

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

**A. PROJECT IDENTIFICATION**

1. Applicant/CON Action Number

**Select Specialty Hospital-Duval, Inc. (CON #9752)**  
2021 Church Street, Suite 202  
Nashville, Tennessee 37203-2016

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

2. Service District

District 4

**B. PUBLIC HEARING**

A public hearing was not held or requested with regard to the establishment of a new long-term care hospital in District 4. However, 125 letters of support for the proposed project were submitted by several officers, medical directors and other medical personnel affiliated with Shands Hospital Jacksonville and University of Florida Health Science Center/Jacksonville, as well as letters of support from physicians and public officials in the district, and letters from family members of former patients and individuals attesting to the quality of care provided by Select Specialty facilities. Several letters address the benefits of long-term care services whereas other letters identify potential cases for referral to the facility. There were numerous form letters from physicians on staff at Shands stating that many patients meeting LTCH criteria continue to be treated in an acute care setting. Form letters were also submitted by managers at Shands and other clinical personnel working at Shands which also indicated intensive care unit (ICU) beds are needed at the hospital and patients who could be transferred to long-term care hospitals are filling those beds. A letter from the Vice President and Chief Nursing Officer of Shands Jacksonville states that annual estimates indicate roughly 300 patients who were appropriate for a LTCH. These patients translate into an excess of 7,000 patient care

**CON Action Numbers: 9752**

days. The letters did not show however that any residents of the district needing LTCH services were unable to obtain them.

The Vice President and Chief Nursing Officer at Shands Jacksonville estimates roughly 300 hospital patients who were appropriate for LTCH services, translating into an excess of 7,000 patient care days. The President/Administrator at Shands Jacksonville identified 287 discharges in 2002 that remained in SJCM for 24 or more days. The letter further states that these patients represent 13.5 percent of the 2,059 similarly identified long stay patients in Duval County. The average length of stay of the 287 patients was determined to be 42 days, for an aggregate 12,054 patient days at the hospital, or an average daily census of 33. The letter further states that during the past three years, SHMC had an average of 268 long-stay patient discharges. The aforementioned data was supported by several exhibits that reference adult admissions by ICD-9 codes, DRGs and length of stay. The Senior Associate Dean at the University of Florida College of Medicine further supported the approximate 300 eligible LTCH patients at Shands in 2002.

Memorial Healthcare Group, Inc. d/b/a Specialty Hospital Jacksonville submitted a letter of opposition with an attached position paper stating the reasons for its opposition to the addition of a new LTCH in District 4 and specifically to the proposal by Select Specialty. This position paper basically states that an additional LTCH within the district will not enhance quality of care, will not enhance access to long-term care hospital services, and will unnecessarily add costs to the health care system through the duplication of existing services. The position paper further states that physicians with staff privileges at several hospitals in the area also practice at Specialty Hospital, whereas patients treated at Shands are primarily managed by physicians employed by Shands. The paper also suggests that a sufficient base of patients does not exist at Shands to successfully develop the project due to a decline in referrals by the two Shands hospitals in the Jacksonville area in recent years. Attached to the letter from Memorial Healthcare Group, Inc. was an analysis of LTCH bed need in District 4 by Richard A. Baehr & Associates, Chicago, Illinois. This study with exhibits is presented in an effort to document the lack of need for an additional LTCH in the area.

A letter of opposition to the project was also submitted by Kindred Healthcare on behalf of Kindred Hospital North Florida. The letter basically states that the proposed project will have a significant adverse impact on the future of Kindred Hospital North Florida and will result in a duplication of services in District 4. The letter references Kindred's approval to add an additional 20 beds, which if considered in utilization calculations results in a LTCH average occupancy rate of approximately

59 percent in District 4. The letter further states that during 2003, 191 admissions to Kindred originated from Shands Jacksonville providing \$10.8 million in net revenue. The letter suggests that the addition of another LTCH would have a serious negative effect on the utilization and financial stability of the Kindred facility.

**C. PROJECT SUMMARY**

**Select Specialty Hospital-Duval, Inc. (CON #9752)**, a wholly owned subsidiary of Select Medical Corporation, proposes the establishment of a 40-bed long-term care hospital (LTCH) to be located at Shands-Jacksonville Medical Center in Duval County, Florida. Shands Jacksonville Medical Center (SJMC) is part of Shands HealthCare, which is affiliated with the University of Florida (UF) and consists of eight not-for-profit hospitals. The parent of the applicant, Select Medical Corporation, currently has 79 LTCHs nationwide, including one operational LTCH in Miami that was licensed on December 23, 2002 and CON approved 40-bed LTCH to be located within Lucerne Medical Center in District 7. Select Specialty has submitted six separate proposals in the current review cycle to develop LTCHs within the State of Florida. These involve new proposals in Districts 1, 3, 4, 6, 8 and 9.

