

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Select Specialty Hospital-Alachua, Inc./CON #9748

2021 Church Street, Suite 202
Nashville, Tennessee 37203-2016

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

Kindred Hospitals East, L.L.C./CON #9749

680 South Fourth Street
Louisville, Kentucky 40202

Authorized Representative: Bud Wurdock
(502) 596-7718

2. Service District

District 3 (Columbia, Hamilton, Suwannee, Alachua, Bradford, Levy, Union, Putnam, Marion, Citrus, Hernando, Lake, and Sumter Counties)

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 3. However, letters in support of each applicant's proposal were received as follows:

Select Specialty Hospital-Alachua, Inc. (CON #9748) submitted 105 letters of support with its application. Of these, 50 letters were written in August and September of 2003 and originally submitted with CON #9704. The letters consisted of: eight letters from case managers at North Florida Medical Center supporting the establishment of a LTCH in the area, 55 letters from area physicians (the majority of whom practice at from Shands at Alachua General (AGH) Hospital), one letter from a relative whose father was a patient at a Select Specialty facility in Miami and one letter from Senator Rod Smith, 14th District. The letters state

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that this LTCH is needed to meet the needs of the patients who must stay in ICU longer than necessary because there is no LTCH facility in the area for their transfer. One letter from Dr. Bernard Gross, Chief of Staff at Shands at AGH, stated that in CY 2002 Shands AGH had 577 patients that could be considered appropriate candidates for a LTCH that “must remain in ...acute care setting as they are too ill for placement in SNF, nursing, home health or other step-down settings”. The applicant does not provide information to support this physician’s statement showing where these 577 patients were ultimately discharged, their acuity level, or giving initial attempted placement dates compared to actual discharge dates. None of the letters of support quantified the actual number of patients needing LTCH services but not receiving them.

Letter of Opposition:

There was one letter submitted on behalf of Kindred Hospital North Florida by Bud Wurdock opposing the proposed project for **Select Specialty Hospital-Alachua, Inc. (CON #9749)**. The letter contends that establishing another LTCH in the Gainesville area would result in a duplication of services and have an adverse impact on the future of Kindred Hospital North Florida. According to Mr. Wurdock, 87 admissions to Kindred Hospital North Florida came from the Gainesville area during in 2003, producing \$4.9 million in net revenue that Kindred would lose if Select Specialty Hospital-Alachua, Inc. establishes its own LCTH in Alachua County.

In January 2004 AHCA granted Kindred Hospital North Florida a Certificate of Need to add 20 beds, increasing its LTCH bed capacity from 60 to 80 beds. In March of 2004, Kindred was granted approval of its CON #9648 to establish a 31-bed LTCH in District 3.

Kindred Hospitals East, L.L.C. (CON #9749) submitted 22 letters of support for the project that were written in April, March, September and October of 2003 in support of the applicant’s previous submission for this project. The letters consisted of: one letter each from the chief executive officers from Munroe Regional Medical Center (MRMC), the Ocala Regional Medical Center (ORMC), the Villages Regional Hospitals, Leesburg Regional Medical Center and Citrus Memorial Hospital, four letters from social workers, RNs, and the director of home health services at MRMC, six letters from local physicians, one letter from the administrator of a local nursing home. In addition one letter each was included from the following public officials: Senator Nancy Argenziani

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(District 3), State Representative Larry Cretul (District 22), State Representative Dennis Baxley (District 24), Marion County Boards of Commissioners Patrick G. Howard and Parnell Townley and the Mayor of Ocala, Gerald K. Ergle.

The letters of support state that the location of a LTCH in District 3 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 Carolyn Porter, the Director of Case Management at MRMC, the hospital within which the applicant proposes to locate. Ms. Porter states that in MRMC's fiscal year 2002, there may have been as many as 702 patients needing, but not receiving LTCH services. The applicant does not provide information to support Ms. Porter's statement showing where these 702 patients were ultimately discharged, their acuity level, or giving initial attempted placement dates compared to actual discharge dates. Another letter from Caroline Smith, the administrator at TimberRidge Nursing and Rehabilitation Center, a local skilled nursing facility, states that she is aware of community residents needing LTCH services who are too ill to be placed in the nursing home. Ms. Smith indicates that these patients are either transferred out of the area to a LTCH or remain in a local hospital. None of the letters of support quantified the actual number of patients needing LTCH services but not receiving them.

C. PROJECT SUMMARY

Select Specialty Hospital-Alachua, Inc. (CON #9748), a wholly owned subsidiary of Select Medical Corporation, proposes the creation of a 44-bed freestanding LTCH to be located in Alachua County, Florida.

The proposed hospital will consist of 48,598 gross square feet of new construction and construction costs of \$8,504,650. Total project cost is estimated to be \$15,561,988.

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

Kindred Hospitals East, L.L.C. (CON #9749), a wholly owned subsidiary of Kindred Healthcare, Inc., proposes to establish a 31-bed LTCH within Munroe Regional Medical Center in Ocala, Marion County.

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The proposed LTCH will be located on the fifth floor of Munroe Regional Medical Center at the main campus and will contain 11,606 square feet, which encompasses 15 semi-private rooms and one isolation room. The project involves a total cost of \$1,573,446, including renovation construction costs of \$463,005.

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

As noted earlier, Kindred Hospitals East, L.L.C. has been approved to establish this 31-bed LTHC within Munroe Regional Medical Center via CON #9648.

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, Tina Mazanek, analyzed the application in its entirety with consultation from the Financial Analyst, John Williamson, who evaluated the financial data, and the Architect, Joel Hill, who evaluated the architectural and the schematic drawings as part of the application.

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

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

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

1. Fixed Need Pool

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

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

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

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According to the June 2003 Medicare Payment Advisory Commission (MedPAC) Report to Congress, there has been substantial growth in the number of LTCHs over the past decade. Corresponding with the increase in the number of facilities is a rapid increase in Medicare spending on LTCHs. The MedPAC report suggests that skilled nursing facilities (SNFs) and LTCHs may be clinical substitutes for each other. In addition, there may be other overlaps between LTCHs to substitute for less costly SNF care is exacerbated by the fact that there are currently no clinical patient admission criteria for LTCHs except for the anticipated 25-day length of stay.

According to the June 2003 *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 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 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 LTCHs, total payments and mortality rates for LTCH patients were considerably higher.”¹

In view of these findings, it is important that the determination of specific clinical conditions being served in LTCHs be identified and that the establishment of a LTCH does not represent a more costly and possibly duplicative post-acute care option.

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;

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

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- 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.

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 LTCHs 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. A proposed rule updating the LTCH annual payment rate and providing for certain policy changes was published in the Federal Register on January 30, 2004 (Vol. 69, No. 20).

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):

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- 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 post-acute 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, non-outlier acute care hospitals, and other (indicating direct admissions without acute stay).
- In terms of age, those without prior acute care stays were younger and about twice as many were under the age of 65, with a mean age about five or three years lower than those with prior acute care stays (whether outlier or non-outlier). 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.

Rehabilitation facilities are required to have 75 percent of their admissions in one of 10 specific diagnoses related to conditions requiring rehabilitation services. However, this requirement will be broadened to 65 percent with the upcoming change in federal CMR regulations. LTCHs 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.

In addition to similarities to rehabilitation providers noted above, as previously stated, *MedPac*, in the June 2003 *Report to Congress* indicated that data suggests that care provided in LTCHs is similar to that provided in skilled nursing facilities and that care in LTCHs is becoming a substitute for skilled nursing care rather than a different or higher level of care. Further, that the lengths of stay in acute care beds was not reduced when LTCH beds were available in the area. However, despite similarities in care suggested by the data, payments for LTCH patients were considerably higher as were mortality rates.

