Alachua County, CON #9704. There are extensive outline specifications for the proposed facility in the application. The issue of disaster preparedness is addressed in one section of the application, but strangely, not mentioned in the outline specifications.

- 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 2002 Hospital Financial Data Report, LTCHs in the state averaged 1.8 percent Medicaid patient days and 1.7 percent charity care patient days.

SemperCare Hospital of Lakeland (CON #9709) is a new development stage company with no operating history.

The applicant agrees to condition award of the certificate of need on the provision of two percent of its patient days to Medicaid and a ratio of indigent/charity care to gross revenue that will average one percent. According to Financial Schedule 7A, the applicant does project that two percent of total patient days will be provided to Medicaid patients and that one percent of total patient days will be provided to charity care patients in each of the first two years of operation. The applicant's Medicaid provision exceeds the state average but the charity care provision is lower than the state average of 1.7 percent.

Select Specialty Hospital-Marion, Inc. (CON #9710) is a new development stage company with no operating history.

The applicant is proposing to condition the proposed project on the provision of 2.8 percent Medicaid and indigent patient days combined. Schedule 7A indicates that the applicant expects to deliver up to two percent of its total patient days to Medicaid patients and 0.8 percent for charity care in both the first and second year of operation. The applicant's Medicaid provision exceeds the state average but the charity care provision is lower than the state average of 1.7 percent.

F. SUMMARY

SemperCare Hospital of Lakeland, Inc. (CON #9709) proposes the establishment of a new 30-bed long-term care hospital (LTCH) to be located within Lakeland Regional Medical Center (LRMC) in Polk County.

The proposed LTCH will be comprised of 12,489 gross square feet of leased space on the fourth floor of LRMC. Renovation costs are expected to be \$226,332 and the total project cost is projected to be \$1,126,839.

The applicant agrees to condition award of the certificate of need on the provision of two percent of its patient days to Medicaid and a ratio of indigent/charity care to gross revenue that will average one percent.

Select Specialty Hospital-Marion, Inc. (CON #9710) proposes the establishment of a 44-bed freestanding long-term care hospital (LTCH) to be located on a site in the central region of Polk County, Florida.

The proposed LTCH will consist of 38,906 gross square feet of new construction. Construction costs are estimated to be \$6,819,750. Total project cost is estimated to be \$11,244,184. The project will be funded from related company financing.

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

After weighing and balancing all applicable review criteria, the following relevant factors are summarized below:

Need

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

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SemperCare Hospital of Lakeland, Inc. (CON #9709)

- The applicant contends that distance from Polk County to the LTCH's in Hillsborough County is prohibitive for Polk County residents. The applicant did not demonstrate that Polk County residents are being denied access to existing appropriate post-acute care services, including LTCH services. There are two licensed LTCHs with an average occupancy in calendar year 2002 below 75 percent located in adjacent Hillsborough County. Travel distances to existing LTCHs, skilled nursing facilities, comprehensive medical rehabilitation facilities, or any appropriate provider of post-acute care were not demonstrated to be unreasonable.

Select Specialty Hospital-Marion, Inc. (CON #9710)

- The applicant contends that Polk County LTCH appropriate patients are remaining in acute care hospitals within the county as no appropriate or available alternatives exist within an acceptable distance. The applicant did not demonstrate that Polk County residents are being denied access to existing appropriate post-acute care services, including LTCH services. There are two licensed LTCHs with an average occupancy in calendar year 2002 below 75 percent located in adjacent Hillsborough County. Travel distances to existing LTCHs, skilled nursing facilities, comprehensive medical rehabilitation facilities, or any appropriate provider of post-acute care were not demonstrated to be unreasonable.

Quality of Care:

SemperCare Hospital of Lakeland, Inc. (CON #9709)

- The applicant is a new development stage corporation with no significant operating experience. The applicant intends to use the parent company's performance improvement system currently in place to ensure and maintain quality care. The applicant included the JCAHO survey results for five currently operational SemperCare facilities. The applicant provided a reasonable description of its performance improvement plan.

Select Specialty Hospital-Marion, Inc. (CON #9710)

- The applicant is a new development stage corporation with no significant operating experience. The applicant provided a reasonable description of its performance improvement plan for monitoring and improving care delivery.

Cost/Financial Analysis:

SemperCare Hospital of Lakeland, Inc. (CON #9709)

- The applicant is a start-up company with limited assets. The parent, SemperCare, Inc. has total assets of 23.3 million. However, the company had a net operating loss of \$3.1 million with negative cash flows from operations of \$4.7 million. The financial strength of the applicant depends on the continued ability to raise capital to support operating losses. The impact of recently opened facilities in Florida is to soon to determine financial impact. It is therefore, too early to determine the long-term financial strength of the parent. The funding for the proposed project is likely to be available as needed.
- 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. Projected cost per adjusted patient day is between the control group median and lowest values and considered efficient. The projected operating margin falls between the peer group median and lowest values indicating that net revenues are proportional to costs. 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 a positive impact on competition to promote quality assurance and cost-effectiveness.

Select Specialty Hospital-Marion, Inc. (CON #9710)

- 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, revenue from operations of \$1.1 billion, and cash flows of \$120.8 million. The funding for the proposed project should be available, with the support of the parent company.
- The applicant did not disclose how they intend to comply with the exemption provision under CFR Part 412.23 requiring that the facility not exceed more than 15 percent of its total operating costs in services obtained from the host hospital or at least 75 percent of the hospital's inpatient population must be referred from another source. Failure to comply would have a material negative impact on revenues.

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- With net revenues per adjusted patient day falling between the lowest and median values, the facility is expected to consume health care resources in proportion to the services provided. Projected cost per adjusted patient day is considered efficient in comparison to the control group. The projected operating margin of 4.8 percent indicates that net revenues are proportional to costs. The project appears to be financially feasible.
- The applicant projects managed care to represent 4.9 percent of its patient days. This is between the control group lowest and median level of activity of 0.0 and 10.5 percent. The projected levels, if realized, will have a minimal positive impact on competition to promote quality assurance and cost-effectiveness.

Architectural Analysis:

SemperCare Hospital of Lakeland, Inc. (CON #9709)

- The project proposes to establish a 30-bed long-term care hospital on the fourth floor of Lakeland Regional Medical Center. The space to be converted is currently used as medical/surgical acute care beds.
- The architectural review reveals that the applicable building codes appear to be current. A pharmacy is shown on the plans but there is no space designated for basic radiographic equipment as required by code. There was no demolition plan submitted but it appears that the project involves only minimal renovation. Based on the information presented, the projected costs and schedules appear reasonable.

Select Specialty Hospital-Marion, Inc. (CON #9710)

- The project involves the construction of a 44-bed freestanding long-term care hospital to be located in Polk County. The applicable building codes appear to be mostly correct and architectural concerns noted with previous proposals submitted by the applicant appear to be satisfactorily addressed by this project.
- The proposed building appears to be designed efficiently with all required spaces and equipment. The schedule for project completion and costs appear acceptable.

G. RECOMMENDATION

Deny CON #9709 and CON #9710

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