The proposed hospital would be located on the fifth floor of The Pavilion at SJMC and would consist of 21,294 gross square feet, including 4,545 square feet of renovation. Construction costs are estimated to be \$1,775,655. Total project cost is estimated to be \$3,569,387. Related company financing will provide the funding for the proposed project.

The applicant agrees to condition award of the certificate of need on the provision of 2.8 percent of its patient days to Medicaid and indigent patients on a combined basis. The applicant also proposes to condition award of the CON to the facility being "Joint Commission Accredited". 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".

**D. REVIEW PROCEDURE**

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

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

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

As part of the fact-finding, the consultant, M. Riley Gibson, analyzed the application in its entirety with consultation from the Financial Analyst, John Williamson, who evaluated the financial data, and the Architect, Joel Hill, who evaluated the architectural and the schematic drawings as part of the application.

**E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA**

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

**1. Fixed Need Pool**

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

Need is not published by the Agency for long-term acute care hospital (LTCH) beds. It is the applicant's responsibility to demonstrate need based on the criteria provided in rule and listed in Item b below.

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

According to the June 2003 Medicare Payment Advisory Commission (MedPAC) Report to Congress, there has been substantial growth in the number of LTCH's 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 LTCH services and other health care venues. This potential for 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 MedPac Report:

*“LTCHs are the post-acute setting least used by beneficiaries and are not available in many areas. In general, policymakers regard rapid growth in any sector as a phenomenon that requires examination. As the number of LTCH has almost doubled since 1993 and Medicare spending for such care has also quintupled from 1993 – 2001, questions have arisen about whether beneficiaries using LTCHs are different from patients using other settings. Our analysis found patients in market areas with LTCHs had similar acute hospital lengths of stay regardless of whether they used LTC hospitals or not. Patients who used these hospitals were three to five times less likely to use SNF care, suggesting that SNFs and LTCHs may be substitutes. Compared with similar patients who did not use LTCHs, total payments and mortality rates for LTCH patients were considerably higher.”<sup>1</sup>*

In view of these findings, it is important that the determination of specific clinical conditions being served in LTCHs is 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;
- c. Medical treatment trends; and
- d. Market conditions.

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

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

## CON Action Numbers: 9752

*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 "post-acute care" services at LTCHs, including comprehensive rehabilitation, cancer treatment, head trauma treatment and pain management."*

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

- Most patients in LTCHs had several diagnosis codes on their Medicare claims, indicating that they had multiple co-morbidities and are probably less stable upon admission than patients admitted to other postacute care settings. Relative to intensive rehabilitation facilities (IRFs), LTCHs had a higher proportion of patient costs attributable to ancillary services (for example, pharmacy, laboratory, and radiology charges).
- LTCHs provide care to a disproportionately large number of Medicare beneficiaries who are eligible because of disability. While individuals with disabilities make up about 10 percent of the Medicare population, they make up 17 percent of the LTCH patients.

## CON Action Numbers: 9752

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

Rehabilitation facilities are currently required to have 75 percent of their admissions in one of 10 specific diagnoses related to conditions requiring rehabilitation services. The only condition of participation for LTCHs, 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, the *MedPac 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. However, despite similarities in care suggested by the data, payments for LTCH patients were considerably higher as were mortality rates.

At present there are 11 long-term care hospitals with 769 beds licensed to operate in the State of Florida. 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 LTHC 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 Hositals 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).

**CON Action Numbers: 9752**

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**

<b>Hospital</b>	<b>District</b>	<b>Beds</b>	<b>Bed Days</b>	<b>Patient Days</b>	<b>Occupancy</b>
*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.**

**\*\*\*Kindred-Ft. Lauderdale approved under CON 9621 to add 6 LTCH beds**

**\*\*\*\*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..**

As shown above, there are currently 167 long-term care hospital beds in District 4, distributed between two existing LTC hospitals. Kindred-North Florida is licensed for 60 beds and Specialty-Jacksonville is licensed for 107 beds. The Kindred facility has been approved to add 20 beds via CON #9605. These approved beds will increase the total LTCH bed complement in District 4 to 187 beds.