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At present there are 11 long-term care hospitals with 769 beds licensed to operate in the State of Florida. However, only 10 facilities (740 beds) reported utilization for the reporting period with Sister Emmanuel Hospital For Continuing Care (29 beds) located in District 11 and SemperCare (30 beds) located in District 2 (Panama City), licensed, but not yet operational. There are an additional 166 beds approved but not yet operational LTCH beds. Sixty-six of these beds are approved for LTCHs in districts with existing facilities: Districts 4, 7, and 10. The remaining 100 beds will establish new LTCHs in Districts 2, 3 and 8. The following are the CON approved, but not yet licensed LTCH beds: 20 beds at Kindred Hospital in District 4, six beds at Kindred in Fort Lauderdale in District 10 and the following approved new LTCH hospitals: SemperCare (29 beds) in Tallahassee, in District 2, Kindred Hospitals East, L.L.C. (31 beds) in District 3 at Munroe Regional in Ocala, HealthSouth (40 beds) in Sarasota in District 8; and Select Specialty (40 beds) in District 7, (Orlando).

The average occupancy of the operational programs reporting utilization was 73.23 percent for the period July 2002 through June 2003. With regard to the LTCH programs in operation for the total 12-month reporting period, occupancy ranged from a low occupancy rate of 52.59 percent for Specialty LTCH-Jacksonville to a high of 93.79 percent for Kindred LTCH-St. Petersburg.

The following table shows the beds, patient days and occupancy of Florida's operational LTCHs for the July 2002 through June 2003 reporting period:

**Florida Long Term Care Hospitals
Utilization Experience July 2002-June 2003**

Hospital	District	Beds	Bed Days	Patient Days	Occupancy
Kindred-North Florida	4	60	22,080	19,848	89.89%
Specialty-Jacksonville	4	107	39,376	20,706	52.59%
Kindred-St. Petersburg	5	82	23,642	22,174	93.79%
Kindred-Central Tampa	6	102	37,536	28,913	77.03%
Kindred-Tampa	6	73	26,864	18,038	67.15%
*SemperCare Hospital of Orlando	7	35	665	-0-	-0-
Kindred-Hollywood	10	124	45,632	31,523	69.08%
Kindred-Ft. Lauderdale	10	64	23,552	21,102	89.60%
Kindred-Coral Gables	11	53	19,504	17,469	89.57%
**Select Specialty-Miami	11	40	7,720	782	10.13%
Florida Total		740	246,571	180,555	73.23%

Source: Florida Hospital Bed Need and Service Utilization, 1/23/04

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

**SemperCare Hospital of Orlando licensed 06/12/03 with one quarter of operation shown.*

***Select Specialty-Miami was licensed 12/23/02, thus only six months of utilization is shown. A license was also issued on 07/15/03 for 29 beds for Sister Emmanuel Hospital For Continuing Care in Miami and on 1/05/04 for 30 beds for SemperCare Hospital in Panama City. No utilization data is available for the latter two LTCHs.*

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As noted above Kindred Hospitals East, L.L.C. has been approved via CON #9648 to establish a 31-bed LTCH in District 3.

Both **Select Specialty Hospital-Alachua, Inc. (CON #9748)** and **Kindred Hospitals East, L.L.C. (CON #9749)** 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. **Select Specialty (CON #9748)** intends to provide I.V. therapy, enteral therapy, wound/skin care, post surgical stabilization, respiratory care, ventilator weaning, nutritional support, dialysis and oncology support. In addition, rehabilitation services will be offered to augment the primary treatment program of the patient. **Kindred East (CON #9749)** intends to provide highly intensive services to medically complex and catastrophically ill patients. These include neurological disorders, brain and spinal cord trauma, chemical brain injuries, head injuries, cerebral vascular accidents, and other central nervous system disorders, developmental anomalies and cardiopulmonary disorders.

The current bed complement, patient days and average occupancy of these distinct other forms of care in District 3 are as follows:

**Acute Care and Post Acute Care Providers
District 3 Beds and Utilization**

Facility Type	Total Beds District 3	District 3 Average Occupancy
Long Term Care	31 CON approved	N/A
Acute Care	3,417	67.65%
Comprehensive Med. Rehab	115	61.08%
Hospital Based Skilled Nursing	40	60.64%
Skilled Care Community Nursing Homes	7,528	87.88%

Sources: Florida Hospital Bed Need Projections by District, published January 23, 2004 for LTCH, Acute Care, and CMR beds. Florida Hospital Based Skilled Nursing Unit Utilization by District and Subdistrict January 2003-December 2003, published April 9, 2004. Florida Nursing Home Utilization by District and Subdistrict July 2002-June 2003, published October 10, 2003. *With the exception of the HBSNU and skilled nursing utilization rate, which is January 2003-December 2003.

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Population Estimates for District 3 Counties and Percent Change by County For Total Population, 65 and over, and 75 and Over Population

County	Total July 2004	Total July 2009	Percent Change	65+ Percent Change	75+ Percent Change
Alachua	231,465	246,544	6.51%	9.89%	4.33%
Bradford	27,244	28,713	5.39%	12.87%	12.67%
Citrus	127,619	138,912	8.85%	11.91%	8.81%
Columbia	60,039	66,364	10.53%	14.29%	13.86%
Dixie	15,224	16,793	10.31%	21.39%	24.15%
Gilchrist	16,090	18,240	13.36%	18.10%	16.14%
Hamilton	14,112	14,491	2.69%	6.63%	5.39%
Hernando	140,989	154,594	9.65%	10.36%	2.80%
Lafayette	7,530	8,016	6.45%	8.36%	10.17%
Lake	239,816	268,517	11.97%	17.39%	17.84%
Levy	37,476	41,269	10.12%	23.55%	23.15%
Marion	282,713	312,207	10.43%	14.81%	14.72%
Putnam	72,261	74,578	3.21%	7.12%	7.19%
Sumter	63,844	73,677	15.40%	20.99%	44.19%
Suwannee	37,972	41,478	9.23%	16.75%	18.45%
Union	14,397	15,212	5.66%	19.02%	27.68%
Total District	1,388,791	1,519,605	9.42%	14.31%	13.66%
State of Florida	17,241,689	18,646,149	8.15%	11.16%	7.77%

Source: AHCA Population projections, published June 2003

As shown above, the overall population in District 3 is expected to increase by 9.42 percent during the next five years, with the 65 and over and 75 and over age cohort increasing by 14.31 percent and 13.66 percent, respectively. Alachua County is expected to increase 6.51 percent overall, with the 65 and over population increasing 9.89 percent while the 75 and over population is expected to increase 4.33 percent over the next five years. For Marion County, the increase is anticipated to be 10.43 percent overall, with the 65 and over population increasing 14.81 percent while the 75 and over population is expected to increase by 14.72 percent. While Marion County is expected to exceed the District 3 average increases in total population, over 65 population and over 75 population groups, Alachua County's percentage increase is anticipated to be significantly lower.-

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not consider the 31-bed LTCH previously approved for the district or migration to Kindred's Clay County facility in its need analysis. Select indicates that it has a wide range of programs that improve patients' with medical complexities, co-morbidities, and chronic conditions. Based on the diagnostic profile of patients at local hospitals, the applicant will focus on guidelines which it will refine in order to serve patients with problems in the area of pulmonary, neuro/trauma, complex medicine and complex wound care. Select's services include medically complex care for a range

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of underlying conditions and symptoms requiring intensive therapies and nursing care to maintain normal breathing without mechanical support, specialized care for patients with acute or chronic respiratory disorders who may have tracheotomies, ventilators or require extensive respiratory treatments to maintain normal breathing without mechanical support, wound/skin care, and care for patients who are unable to withstand three hours of intensive therapy a day or who require too high a degree of nursing or respiratory care to be acceptable for most acute rehabilitation programs.

The applicant states that with CON approval, it will assure Alachua County as well as surrounding communities access to LTCH services. While the applicant alludes to a wider service area, it does state that the majority of its patients will originate from Alachua County acute care facilities. The applicant presented letters of support for the project from the medical director of Shands at AGH in Gainesville indicating that facility treated about 577 patients during CY 2002 that may have been appropriate for long-term care and the chairperson of the Department of Community Health and Family Medicine at the University of Florida indicating that during CY 2002, its teaching staff and family practice residents treated about 250 patients that may have been appropriate for long-term care. The applicant also included a letter from the executive vice president and chief operating officer of Shands HealthCare stating that Shands (Healthcare System) in District 3 frequently has patients with a length of stay greater equal to or greater than 15 days. However, while long lengths of stay may be indicators of potential LTCH patients, many other factors must also be considered when determining if the patient is LTCH appropriate, such as co-morbidities, degree of complexities, prognosis as some of these patients may elect hospice, as well as patient choice.

With regard to acute care, the applicant states that the need for long-term care hospitals stems from the patients that are surviving complicated surgical interventions or traumatic injuries only to need long-term life support and various other therapies. With regard to comprehensive medical rehabilitation (CMR) services, the applicant states that some rehabilitation will be offered at the LTCH but is not the primary focus. The applicant intends to use rehabilitation to augment the primary treatment program of the patient and that these services will be less intense than that provided by CMR programs in the area. With regard to hospital-based or nursing home skilled care, the applicant contends that these patients are generally less medically complex and are provided a more limited length of stay. Typically, the ALOS in skilled nursing units runs between 12 and 15 days whereas, Florida's eight LTCHs had an ALOS of 40.6 days. However, this does not show that medically complex post-acute patients were inappropriately cared for in

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this setting. The currently licensed 40 hospital-based skilled nursing beds in District 3 were utilized at 62.36 percent for CY 2003.

The applicant provided an analysis of the Alachua County, Subdistrict 3-2² and District 3 population growth for the five-year period from January 2003 to January 2008. According to the applicant's projections, Alachua County is expected to grow by 5.5 percent (an increase of 12,638 persons). For the same time period, the applicant states that the 65 and over population is expected to increase by 7.3 percent. The seven counties comprising acute care Subdistrict 3-2 are expected to have a total population increase by 7.0 percent (an increase of 24,052 persons), while the age 65 and over population is projected to increase by 13.1 percent (an increase of 24,052 persons). These projections were verified using Agency published population estimates.

In the absence of an approved methodological approach to need for LTCH beds, the applicant presents four different methods for estimating need. The first involves an extended length of stay analysis specific to Alachua County. The second method address the geometric mean length of stay plus 15 days and seven days, for Alachua, Bradford, Levy and Union Counties, respectively. The third method addresses long stay acute care verses LTCH penetration analysis. The fourth method is a patient discharge analysis that the applicant states were obtained utilizing UB-92 (Universal Billing Form 92) information for the three acute care hospitals in Alachua County.

With regard to the extended length of stay analysis, the applicant selected the top Diagnostic Related Groups (DRGs) from Alachua County appropriate for LTCH stay. The evaluation of the hospital's discharges excluded lengths of stay of less than 24 days, patients under the age of 14, psychiatric diagnosis, substance abuse diagnosis, obstetric diagnosis, newborn diagnosis and rehabilitation diagnosis. The net number of discharges were then identified in an attempt to show potential need for LTCH beds. The applicant arrived at a total of 1,309 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 LTCHs 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 146 patients. Based on a 75 percent occupancy rate, the applicant arrived at a need for 194 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 inflated due to the Kindred facilities focus on ventilator/pulmonary services and a corresponding longer

² Subdistrict 3-2 is the seven counties in Acute Care and Nursing Home rule designated as such. These are Alachua, Bradford, Dixie, Gilchrist, Lafayette, Levy, and Union Counties. There are no designated counties for Long-term Care Hospitals.

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length of stay. Kindred currently operates seven of the 11 LTCHs in the state. A more realistic method using a 25 to 30 day length of stay supports an average daily census of 90 to 108 patients or a potential hospital specific need, absent other factors, for 120 to 143 beds based on a 75 percent occupancy rate. Further, 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 3. As Mr. Wurdock noted in his letter opposing this project, LTCH patients from this area of the district often receive care in Kindred's Clay County facility.

The second method examines the geometric mean length of stay plus 15 days (using a statewide median and national average) to arrive at 1,433 potential LTCH discharges and a bed need for 213 or 173 beds (statewide median and national average respectively) for Alachua County. For Subdistrict 3-2, this method yields a 160-bed need. 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 examines the geometric mean length of stay plus seven days using the statewide median and the national average to arrive at 3,608 potential LTCH discharges and a need for 477 and 587 beds in Alachua County. Using this method for Subdistrict 3-2 results in a need of 173 beds. Additionally, as noted above, there is no evidence that the patients the applicant projects it can serve cannot be served in existing health care settings in District 3 or in adjacent District 4.

The fourth method provides a more detailed, patient specific extended stay analysis conducted of Alachua County hospital discharges with average length of stays greater than 24 days. For the six-month period ending September 30, 2003, the applicant identified 1,309 discharges with 24 days or greater length of stay. According to this analysis, 28 percent of the patients had a length of stay exceeding 45 days and more than 92 percent 58 percent had a length of stay exceeding 25 days or more. The applicant contends that these patients were in a critical state and may have benefited from a stay at a LTCH. The applicant provided summaries of six patient cases in which it believes the patient was not discharged to an appropriate setting due to the lack of LTCH services in the area. The applicant states that four 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

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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 documentation provided that patients are being inappropriately cared for.

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. Documentation from area hospital planners or area physicians with regard to discharges of potential LTCH patients is the best evidence of unmet need. This evidence was not provided by the applicant.

In summary, the applicant's methodological approaches to need are not supported by any specific discharge studies or other data, including DRG admission criteria from area hospitals regarding potential need. While Shands Hospital representatives indicated that they have patients that may have benefited from long-term hospital care, no other supporting documentation was provided by Shands with regard to the ultimate placement of these patients or actual DRG data to support possible LTCH placement. In addition, the applicant failed to provide strong supporting documentation provided from area physicians regarding potential referrals. The applicant's use rate approach is based on the experience of other LTCHs in other parts of the state and the nation 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.

Kindred Hospitals East, L.L.C. (CON #9749) did not indicate that it was resubmitting an approved application but rather states that in choosing markets for development of a LTCH, the most important factors are the size of the elderly population, projections for population growth, and the number of referral hospitals in an area. The applicant states that these factors were used in determining that Marion County in District 3 would be the most suitable and accessible market for the development of a LTCH and that Munroe Regional Medical Center (MRMC) in Ocala would provide the most optimal setting, given the hospital's size, location and importance to the district's health care delivery system.

The applicant states that District 3 is expected to grow 41.9 percent by 2020 to a total of 1.8 million people, while the senior population is

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expected to grow by 86.4 percent. As per the data in the population chart provided by the applicant (and verified by this reviewer) for the time frame July 2004 to July 2006, AHCA projections in District 3 are expected to grow by 3.6 percent. For the same time period, the 65 and older population is expected to increase by 5.1 percent. It is clear that this area of the district is experiencing the greatest growth. Additionally, although a counting of potential discharges cannot be accepted as evidence of need, the volume presented by both Kindred and Select suggest possible placement issues for a small percentage of these patients with longer lengths of stay. With support for area skilled nursing facilities for this project, there is some evidence that patients cannot be placed in skilled nursing beds. However, actual placement problems were not demonstrated by either application.

The applicant referenced letters from case managers at MRMC stating that they had patients who would have benefited from long-term care hospital services, had there been one in the area. The applicant did not discuss whether or not any residents from this area of the district were often treated in its Clay County facility.