The current bed complement, patient days and average occupancy of other distinct forms of care in District 4 is presented as follows:

**CON Action Numbers: 9752**

**Acute Care and Post-acute Care Providers  
District 4 Beds and Utilization**

<b>Facility Type</b>	<b>Total Beds District 4</b>	<b>District 4 Average Occupancy</b>
Long-term Hospital Care	*167	65.99%
Acute Care	4,199	61.97%
Comprehensive Med. Rehab	167	87.76%
Hospital Based Skilled Nursing	**41	65.76%
Skilled Care Community Nursing Homes	9,176	91.45%

**Source: Hospital Bed Need Projections for LTCH, acute care and CMR beds (01/04). Projections for skilled care community nursing home beds and HBSNU beds by district (10/10/03).**

**\*20 bed addition approved for Kindred-North Florida via CON #9605. This will increase the total LTCH beds to 187.**

**\*\*HBSNU bed total does not reflect approved CON to add 13 beds at Shands Jax Medical center (CON 9577), thus increasing total HBSNU beds from 41 to 54.**

As previously noted, LTCHs are designed to treat patients with medical conditions requiring extended hospital-level services, for a period of time of at least 25 days on average. Both co-batched applicants state that its respective proposal will provide LTCH services to patients with complex and medically unstable conditions that cannot be adequately addressed in licensed acute care beds, comprehensive medical rehabilitation beds, hospital-based skilled nursing unit beds, and nursing home beds in the service planning area.

However, as noted earlier, the MedPAC report states that patients may have different levels of functional limitation, differences in severity of illness within a given DRG, or personal preferences. The supply of providers, Medicare's eligibility requirements, and local practice patterns also may influence what type of post-acute care patients receive. The MedPAC analysis of LTCHs found that patients in market areas with LTCHs had similar acute hospital lengths of stay regardless of whether they used LTCHs or not. Patients who used these hospitals were three to five times less likely to use skilled nursing care, suggesting that skilled nursing facilities and LTCHs may be substitutes. In other words, the MedPAC report suggests that the potential exists for substitution of services among alternative settings.

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

**CON Action Numbers: 9752**

The applicant contends that LTCHs serve a distinct population, and do not represent a substitute for other post-acute care options. However, the applicant did not demonstrate that its proposal addressed a quantifiable distinct population or showed that there was need for additional services regardless of the venue of care, beyond those beds already operational and approved in District 4. A discussion of the applicant's need analysis is presented below following general findings regarding expected population growth in the district within the next five years.

**Population Estimates for District 4 Counties and Percent Change by County  
For Total Population, 65 and over, and 75 and Over Population**

<b>County</b>	<b>Total July 2004</b>	<b>Total July 2009</b>	<b>Percent Change</b>	<b>65+ Percent Change</b>	<b>75+ Percent Change</b>
Baker	23,593	25,225	6.92%	16.21%	20.47%
Clay	152,579	168,688	10.56%	24.49%	21.14%
Duval	826,279	874,913	5.89%	9.69%	5.16%
Flagler	60,175	70,904	17.83%	24.53%	26.81%
Nassau	63,909	70,885	10.92%	18.38%	21.65%
St. Johns	141,582	161,378	13.98%	23.51%	20.29%
Volusia	474,143	508,364	7.22%	8.42%	4.65%
Total District	1,742,260	1,880,357	7.93%	12.76%	9.19%

Source: AHCA Pop. Projections, published June 2003.

As shown above, the overall population in District 4 is expected to increase by 7.93 percent during the next five years, with the 65 and over and 75 and over age cohort increasing by 12.76 percent and 9.19 percent, respectively. Duval County, the most populous county in the district, is expected to experience the lowest percent increase in total population of all the counties that comprise District 4 and is below the total district average percentages with regard to the growth of the total population, as well as the 65 and over and 75 and over age groups.

The applicant contends that Shands (SJMC) patient population is at a severe disadvantage with respect to LTCH services and has to go without appropriate and effective care. However, this appears to be more of a matter of preference or policy than a lack of available LTCH or other appropriate beds as there is a LTCH located within Jacksonville with available beds. Additionally, the Kindred facility in Clay County is located approximately 34 miles from SJMC (40 minutes to one-hour travel time), and has been recently approved to add beds. The applicant contends that Specialty Hospital, although licensed for 107 beds, only operates 61 beds but did not provide any evidence, other than form letters lacking detail, that indicates Shands or any other District 4 acute hospital attempted patient placement at Specialty Hospital of Jacksonville and was denied. As previously noted, Memorial Healthcare

**CON Action Numbers: 9752**

Group, Inc., doing business as Specialty Hospital Jacksonville, submitted a letter of opposition to the proposed project stating that the current combined occupancy level of the two LTCHs in District 4 (65.99 percent) is below the statewide average (74.97 percent). Therefore, there are unused LTCH beds in District 4 and at a facility, within 12 minutes of SJMC (7.5 miles).

The high occupancy at Kindred was previously addressed with the approval of CON #9650 to add 20 LTCH beds. As of the most recent reporting period (July '02-June '03), Kindred reported an average occupancy of 89.89 percent. Both of the existing LTCHs within District 4 are within reasonable proximity to SJMC, and both have the capacity, including CON approved capacity, to admit patients from SJMC. The applicant has not demonstrated its earlier statement, that the patients at Shands Jacksonville go without appropriate and effective care. The applicant failed to provide evidence that any patient actually went without appropriate or effective care or that it was unable to place a patient needing LTCH services at one of the two LTCHs within District 4.