The applicant presented a use rate analysis to project potential LTCH patient days in District 3 based on the utilization of existing long-term care hospitals in Florida for the 12-month period ending June 2003. The applicant arrived at an average use rate of 121.74 days per 1,000 population for the age 65 and over population. This population group is expected to utilize LTCH services at a greater rate than younger ages. The application of this rate by the applicant to the 65 and over population in District 3 for the July 2006 horizon is expected to produce 39,621 LTCH patient days (or a daily census of 109 patients). The use rate approach is based on the assumption that the proposed service area will perform, on average, the same as other areas with LTCHs. In arriving at the 121.74 per 1,000 use rate average for the state, the applicant used district averages ranging from 56.03/1,000 to 160.37/1,000.

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In the Recommended Order arising out of Case No. 03-2484 CON (Select Specialty Hospital-Sarasota, Inc. versus AHCA), the law judge found that *"a use rate methodology is not necessarily a reliable indicator of bed need because the existing LTCHs are not evenly distributed statewide and the utilization rates for the existing LTCHs vary significantly."* This method also does not take into account other variables that may impact utilization including changes in population growth of the various age groups, the availability of other care options and a change in referral patterns. This approach uses varying use rates and is not considered a valid method of calculating need.

In addition to the use rate approach, the applicant also presented an analysis of acute care discharge data to identify DRGs most frequently associated with long lengths of stay. The applicant arrived at 50 DRGs after deleting certain inappropriate DRGs (pediatric, psychiatric, heart transplants, obstetrics, etc.). The applicant then examined the geometric mean length of stay (GMLOS) plus seven days to arrive at an estimated 20,222 potential LTCH patient days for an average daily census of 55 patients for the 12 months ending December 2002. As previously discussed in response to the need analysis presented by co-batched applicant Select Specialty Hospital Alachua, Inc. (CON #9748), the GMLOS plus seven-day method of calculating potential LTCH beds cannot be considered valid since it does not recognize the nationally accepted GMLOS as assigned by CMS. The analysis of the GMLOS plus 15 days would represent a more conservative approach but would also result in less than the 70 beds proposed by the applicant.

In summary, as noted earlier, the Kindred Clay County facility has been approved to add 20 LTCH beds and its application reviewed under CON #9648 was approved in March of 2004. Need beyond that already approved was not demonstrated.

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 3 CON Allocation Factors Report addresses the following preferences relating to the development of long-term care hospital services as well as generic health care related preferences applicable to all projects.

District 3 Long-Term Care Hospital Bed Preferences

- 1. Preference shall be given to an applicant who proposes to establish new long-term care services within hospitals through the conversion of existing medical and surgical beds and renovation and conversion of existing space rather than new construction. However, preference is withdrawn and conversion is advised against if the acute care bed occupancy of the facility in which the beds will be converted was 70 percent or higher for the most recently completed 12-month period prior to the application.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) proposes to construct a 44-bed freestanding facility.

Kindred Hospital East, L.L.C. (CON #9749) does involve the conversion of space within an existing hospital but does not involve the conversion of acute care beds. Munroe Regional Medical Center's 323 acute care beds averaged 81.92 percent utilization for the 12-month period ending June 2003 (as per AHCA data).

- 2. Preference shall be given to an applicant who documents support from acute care hospitals, long-term care facilities, home health agencies, vocational rehabilitation centers and community social services organizations in the proposed service area.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) submitted letters of support from University of Florida College of Medicine, Department of Community Health and Family Medicine, Chief of Staff at Shands at AGH as well as Shands-affiliated physicians who practice at UF and at AGH.

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The applicant did not submit letters of support from long-term care facilities, home health agencies, vocational rehabilitation centers and community social services organizations.

Kindred Hospital East, L.L.C. (CON #9749) submitted letters of support from Munroe Regional Medical Center (including their home health component), Ocala Regional, TimberRidge Nursing & Rehabilitation Center, Leesburg Regional Medical Center, The Villages Regional Hospital, and Citrus Memorial Hospital.

The applicant did not submit letters of support from other home health agencies, vocational rehabilitation centers and community social services organizations.

- 3. Preference shall be given to an applicant who identifies existing and approved providers of like services in the proposed service area and provide an analysis of need for the proposed service, including impact of the proposed project on existing providers and why the need is not currently being met.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) states that there are no long-term care facilities in the district and that the closest long-term care facilities are approximately one hour or more travel time away. The applicant also refers to its need discussion and to statements made by AHCA staff Jeff Gregg as to the differences between post-acute care populations. However, as noted above, this criterion addresses “like services” and the CMS have identified four venues of care for these services: home health agencies, comprehensive medical rehabilitation providers, skilled nursing facilities, and long-term care hospitals.

Kindred Hospital East, L.L.C. (CON #9749) also states that there are no long-term care facilities in the district and refers to its need discussion. This criterion however, addresses “like services” and as noted earlier, the CMS have identified four venues of care for these services: home health agencies, comprehensive medical rehabilitation providers, skilled nursing facilities, and long-term care hospitals.

4. **Preference shall be given to an applicant who proposes a ratio of charity care deductions to net patient service revenue equal to or greater than the statewide average ratio of all long-term care hospitals as determined by AHCA's Hospital Financial Data report.**

AHCA Hospital Financial data for FY 2002 shows the existing long-term care hospital in Florida average net patient service revenue was \$208,668,516 and the average charity care deduction was \$10,630,364. This results in an statewide average of 5.1 percent.

Select Specialty Hospital-Alachua, Inc. (CON #9748) indicates that charity care will account for 0.8 percent of its total patient days and 2.4 percent of its year two net patient service revenue (per Schedule 7A).

Kindred Hospital East, L.L.C. (CON #9749) indicates that charity care days will account for 1.2 percent of its year two total patient days.

5. **Preference shall be given to a hospital proposing a long-term care hospital within an acute care hospital, who documents a procedure to report utilization data separately and distinctly for each facility.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) proposes to construct a 44-bed freestanding facility.

Kindred Hospital East, L.L.C. (CON #9749) states that it will submit maintain separate records and will submit separate reports as required to the local health council.

6. **Preference shall be given to an applicant who documents that they provide, or will provide, at least the average percent of Medicaid and charity care patient days in relation to other long-term care hospitals throughout the state.**

According to FY 2002 Hospital Financial Data, LTCHs in the state averaged 1.8 percent Medicaid patient days and 1.7 percent charity care patient days. Both applicants propose combined Medicaid and charity care conditions below the combined 3.5 percent provided.

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Select Specialty Hospital-Alachua, Inc. (CON #9748) proposes to condition award of the certificate of need on the provision of 2.8 percent Medicaid and charity patient days combined. Schedule 7A indicates the applicant projects that two percent of its total patient days will be Medicaid patients and 0.8 percent for charity care patients. The applicant's projected Medicaid provision is above the state average of 1.8 percent but the projected charity care at 0.8 percent is less than the 1.7 percent state average.

Kindred Hospital East, L.L.C. (CON #9749) proposes to condition award of the certificate of need on the provision of 2.8 percent Medicaid and charity care patient days combined. According to Financial Schedule 7A, the applicant is projecting that Medicaid (1.3 percent) and Medicaid HMO (0.3 percent) will represent a total of 1.6 percent of total patient days in year two, less than the state average of 1.8 percent.

The applicant's Schedule 7A indicates that 1.2 percent of the total patient days under its "Other Payers" column will result in zero revenue per patient day. This is less than the state average of 1.7 percent.

- 7. Preference shall be given to an applicant who utilizes relevant and legitimate data sources, cited and sourced accordingly, where applicable, in order to substantiate any projections, claims or estimations. Examples of commonly utilized data sources include, but are not limited to AHCA hospital discharge data, DOH vital statistics, Medicaid, Medicare, AHCA hospital financial data, AHCA CON annual report and various United States Census data.**

Both applicants cited AHCA hospital discharge data, population statistics from the AHCA Population Estimates and AHCA hospital financial data in their projections, claims and estimations.

District 3 Generic Preferences

- 1. The need for the health care facilities and health services being proposed as applicable to the district health plan.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) states that it will help the district meet its goals while providing a service that is currently unavailable in the district.

- 2. The availability, quality of care, accessibility, and extent of utilization of existing health care facilities and health services in the service district and/or subdistrict of the applicant.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) states that, since there are no LTCH in the area, its project will increase availability and access and improve the quality of care and improve efficiency of the services provided.

- 3. The ability of the applicant to provide quality of care and the applicant's record of providing quality of care and the applicant's record of providing quality of care.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) references section E.4.b of this report and states that this proposed facility will utilize the same procedures for delivery of quality of care as at its other facilities.

- 4. The ability of the applicant to sustain the volume level necessary for the proposed new or expanded service in order to maintain proficiency and ensure quality outcomes.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) references Schedule 5 of the application to demonstrate its ability to sustain the volume level necessary to maintain quality outcomes.

- 5. The need in the service district for special health care services that are not reasonably and economically accessible in adjoining areas.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) contends that services in adjoining areas are not reasonably and economically

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accessible for all residents of the district as demonstrated by its previous discussions in the need section of this report.

- 6. The needs of research and education facilities, including, but not limited, facilities with institutional training programs and community training programs for health care practitioners and for doctors of osteopathic medicine and medicine at the student, internship and residency training levels.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) refers to section E.4.d of this report for an explanation of its training opportunities.

- 7. The availability of resources, including health personnel, management personnel and funds for capital and operating expenditures, for project accomplishment and operation.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) references section E.4.e. of this report for analysis of its ability to execute and operate this project.

- 8. The extent to which the proposed services will enhance access to health care for residents of the service district.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) reiterates that, since there is no LTCH in the district, its project will increase access to health care by providing an appropriate setting to treat the LTCH population. However, as noted earlier, the applicant has indicated that its Clay County facility serves much of this population. Additionally, the applicant has been previously approved to establish a LTCH in District 3. The applicant states it will not discriminate or deny any individual access to care or services due to his/her inability to pay.

- 9. The immediate and long-term financial feasibility of the proposal.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) references section Schedule 8A and section E.4.f. of this report for discussion of the financial feasibility of this project.

10. The extent to which the proposal will foster competition and promote quality and cost-effectiveness.

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) references section E.4.g. of this report for discussion of this criterion.

11. The extent to which more cost-effective and quality-promoting service alternatives were explored and incorporated into the application.

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) states that it is more cost-effective to renovate an existing facility than to build a freestanding facility of its size. The applicant contends that this will allow the facility to operate at a lower per patient day expense. In addition the ability to purchase ancillary services from its host hospital will have immediate impact on per patient costs. However the applicant did not provide any cost analysis to support this contention.

12. The costs and methods of the proposed construction, including the costs and methods of energy provision and the availability of alternative, less costly or more effective methods of construction.

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) references section E.4.h. of this report for discussion of this criterion.

13. The applicant's past and proposed provision of health care services to Medicaid patients and the medically indigent.

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Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) references section E.4.i. of this report for discussion of this criterion.

14. The applicant's status with the relevant accreditation, quality assurance, certification and licensing entities.

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) states that all of its facilities are JCAHO accredited. It intends this project to meet the criteria for licensure by the State of Florida, for certification by the Centers for Medicaid and Medicare Services (CMS) as a LTCH and will seek JACHO accreditation.

15. The applicant's commitment to maximizing services to rural county residents (if applicable).

This criterion is not applicable.

16. The applicant's ability to demonstrate that new or expanded bed capacity and/or services will not have a significant negative impact on similar adjacent health care facilities.

Select Specialty Hospital-Alachua, Inc. (CON #9748) did not respond specifically to this criterion.

Kindred Hospital East, L.L.C. (CON #9749) states it will not have a negative impact on similar adjacent health care facilities as there are no LTCH providers in District 3. Though post-acute care providers exist in the area, the applicant contends that they are not appropriate discharge options for the LTCH patient due to the complexity of the patient's illness.

3. Agency Rule Criteria

The Agency does not currently have adopted preferences or Rule criteria 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.**

Select Specialty Hospital-Alachua, Inc. (CON #9748) contends that clinically appropriate patients are remaining in inappropriate bed situations and that the proposed project will provide District 3 residents necessary LTCH services to improve the health status of the area. However, the applicant presented no studies demonstrating that the health status of an area is improved when LTCH services are available. The applicant refers to the factors previously presented in response to the "fixed need" section in support of the project. These various methods presented by the applicant do not account for other factors that may impact the applicant's conclusions of need. The applicant did not demonstrate that District 3 residents in need of LTCH services were unable to receive them in the adjacent districts or access post-acute care options available in District 3.

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.

Kindred Hospitals East, L.L.C. (CON #9749) states that the proposed project will increase the availability and accessibility to care in District 3. The applicant identifies the primary service area for its project to be Alachua, Citrus, Lake, Levy, Marion and Sumter Counties, while the secondary service area will consist of the remaining counties in District 3.

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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 other area Kindred facilities (purchasing, management, clinical and quality management, medical records, 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 Munroe Regional indicating a potential caseload of LTCH patients based on length of stay. However, the applicant failed to provide any other specific 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. Letters were however submitted from area skilled nursing facilities in support of this project.

As noted earlier, the applicant has been approved to establish a LTCH in the areas. Need beyond that already approved was not 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-Alachua, Inc. (CON #9748) is a 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 79 existing facilities, including one in Miami, Florida that was licensed on December 23, 2002. Select Specialty has also been approved for a 40-bed LTCH in District 7.

AHCA data reveal that its facility in Miami had four confirmed complaints from January 28, 2004 to April 5, 2004. The complaints fell into the following categories: Restraints, Medicine Problems/Errors/Formulatory, Infection Control and Patient Abuse/Neglect.

Select Medical Corporation's quality improvement programs already in place at other Select locations nationwide will be implemented in the proposed facility.

Kindred Hospitals East, L.L.C. (CON #9749) states that all of its currently licensed LTCHs are accredited by the 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 the admission, care planning and discharge process. The quality management functions are contained in the Kindred strategic quality plan, a copy of which is contained in the application as Appendix 7.

Agency complaint information for the seven licensed Kindred LTCHs in the state dated March 19, 2004 indicate a combined listing of 26 confirmed complaints, including 13 without deficiencies dating back to December 1999 through the present. The 13 confirmed allegations involve: patient care (four), restraints (two), staffing (two), patient abuse/neglect (one), nursing service (one), discharge planning (one), patient rights (one) and medicine problem/error (one). The majority of the allegations occurred at Kindred Hospital-Bay Area Tampa with eight confirmed deficiencies and five confirmed without deficiencies; and at Kindred Hospital South Florida/Coral Gables with three confirmed allegations.

- 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-Alachua, Inc. (CON #9748) states that health professional training and development programs will not be a significant feature of the proposed project.

Kindred Hospitals East, L.L.C. (CON #9749) states that it will work with area universities, colleges and other educational training program to provide clinical on-site training for students in various programs. The applicant further states that by being located within Munroe Regional

Medical Center, it can provide a clinical rotation site for students currently partnered with the hospital.

The applicant did not provide any specific information regarding current and/or historical clinical on-site training at its other Kindred LTCHs in the state.

- 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-Alachua, Inc. (CON #9748) is a start-up company with \$10 in assets as of August 5, 2003 and is a controlled entity of Select Medical Corporation.