In response to population demographics and dynamics, the applicant's analysis focuses on the January 2003 through January 2008 timeframe using Agency population projections. Although slightly different than the July 2003 through July 2008 projections previously addressed, the applicant is showing a total population increase in the district (7.7 percent) with the 65 and over (10.9 percent) and 75 and over population (11.3 percent) segments expected to experience the most growth. Duval County represents 48 percent of the total District population and is projected to increase in population, but at a slower rate than the district in both total population and elderly population.

The applicant attempts to quantify the number of LTCH beds that can be supported by SJMC using only Shands patients. Although the applicant anticipates some transfers from other area hospitals, that number is expected to be minimal.

In the absence of an approved methodological approach to need for LTCH beds, the applicant presents three methods for estimating need. The first involves an extended length of stay analysis specific to SJMC. The second method addresses the geometric mean length of stay plus 15 days and seven days, respectively. The third method focuses on a patient discharge analysis. All three methods are hospital specific to SJMC.

With regard to the extended length of stay analysis, the applicant selected the top DRGs from SJMC appropriate for LTCH stay. The evaluation of the hospital's discharges excluded lengths of stay of less

**CON Action Numbers: 9752**

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 was then identified in an attempt to show potential need for LTCH beds at SJMC.

The applicant arrived at a total of 356 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 (40.6 days) to arrive at total patient days and then divided this number by 365 to arrive at the average daily census of 40 patients. Based on a 75 percent occupancy rate, the applicant arrived at a need for 53 beds in support of its 40-bed request. In further support of its request, the applicant also multiplied the 356 identified potential patients by the national median length of stay for LTCHs (33 days) to arrive at a daily census of 32 patients. At 75 percent occupancy, this calculates to 43 beds for SJMC alone. Thus, utilizing the range of national to statewide lengths of stay, the applicant calculates a need for between 43 and 53 LTCH beds. However, 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 4.

The second method examines the geometric mean length of stay (GMLOS) plus 15 days to arrive at 370 potential LTCH discharges and a bed need between 45 beds and 55 beds using both the statewide and national length of stay experience. This method results in a count similar to the extended length of stay method previously discussed. The applicant also examined the GMLOS plus seven days to arrive at an obviously higher projected need of between 154 and 190 beds using both lengths of stay. The occupancy standard of 75 percent used in both GMLOS calculations is lower than typically used in a post-acute setting and there is no evidence that the patients the applicant projects it can serve cannot be served in existing health care settings, including LTCHs, in District 4.

The third method provides a more detailed, patient specific extended stay analysis conducted of SJMC discharges with average length of stays greater than 24 days. Again, the applicant used the 356 potential LTCH patient discharges for the 12 months ending September 30, 2003. According to this analysis, 25 percent of the patients had a length of stay exceeding 45 days and 90 percent had a length of stay of 25 days or greater. The applicant contends that these patients were in a critical state and may have benefited from a stay at a LTCH. However, there is no documentation that explains why patients were not transferred to one of the two existing LTCHs in the area, which agency utilization records indicate would have had available beds. The applicant provided summaries of eight patient cases in which the patient was not

**CON Action Numbers: 9752**

discharged to what it considered to be an appropriate setting but again did not demonstrate that attempts were made to place patients in one of the two available LTCHs in the district. The applicant states that many of these patients were eventually discharged to a skilled nursing facility, after spending months in an acute care setting. This analysis does not provide a potential bed need but rather presents specific discharge data in support of the applicant's perceived need for LTCH services and to show that these patients are not candidates for other post-acute settings. With only the few exceptions noted, there was no documentation provided that patients are being denied admission to post acute care options including LTCH services in the district and/or elsewhere in the state or that patients are being inappropriately cared for.

The applicant further provided excerpts from several of the letters of support for the project submitted with the application, including several from Shands medical personnel that support the project with similar patient data and potential LTCH discharges as that presented in the methodologies shown above. As summarized in the Public Hearing section, Memorial Healthcare Group, Inc. d/b/a Specialty Hospital Jacksonville (Specialty) and Kindred North Florida both submitted letters in opposition to the proposed project. Specialty contends that the project will not enhance quality of care, will not enhance access to long-term care hospital services, and will add costs to the health care system through duplication of services. Specialty provided a description of the various clinical areas that it specializes in and contends that the applicant will not be able to offer the full range of services that it currently provides. According to the patient origin information provided by Specialty in its letter of opposition it had a total of 778 admissions in CY 2003 and 201 admissions in the first three months of CY 2004. Specialty states that it receives referrals from hospitals throughout the greater Jacksonville area including SJMC. For the six-month period January 2003 through June 2003, Specialty had the largest share of admissions originating from the zip codes that comprise Duval County (40.1 percent) and total Duval County admissions comprising 67.6 percent of total admissions. Kindred-North Florida received only 3.1 percent of South Duval County's LTCH admissions and 13.8 percent of total admissions from Duval County with the majority of admissions from other Florida counties (58.7 percent). The analysis provided by Specialty further states that the volume of referrals from Shands System hospitals to Specialty declined significantly between 1998 and 2003 going from 81 patients (12.7 percent of total admissions) in 1998 to 45 patients (5.8 percent of total admissions) in 2003. Specialty states that based on the LTCH patient volume generated by SJMC in 2003, and assuming an 80 percent occupancy standard, SJMC can only support four beds. There was no explanation provided as to the sharp decline in referrals from Shands to the Specialty facility in recent years. According to the letter of