The financial statements submitted for Select Medical Corporation were for the year ended December 31, 2002. We accessed the parent's most recent publicly available 10-K report. The parent company had, at December 31, 2003, \$165.5 million in cash on hand, \$485.1 million in current assets and \$1.1 billion in total assets. Reported net operating revenue increased by 24 percent to \$1.4 billion, producing cash flows from operations of \$246.3 million, which is an increase of 104 percent over the previous year. This is a financially strong company.

Capital requirements:

Total capital costs for this project from Schedule 1 are \$15.6 million. Schedule 2 indicates the applicant has capital projects totaling \$15.7 million. Select Medical Corporation, the parent, in their 10-K filing, stated that they are committed to developing eight to 10 projects a year as part of their expansion strategy. No dollar figure was attached to the projected development plan, however, in previous applications the estimated cost per hospital project for a hospital within a hospital was in the range of \$2 to \$3 million, with significantly greater costs for freestanding hospitals such as this project.

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.

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Staffing:

According to Schedule 6, the applicant anticipates that the 44-bed LTCH will require 63 FTEs in year one, increasing to 90 FTEs in year two. As a freestanding LTCH, all required staffing will be required with nursing staff/nursing aides comprising 33 FTE positions in year one and 43 FTE positions in year two. 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 on a daily basis. The applicant anticipates employee benefits to be 26 percent of salaries. The applicant provided an overview of Select Medical Corporation, Select Hospital Division's inpatient recruitment strategies and resources (Attachment #26 of the application) including its retention practices.

Conclusion:

Funding for this project and all capital projects should be available as needed with the support of its parent.

Kindred Hospital East, L.L.C. (CON #9749) is a wholly owned subsidiary of Kindred Healthcare, Inc. (formerly Vencor, Inc.). On April 20, 2001 Kindred Hospitals East, LLC emerged from proceeding under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") under a Plan of Reorganization. Under the plan the applicant adopted the fresh-start accounting provisions of SOP 90-7. Under fresh-start accounting, a new reporting entity is created and the recorded amounts of assets and liabilities are adjusted to reflect their estimated fair values. Accordingly, the prior period financial statements are not comparable to the current period statements and will not be considered in this analysis.

The following is a list of the accounts and ratios used in the analysis:

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Financial Accounts and Ratios

	<u>12/31/2002</u>
Current Assets	\$ 95,586,452
Cash and Current Investment	\$ 2,556,678
Assets Restricted for Capital Projects	\$ 0
Total Assets	\$ 144,057,782
Current Liabilities	\$ 47,475,625
Total Liabilities	\$ 47,488,505
Total Equity	\$ 96,569,277
Net Operating Revenues	\$ 436,765,013
Interest Expense	\$ 143
Net Profit – Operations	\$ 11,293,364
Net Income	\$ 11,293,364
Cash Flow from Operations	\$ 48,507,659
Working Capital	\$ 48,110,827
Current Ratio (CA/CL)	2.0
Cash Flow to Current Liabilities (CFO/CL)	1.02
Long-Term Debt to Equity (TL-CL/TE)	0.0
Equity to Total Assets (TE/TA)	67.0%
Operating Margin (NPO/NOR)	2.6%
Total Margin (NI/NOR)	2.6%
Return on Assets (NI/TA)	7.8%
Operating Cash Flow to Assets (CFO/TA)	33.7%

Kindred Hospitals East, L.L.C. will lease the space required to operate the hospital from Munroe Regional Medical Center. The applicant has enclosed a copy of the executed lease agreement.

The applicant submitted the parent's latest publicly available 10-K report. The company had, at December 31, 2003, \$66.5 million in unrestricted cash on hand, \$843.1 million in current assets and \$1.6 billion in total assets. Reported net operating revenue increased by five percent to \$3.3 billion, producing cash flows from operations of \$119.3 million, a decrease of 52 percent over the previous year. Net income decreased from a profit of \$34.8 million in 2002 to a loss of \$75.3 million in 2003.

The analysis that follows is based on 2002 data. The financial statements of the applicant's parent show declining results from operations in 2003; if the same holds true of the applicant there could be material differences in an analysis based upon 2003 financial information.

Short-term position:

The applicant's current ratio of 2.0 approximates the 50th percentile of Florida Hospitals in 2002. The ratio of cash flow to current liabilities of 1.02 is strong. Working capital (current assets less current liabilities) of \$48.1 million is substantial in relation to the entity's size. Overall the applicant has a good short-term position.

Long-term position:

The ratio of long-term debt to equity of 0.0 is the result of carrying no long-term debt on the books of the applicant. Long-term debt is carried on the books of the parent corporation. The ratio of cash flows to assets of 33.7 percent is very strong. The most recent period had an operating profit of \$11.3 million, resulting in an operating margin of 2.6 percent. Total equity is \$96.6 million; the ratio of equity to assets is 67.0 percent. Overall, the applicant has a strong long-term position.

Capital requirements:

Schedule 2 indicates capital projects of \$18.8 million. Missing from that schedule was CON #9605, a previously awarded 20-bed addition to Kindred Hospital-North Florida (Green Cove Springs). Total capital projects, including CON #9605 would be \$21.6 million.

Available capital:

Funding for these projects will come from \$2.8 million from operating cash flows and \$16.0 million from funds in hand. The audited financial statements show \$2.5 million in cash on hand, and \$48.5 million in cash flows.

Staffing:

As reflected in Schedule 6, the majority of FTEs required by the implementation of the project are direct care givers consisting of a mix of RNs, LPNs and CNAs. The clinical staffing figures are based upon staffing levels at all Kindred Hospitals. The project calls for recruitment of 68.8 FTEs in the first year of operation, increasing to 73.6 FTEs in year two. The nursing staff will consist of 41.8 FTEs in year one and 46.3 FTEs in year two. The applicant states that it allocates resources to attract and retain qualified staff, including competitive salary and benefit levels, and opportunities for recognition and promotion. Kindred uses a number of methods to attract employees, including media advertising, job fairs, direct marketing and Internet recruitment.

Conclusion:

Based on the audited financial statements of the applicant, cash on hand and cash flows, if they continue at the current level, would be sufficient to fund the projects as proposed. With support from the parent, funding for this project and all capital projects is likely to 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 the applicants' 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 applicants will be compared to the hospitals in peer group 12. Per Diem rates are projected to increase by an average of 3.7 percent per year. Inflation adjustments were based on the new CMS Market Basket, 4th Quarter, 2003.

CON Action Numbers: 9748 & 9749

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.

Select Specialty Hospital-Alachua, Inc. (CON #9748): During the demonstration period the hospital is reimbursed at the acute care rate. The applicant stated Medicare revenues during the first six months were estimated using short-term acute care rates.

Projected net revenue per adjusted patient day (NRAPD) of \$1,074 in year one and \$1,135 in year two is between the control group lowest and median values of \$880 and \$1,155 in year one and \$909 and \$1,193 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 (CAPD) of \$1,338 in year one is between the control group median and highest values of \$1,075 and \$2,199 with year two CAPD of \$1,026 between the control group lowest and median values of \$780 and \$1,110. Compared to the control group these costs are efficient. (See Comparative Table).

The year two operating profit for the hospital of \$1.3 million computes to an operating margin per adjusted patient day of \$109, which falls between the peer group lowest and median values of -\$31 and \$125 respectively. The operating margin of 9.6 percent indicates that net revenues are proportional to costs.

This project appears to be financially feasible.

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Comparative Table

CON # 9748 Select Specialty - Alachua 2002 DATA Peer Group 12	2007	YEAR 2	VALUES ADJUSTED		
	YEAR 2	ACTIVITY	FOR INFLATION		
	ACTIVITY	PER DAY	Highest	Median	Lowest
ROUTINE SERVICES	11,558,650	950	1,225	909	669
INPATIENT AMBULATORY	26,695,144	2,194	12	0	0
INPATIENT ANCILLARY SERVICES	296,106	24	3,818	2,924	2,376
OUTPATIENT SERVICES	0	0	226	2	0
OTHER OPERATING REVENUE	0	0	4	2	0
TOTAL REVENUE	38,549,900	3,168	4,788	3,857	3,047
DEDUCTIONS FROM REVENUE	24,745,550	2,034	*	*	*
NET REVENUES	13,804,350	1,135	2,214	1,193	909
EXPENSES					
ROUTINE	2,981,536	245	567	320	194
ANCILLARY	4,950,304	407	650	302	206
AMBULATORY					
OVERHEAD	4,548,521	374	952	512	375
OTHER		0			
TOTAL EXPENSES	12,480,361	1,026	2,271	1,110	780
OPERATING INCOME	1,323,989	109	280	125	-31
		9.6%			
PATIENT DAYS	12,167		VALUES NOT ADJUSTED		
ADJUSTED PATIENT DAYS	12,167		FOR INFLATION		
TOTAL BED DAYS AVAILABLE	16,060				
ADJ. FACTOR	1.0000				
TOTAL NUMBER OF BEDS	44				
PERCENT OCCUPANCY	75.8%		100.2%	84.2%	52.2%
PAYER TYPE	PATIENT DAYS	% TOTAL			
MEDICARE	9,438	77.6%	97.3%	75.4%	67.4%
COMMERCIAL	1,792	14.7%			
MEDICAID	243	2.0%	13.3%	0.2%	0.0%
SELF-PAY	97	0.8%	4.1%	0.9%	0.0%
HMO/PPO	597	4.9%	23.4%	10.5%	0.0%
OTHER	0	0.0%			
TOTAL	12,167	100.0%			

Kindred Hospital East, L.L.C. (CON #9749): 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.

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Projected net revenue per adjusted patient day (NRAPD) of \$933 in year one and \$996 in year two is between the control group lowest and median values of \$841 and \$1,104 in year one and \$869 and \$1,140 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 \$1,111 in year one and \$900 in year two is between the control group median and highest values of \$1,027 and \$2,101 in year one and the lowest and median values of \$745 and \$1,061 in year two. (See Comparative Table). Compared to the control group these costs are considered cost-efficient.

Occupancy during the second year was estimated at 80.1 percent, between the group lowest and median values of 52.2 and 84.2 percent.

The year two operating profit for the hospital of \$864,785 computes to an operating margin per adjusted patient day of \$95 which falls between the group lowest and median values of -\$31 and \$125. The computed operating margin ratio is 9.6 percent.

This project is considered financially feasible.

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Comparative Table

CON # 9749 Kindred Hospitals East, L.L.C. 2002 DATA Peer Group 12	2006	YEAR 2	VALUES ADJUSTED		
	YEAR 2	ACTIVITY	FOR INFLATION		
	ACTIVITY	PER DAY	Highest	Median	Lowest
ROUTINE SERVICES	5,950,507	657	1,170	868	639
INPATIENT AMBULATORY	0	0	12	0	0
INPATIENT ANCILLARY SERVICES	23,802,027	2,627	3,648	2,794	2,271
OUTPATIENT SERVICES	0	0	216	1	0
OTHER OPERATING REVENUE	0	0	4	2	0
TOTAL REVENUE	29,752,534	3,284	4,575	3,685	2,912
DEDUCTIONS FROM REVENUE	20,732,990	2,289	*	*	*
NET REVENUES	9,019,544	996	2,116	1,140	869
EXPENSES					
ROUTINE	2,923,394	323	542	306	185
ANCILLARY	2,726,354	301	621	288	197
AMBULATORY	0				
OVERHEAD	2,505,011	277	910	489	358
OTHER	0	0			
TOTAL EXPENSES	8,154,759	900	2,170	1,061	745
OPERATING INCOME	864,785	95	280	125	-31
		9.6%			0
PATIENT DAYS	9,059		VALUES NOT ADJUSTED		
ADJUSTED PATIENT DAYS	9,059		FOR INFLATION		
TOTAL BED DAYS AVAILABLE	11,315				
ADJ. FACTOR	1.0000				
TOTAL NUMBER OF BEDS	31				
PERCENT OCCUPANCY	80.1%		100.2%	84.2%	52.2%
PAYER TYPE	PATIENT DAYS	% TOTAL			
MEDICARE	7,264	80.2%	97.3%	75.4%	67.4%
COMMERCIAL	1,541	17.0%			
MEDICAID	116	1.3%	13.3%	0.2%	0.0%
PRIVATE	0	0.0%			
HMO/PPO	29	0.3%	23.1%	10.5%	0.0%
OTHER	109	1.2%			
TOTAL	9,059	100.0%			

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

Select Specialty Hospital-Alachua, Inc. (CON #9748) 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 not have a positive impact on competition to promote quality assurance and cost-effectiveness.

Kindred Hospitals East, L.L.C. (CON #9749) projects managed care to represent 0.3 percent of its patient days. This is between the control group lowest and median level of activity of 0.0 percent and 11.3 percent. The projected levels, if realized, will not increase 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-Alachua, Inc. (CON #9748) proposes to build a freestanding long-term care hospital in Alachua County on a site to be determined. The building is quite different than the one previously submitted by the applicant.

There are code issues in the surgical suite regarding the toilet/shower/locker spaces for the staff and doctors. These issues are not insurmountable. The guidelines, in paragraph 7.7.C11, state that “appropriate areas shall be provided for male and female personnel”. The same paragraph states the “these areas shall contain lockers, showers, toilets, lavatories equipped for hand washing, and space for donning surgical attire”. The plan only provides for one sex and there must be another toilet room for the opposite sex.

Although there is not a specific code issue regarding spaces used by physicians and staff, there is usually a degree of separation between the two groups that varies by facilities. Usually, physicians do not share spaces with nurses, orderlies and other employees. In this plan, there are separate locker and toilet rooms for physicians and staff indicating that the two do not share these spaces. But then, there is a toilet/shower room labeled PHY. TLT. that shows a degree of separation.

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Depending on the facility's extent of separation between staff and physicians, the plan should reflect the concept. The worse case scenario is that there would have to be a male and a female toilet/shower for both staff and physicians resulting in four toilet/shower rooms. It does not seem likely that a long-term care hospital would want to provide so many spaces.

The area labeled PAT HOLDING does not specify whether it is for pre or post-op. which does not particularly matter. The code issue relating to this space is that there is no way for the nurse station to monitor a patient in this holding space. Relocating the double doors to the PACU so that this space is part of that room or observable from the nurse station would be an acceptable solution unless there is some particularly reason for the current layout.

Due to the nature of the procedures that will take place in this facility, the surgical suite will probably be used less frequently than comparable facilities in a full-service acute care hospital. However, the facility must comply with the guidelines, section 7.7 and provide all the required spaces. It must be assumed that as J. C. indicates a janitor closet, H. C. must mean housekeeping. Some of both types of spaces do not have a floor receptor.

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 and protection of the generator and other mechanical and electrical systems. The site for the proposed facility will have to be considered based on its elevation relative to the flood plain. No information specific to the disaster preparedness was readily apparent in the application. This information will have to be provided when and if the project is submitted to the AHCA Office of Plans and Construction for review.

There is a list of applicable building codes, and it is essentially correct. There were extensive outline specifications included in the application. The estimated project budget appears to be adequate based on the scope of the project. The project schedule is also reasonable.

The plan submitted is almost identical to that submitted with CON #9764. Although the proposed facility for Alachua County is four thousand square feet larger than the facility proposed for Lee County, the construction cost is exactly the same and the total project cost is almost a million dollars more.