opposition submitted by Kindred Hospital North Florida, it has a strong working relationship with SJMC, one of the top five referral hospitals for its LTCH services. According to Kindred, 191 admissions to its LTCH originated from SJMC during 2003.

The applicant's justification for a LTCH is not demonstrated in view of the lack of evidence that patients needing LTCH services are unable to access those services. Additionally, need methodologies presented by the applicant in response to criteria set forth in section 59C-1.008 (2)(e), Florida Administrative Code failed to demonstrate that this proposal addressed a quantifiable distinct population that is unable to access needed care. Further, none of the methodologies show that there is need for additional services regardless of the venue of care, beyond the number of beds in existence or already approved in District 4 within the planning horizon set forth by the applicant.

## **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 4 CON Allocation Factors Report contains the following preference statements pertaining to long-term care beds as well as generic preference statements applicable to all health care related projects.*

### ***Long-term Care Hospital Beds:***

- 1. Preference shall be given to applicants who propose to convert licensed unused beds or use existing space rather than new construction, including space created by previous voluntary delicensure of unused beds.**

**CON Action Numbers: 9752**

The applicant states that it intends to develop a new LTCH that does not involve a bed conversion. According to the applicant, the proposed LTCH will occupy previously licensed acute care bed space. The current use of the existing bed space is not indicated.

- 2. Preference shall be given to existing facilities that have experienced an average occupancy rate over 90 percent for the most current 12-month period when the number of beds requested is 20 beds or less. For the purpose of this preference, the specific time periods and the formula to calculate occupancy rates are provided in the current proposed Rule 59C-1.045 Long-Term Care Hospital Beds.** *(It is noted that, subsequent to the development of this preference, proposed Rule 59C-1.045 was withdrawn by the Agency).*

Select Specialty Hospital-Duval, Inc. does not own or operate an existing LTCH in District 4.

- 3. Preference shall be given to applicants proposing to acquire or consolidate facilities where it can be demonstrated that services will be improved and cost to the public will be reduced.**

The applicant is not proposing to acquire or consolidate facilities.

- 4. Preference shall be given to applicants who submit copies in their CON application of current written patient transfer agreements with providers of health care health services that may include, short-term general hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, hospice programs or other types of institution.**

The applicant does not currently have any transfer agreements with existing providers in the area. However, the applicant expects to have a written patient transfer agreement with SJMC, the host hospital. This pending agreement is noted in the letter from the vice president and chief nursing officer at SJMC.

- 5. Preference shall be given to applicants who have demonstrated quality of care standards by achieving and maintaining JCAHO accreditation. This preference only applies to existing facilities.**

Select Specialty Hospital-Duval, Inc. is a new corporate entity with no existing facilities. The applicant states that the parent company exceeds JCAHO reporting requirements at its existing facilities.

- 6. Preference shall be given to applicants who formally commit to provide Medicaid and/or charity care and specify the annual amount of Medicaid and/or charity care to be provided in their CON application.**

Select Specialty Hospital-Duval, Inc. requests that the proposed project be conditioned for the provision of a combined 2.8 percent of patient days to Medicaid and charity care patients.

***Generic Preference Statements:***

- 1. Preference shall be given to applicants who demonstrate that they will meet identified needs by providing services which meet commonly accepted quality standards in a most economical manner in terms of capital and operating expenditures.**

The applicant states its commitment to implementing an effective quality improvement program and described the various methods to implement the program. The applicant intends to use quality improvement programs already in place at other Select locations nationwide.

- 2. Preference shall be given to applicants who demonstrate that they can alleviate a current or potential geographic access problem.**

As noted above under E. 1, the applicant did not demonstrate a current or potential geographic access problem.

The applicant states its intention to provide care to any patient referred from anywhere in District 4 as well as regionally through its affiliation with SJMC. The applicant contends that SJMC is currently unable to admit patients to the existing Specialty LTCH due to its full and stabilized occupancy. However, occupancy reported to the Agency indicates Specialty Hospital in Jacksonville's average annual occupancy was 52.59 percent during the period July 2002 through June 2003 and its highest quarter occupancy was April through June of 2003 at 55.76 percent.