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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.

Kindred Hospitals East, L.L.C. (CON #9749): This application was submitted previously as CON #9648 and CON #9703 reviewed architecturally on October 24, 2003. There have been no substantial changes to the plan. However, a space for basic radiographic equipment has been created. There is still an issue with the location of the pharmacy noted below.

The proposal is to establish a new 31-bed long-term care hospital (LTCH). Kindred Hospitals East, L.L.C. proposes to establish the facility on the fifth floor of the Munroe Regional Medical Center in Ocala. The area to be leased is basically an entire wing connected to the existing hospital by a corridor. The wing has a stairwell at both ends with an elevator and a third stair in the middle. There are two spacious nurse stations, one near the center of the wing which apparently serves eight beds and the other further down the corridor to serve the remainder of the 31 beds.

There was a plan of the entire fifth floor in the application along with a demolition plan and a renovation plan. Also included were larger scaled plans of "typical" patient rooms and the single isolation room. The main floor plan has been clarified for this application. The pharmacy was overlooked by the architectural review on the previous submittal since it was not contiguous to the bulk of the space that will be occupied as an LTCH Hospital. However, the new requirements of Chapter 59A-3 of the Florida Administrative Code require that the pharmacy be located within the boundaries of the physical plant of the newly licensed hospital.

Possibly the medical records space could be swapped with the pharmacy. That location is not perfect, but would be acceptable.

The enlarged patient room plans could have been clearer about the actual sizes of the spaces, but scaling them seems to indicate that they meet minimum size requirements. Any existing patient rooms which will remain as such in the new hospital will only be required to meet existing construction standards. All new patient rooms, including existing ones that are being physically changed in size, must meet new construction

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standards and must have a hand washing station within the room itself in addition to the lavatory in the bathroom. The two spaces that will be treated as new do not have these features.

All the staff and patient support areas appear to be provided since this is an operational hospital wing. There was a list of applicable building codes on the drawings but it was somewhat out of date. This is not a significant issue. The architectural problems noted appear to be rather easily corrected.

The projected costs and schedules appear to be reasonable. Although the building size has remained the same, construction costs have increased by five percent. The total project cost has only increased by 1.5 percent which is logical since some of these costs have not increased as much as actual construction costs.

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

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

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

Select Specialty Hospital-Alachua, Inc. (CON #9748) is a development stage company with no operating history. As a condition of approval, the applicant agrees to condition award of the certificate of need on the combined provision of 2.8 percent of patient days to Medicaid and charity care patients. Financial Schedule 7A reflects the applicant's expectation to meet the requested condition in both the first and second year of operation by providing 2.0 percent of patient days to Medicaid and 0.8 percent to charity care. The applicant proposes to exceed the state Medicaid average for LTCH patient days but falls short of meeting the state average for charity care.

Kindred Hospitals East, L.L.C. (CON #9749) proposes to condition award of the certificate of need on the provision of 2.0 percent Medicaid and indigent patient days combined. According to Financial Schedule 7A, the applicant is projecting that Medicaid (1.3 percent) and Medicaid HMO (0.3 percent) will represent a total of 1.6 percent of total patient days in year two, less than the state average of 2.0 percent.

According to the applicant's response to the proposed rule provisions regarding charity care, the applicant states that charity patients will account for 1.3 percent of total patient days by the end of year two. However, the applicant does not acknowledge the provision of any charity care patient days on Financial Schedule 7A to support this projection.

F. SUMMARY

Select Specialty Hospital-Alachua, Inc. (CON #9748), a wholly-owned subsidiary of Select Medical Corporation, proposes the creation of a 44-bed freestanding LTCH to be located in Ocala, Marion County on a site to be determined.

The proposed hospital will consist of 48,598 gross square feet of new construction and construction costs of \$8,504,650. Total project cost is estimated to be \$15,561,988. The funding for the proposed project will be provided by Select Medical Corporation.

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

Kindred Hospitals East, L.L.C. (CON #9749) is a wholly owned subsidiary of Kindred Healthcare, Inc. that proposes to establish a 31-bed LTCH within Munroe Regional Medical Center in Ocala, Marion County. The applicant is currently the licensee and operator of 16 hospitals, including six LTCHs in Florida.

The proposed LTCH will be located on the fifth floor of Munroe Regional Medical Center at the main campus and will contain 11,606 square feet, which encompasses 15 semi-private rooms and one isolation room. The project involves a total cost of \$1,548,831, including renovation construction costs of \$521,261.

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

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-Alachua, Inc. (CON #9748): The applicant's methodological approaches to demonstrate need are not supported by any specific discharge studies or other data, including DRG admission criteria from area hospitals regarding potential need. The applicant also failed to provide any supporting documentation from area physicians or other providers regarding potential referrals. It was further not demonstrated that patients that qualify for LTCH services are not currently being served or that CON approved beds will be fully address any need in the area.

Kindred Hospitals East, L.L.C. (CON #9749): Received CON approval to establish a 31-bed LTCH in District 3 at Munroe Regional Medical Center. Need beyond that previously approved was not demonstrated.

Quality of Care:

Select Specialty Hospital-Alachua, Inc. (CON #9748): 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 LTCHs 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.

Kindred Hospitals East, L.L.C. (CON #9749): The applicant states that all of its currently licensed LTCHs 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-Alachua, Inc. (CON #9748): The applicant is a start-up company with limited assets (\$10). However, the parent, Select Medical, Inc. is a financially strong company with \$165.5 million in cash on hand, \$485.1 million in current assets and \$1.1 billion in total assets (as of December 31, 2003). 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 9.6 percent indicates that net revenues are proportional to costs. The project appears to be financially feasible.

The applicant projects managed care to represent 4.9 percent of its patient days. This is between the control group lowest and median level of activity of 0.0 and 10.5 percent. The projected levels, if realized, will have not have a positive impact on competition to promote quality assurance and cost-effectiveness.

Kindred Hospitals East, L.L.C. (CON #9749): The applicant has both a good short-term and long-term financial position. following emerging from bankruptcy proceedings in 2001. Based on the continued financial condition of the applicant, adequate cash on hand and cash flows will be sufficient to fund the proposed project. Funding for all capital projects is likely to be available as needed with the support of the parent company Kindred Healthcare, Inc. (formerly Vencor, Inc.).

The applicant will lease the space required to operate the LTCH for Munroe Regional Medical Center. The applicant enclosed a copy of the executed lease agreement.

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 9.6 percent indicates that net revenues are proportional to costs. The project appears to be financially feasible.

The applicant projects managed care to represent 0.3 percent of its patient days. This approximates the control group lowest level of activity of 0.0 percent. this level, if realized, will have no positive impact on competition to promote quality assurance and cost-effectiveness.

Architectural Analysis:

Select Specialty Hospital-Alachua, Inc. (CON #9748): The project involves new construction of a 48-bed freestanding LTCH and final drawings will need to meet the revised Florida Building Code and Chapter 59A-3 of the Florida Administrative Code. The disaster preparedness requirements of the applicable codes will also have to be met.

The proposed project appears to be designed efficiently although the surgery/procedure wing needs extensive further study and revision. The required pharmacy and space for radiographic equipment is shown on the schematic drawings.

The cost data and schedules submitted appear to be reasonable.

Kindred Hospitals East, L.L.C. (CON #9749): The project involves a 31-bed hospital within a hospital in collaboration with Munroe Regional Medical Center. The area to be leased is a wing connected to the hospital by a corridor.

There was an issue with the location of the pharmacy that could be solved with relocating it in the space designated for the medical records area. The final drawings will need to meet the revised Florida Building Code and Chapter 59A-3 of the Florida Administrative Code.

The cost data and schedules submitted appear to be reasonable.

G. RECOMMENDATION

Deny CON #9748 and CON #9749.

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