- 3. Preference shall be given to applicants who demonstrate that the proposed service has access to an adequate supply of appropriate health manpower.**

Select Specialty states that due to its affiliation with SJMC and its own network of affiliated health care providers, it will experience resource efficiencies and shared service opportunities. The applicant provided a description of its corporate recruitment and staff retention resources.

- 4. Preference shall be given to applicants who demonstrate that new or expanded bed capacity and/or service will not have a significant negative impact on similar adjacent health care facilities.**

Select Specialty contends that the reduction in the number of long-stay patients at SJMC and other acute care hospitals will ultimately have a positive impact on those facilities financial position, as they will be able to more appropriately allocate hospital resources. However, MedPAC studies have shown that while it has long been the contention of LTCHs that acute care lengths of stay are reduced when LTCH beds are available because patients are no longer held in acute beds awaiting post-acute services, that acute care length of stays are in fact not reduced when LTCH services are made available. Rather than ultimately having a positive impact on the health care system as a whole, there are unanswered questions regarding what may be determined to be another layer of care and duplicate cost. Therefore, although LTCHs linked to acute care facilities may have a short-term positive impact on the linked acute care facility, the overall impact of these units to the health care system as a whole may be negative. This is currently being studied nationally.

The applicant also contends that the project will not impact existing LTCH providers because it will be meeting the needs of patients who are not currently being treated in the existing LTCHs and are remaining for extended periods at SJMC. However, as previously addressed, a position paper in opposition to the proposed project was submitted by Specialty Hospital Jacksonville contending that the project will adversely impact Specialty and add costs to the health care system through duplication of services.

Kindred Healthcare states in its letter of opposition that admissions to Kindred Hospital North Florida from SJMC accounted for \$10.8 million in net revenue during 2003. It states that the loss of these patients would have a serious negative effect on the utilization and financial stability of Kindred Hospital North Florida.

**5. Preference shall be given to applicants who commit to maximizing services to rural county residents.**

Select Specialty states its intention to provide care to any patient referred from anywhere within District 4 and its commitment to provide services to Medicaid and charity care patients. There is no indication that the project will maximize services to rural county residents.

**3. Agency Rule Criteria**

The Agency does not currently have adopted preferences or 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 contends that SJMC is underserved with regard to the accessibility and availability of LTCH services and that clinically appropriate patients are remaining in inappropriate bed situations.

Again, this appears to be due to preference rather than lack of appropriate bed availability. As previously discussed, the applicant has not demonstrated that residents needing LTCH services were unable to receive them. Both Specialty Hospital and Kindred North Florida submitted letters of opposition to the project, indicating that the development of a new LTCH in the same service area will have an adverse impact on both utilization and financial viability of their respective facility.

In response to quality of care, the applicant discussed its corporate experience in monitoring care, outcomes and patient satisfaction. Select currently has one existing operational LTCH in Florida (District 11/Miami) and CON approval to develop a new 40-bed LTCH in District 7 (Orlando).

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

**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-Duval, Inc. is a new, development stage corporation, and as such has no operating history. The applicant is a controlled entity of Select Medical Corporation, an existing provider of LTCH services nationwide with 79 existing facilities, including one in Miami, Florida. The applicant does not indicate that all existing Select Medical facilities have current JCAHO accreditation. The JCAHO accreditation is an indication that quality of care is being delivered and that the components are in place to ensure the delivery of quality of care.

The applicant provided a description of its currently established performance improvement plan for establishing specific methods and techniques for monitoring and improving care delivery. The applicant states its commitment to implementing an effective quality improvement program.

AHCA data reveals that its facility in Miami had four confirmed complaints from January 28, 2004 to April 5, 2004. There was one confirmed complaint in each of the following categories: Restraints, Medicine Problems/Errors/Formulatory, Infection Control and Patient Abuse/Neglect.

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

The applicant is not proposing special health care services that are not reasonably and economically accessible in adjacent service areas.

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

The proposed project will be located within Shands Jacksonville Medical Center, a statutory teaching hospital and Level 1 trauma center. SJMC is part of Shands HealthCare, which is affiliated with the University of Florida and consists of eight not-for-profit hospitals. The applicant states that the project will enhance medical research and impact the clinical training needs of health professionals in the region. The applicant further states its intent to establish agreements/affiliations with SJMC educational/training programs to use the proposed LTCH for applicable clinical training and internships.

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

The audited financial statements were reviewed to assess the financial position of the applicant as of the balance sheet date and the financial strength of the operations for the applicant for the applicable period presented.

Select Specialty Hospital-Duval, Inc., a wholly owned subsidiary of Select Medical, Inc., is a start-up company with \$10 in assets as of August 5, 2003. Since the financial statements presented for Select Medical Corporation are the same as those submitted with the previous application, we accessed the parent's latest 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.

Select Specialty Hospital-Duval, Inc. will lease the space required to operate the hospital from Shands Jacksonville Medical Center. The applicant did not disclose the terms of the lease.

**Capital requirements:**

Total capital costs for this project from Schedule 1 are \$3.6 million. Schedule 2 indicates the applicant has capital projects totaling \$3.7 million. Although no other capital projects are listed by the applicant, 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 was in the \$2 to \$3 million range

**Available capital:**

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

**Staffing:**

According to Schedule 6, the proposed project will require 56.50 FTE staff in the first year of operation, increasing to 78 FTE staff in year two, including 29 nursing staff positions in year one and 38 nursing staff positions in year two. It is noted that because this is a hospital in hospital, some services are provided by the host, and purchased via contract. The individuals employed by Shands Jacksonville Medical Center are not reflected in Schedule 6 and are not considered FTE employees. The applicant described its recruitment strategies including its own internal database. The applicant also states that the flexible employee benefits programs provided to the staff typically results in only modest turnover. A detailed employee benefits package was included in the supporting documents section of the application.

**Conclusion:**

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

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

A comparison of the applicant's estimates to the control group values provides for an objective evaluation of financial feasibility, (the likelihood that the services can be provided under the parameters and conditions contained in Schedules 7 and 8), and efficiency, (the degree of economies that are achievable through the management skills of the applicant). In general, projections that approximate the median are the most desirable, and balance the opposing forces of feasibility and efficiency. In other words, as estimates approach the highest in the group, it is more likely that the project is feasible, because fewer economies must be realized to

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

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

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

Medicare requires a six-month period (demonstration period) before a hospital is eligible for reimbursement under the LTCH PPS. This period is required to demonstrate a minimum 25-day average length of stay. 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. Comparative data were derived from hospitals in peer groups that reported data in 2002; the applicant will be compared to the hospitals in peer group 12. Per diem rates are projected to increase by an average of 3.7 percent per year. Inflation adjustments were based on the new CMS Market Basket, 4<sup>th</sup> Quarter, 2003.

**CON Action Numbers: 9752**

Projected net revenue per adjusted patient day (NRAPD) of \$1,141 in year two is between the control group lowest and median values of \$898 and \$1,179. 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 \$994 in year two is between the control group lowest and median values of \$770 and \$1,097. Compared to the control group these costs are efficient. (See Comparative Table).

The year two operating profit for the hospital of \$1.5 million computes to an operating margin per adjusted patient day of \$147, which falls between the peer group median and highest values of \$125 and \$280 respectively. The operating margin of 12.9 percent indicates that net revenues are proportional to costs.

This project appears to be financially feasible.

**CON Action Numbers: 9752**

**Comparative Table**

CON # 9752 Select Specialty – Duval 2002 DATA Peer Group 12	2006	YEAR 2	VALUES ADJUSTED		
	YEAR 2	ACTIVITY	FOR INFLATION		
	ACTIVITY	PER DAY	Highest	Median	Lowest
ROUTINE SERVICES	9,701,495	950	1,210	898	661
INPATIENT AMBULATORY	-	0	12	0	0
INPATIENT ANCILLARY SERVICES	22,477,235	2,201	3,772	2,889	2,348
OUTPATIENT SERVICES	0	0	223	2	0
OTHER OPERATING REVENUE	0	0	4	2	0
TOTAL REVENUE	32,178,730	3,151	4,731	3,811	3,011
DEDUCTIONS FROM REVENUE	20,530,333	2,010	*	*	*
NET REVENUES	11,648,397	1,141	2,188	1,179	898
EXPENSES					
ROUTINE	2,523,238	247	561	317	191
ANCILLARY	3,695,979	362	642	298	203
AMBULATORY					
OVERHEAD	3,932,339	385	941	506	370
OTHER		0			
TOTAL EXPENSES	10,151,556	994	2,244	1,097	770
OPERATING INCOME	1,496,841	147	280	125	-31
		12.9%			
PATIENT DAYS	10,212		VALUES NOT ADJUSTED		
ADJUSTED PATIENT DAYS	10,212		FOR INFLATION		
TOTAL BED DAYS AVAILABLE	14,600				
ADJ. FACTOR	1.0000				
TOTAL NUMBER OF BEDS	40				
PERCENT OCCUPANCY	69.9%		100.2%	84.2%	52.2%
PAYER TYPE		PATIENT			
		DAYS			
		% TOTAL			
MEDICARE	7,956	77.9%	97.3%	75.4%	67.4%
COMMERCIAL	1,479	14.5%			
MEDICAID	203	2.0%	13.3%	0.2%	0.0%
SELF-PAY	81	0.8%	4.1%	0.9%	0.0%
HMO/PPO	493	4.8%	23.4%	10.5%	0.0%
OTHER	0	0.0%			
TOTAL	10,212	100.0%			

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

The applicant projects managed care to represent 4.8 percent of its patient days. This is between the control group lowest and median level of activity of 0.0 and 10.5 percent. The projected levels, if realized, will not have a positive impact on competition to promote quality assurance and cost-effectiveness.

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

Select Specialty Hospital-Duval, Inc. proposes to establish a 40-bed long-term care hospital on the fifth floor of Shands Jacksonville Medical Center. The LTCH will occupy the entire floor.

The floor will have 40 private rooms arranged in an “H” shape. There is a nurse station at each end of the space that connects the two legs of the “H”. This connecting space has all the required ancillary spaces for a hospital of this type. Most of the renovation will take place in this space, which also includes the elevator lobby for the fifth floor.

Some space adjacent to the connecting space will be renovated to provide four handicapped accessible patient rooms. For two of the new handicapped accessible patient rooms, it is not possible to verify the actual square footage from the enlarged floor plan since the print is not totally legible. The rooms appear to have the requisite square footage, but this needs to be verified before the project proceeds.

All four of these accessible patient rooms will have to meet current code requirements since they are currently either non-patient rooms or patient rooms that are undergoing so much renovation that they will have to meet current codes. All the new patient rooms have the required hand washing station within the room itself in addition to the lavatory in the bathroom.

A pharmacy is included in the new hospital and there is enough space to house basic radiographic equipment as required. This equipment must belong to the new facility and cannot be leased from the host hospital. Operating room services will be contracted with the host hospital as will maintenance and other items as stated in the draft proposed services agreement included in the application.

Even though the project costs have increased by half a million dollars since the previous submission, they still appear to be reasonable. The projected schedule also appears to be reasonable. There was a list of applicable and up to date building codes provided.

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 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-Duval, Inc. is a new development stage company with no operating history.

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

**F. SUMMARY**

**Select Specialty Hospital-Duval, Inc. (CON #9752)** proposes the establishment of a 40-bed long-term care hospital to be located at Shands-Jacksonville Medical Center in Duval County, Florida.

The proposed hospital will be located on the fifth floor of The Pavilion at SJMC and will consist of 21,294 gross square feet, including 4,545 square feet of renovation. Construction costs are estimated to be \$1,775,655. Total project cost is estimated to be \$3,569,387. Related company financing will provide the funding for the proposed project.

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

**Need**

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

- The applicant contends that SJMC, the host hospital, does not have LTCH beds available and accessible for its patient population. A letter of opposition was submitted by both existing LTCHs in Region 4, with one located within 12 minutes of the proposed hospital. Both existing LTCH providers indicate that its respective facility will be negatively impacted should this project be approved.—
- The applicant's justification for a hospital based LTCH is not demonstrated in view of there being no evidence that patients needing LTCH services are unable to access those services. This is supported by several factors two of which are: (1) the availability of licensed but unused beds at Specialty Hospital; and (2) the approval of 20 additional LTCH beds at Kindred. Additionally, need methodologies presented by the applicant in response to criteria set forth in Section 59C-1.008 (2)(e), Florida Administrative Code failed to demonstrate that this proposal addressed a quantifiable distinct population that is unable to access needed care. Further, none of the methodologies show that there is need for additional services regardless of the venue of care, beyond the number of beds in existence or already approved in District 4 within the planning horizon set forth by the applicant.

**Quality of Care:**

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

**Cost/Financial Analysis:**

- The applicant is a start-up company with limited assets. However, the parent, Select Medical, Inc. is a financially strong company with total assets of \$1.1 billion million and revenue from operations of \$1.4 billion. The funding for the proposed project should be available, with the support of the parent company.
- The applicant did not disclose how they intend to comply with the exemption provision under CFR Part 412.23 requiring that the facility not exceed more than 15 percent of its total operating costs in services obtained from the host hospital or at least 75 percent of the

**CON Action Numbers: 9752**

hospital's inpatient population must be referred from another source. Failure to comply would have a material negative impact on revenues.

- With net revenues per adjusted patient day falling between the lowest and median values, the facility is expected to consume health care resources in proportion to the services provided. The projected operating margin of 12.9 percent indicates that net revenues are proportional to costs. The project appears to be financially feasible.
- The applicant projects managed care to represent 4.8 percent of its patient days. This is between the control group lowest and median level of activity of 0.0 and 10.5 percent. The projected levels, if realized, will have not have a positive impact on competition to promote quality assurance and cost-effectiveness.

**Architectural Analysis:**

- The project involves a 40-bed LTCH to be located on the fifth floor of SJMC. The applicable building codes appear to be current and the applicant has allowed space for all the required services and equipment.
- Although the project costs have increased by half a million dollars since the previous submission of this project, they still appear to be reasonable. The projected schedule also appears to be practical.

**G. RECOMMENDATION**

Deny CON #9752.

**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**