

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

BayCare Long Term Care Hospital, Inc. (CON #9753)

625 Court Street, Suite 200
Clearwater, Florida 33756

Authorized Representative: Frank V. Murphy, III, President
(727) 444-1402

University Community Hospital, Inc. (CON #9754)

3100 East Fletcher Avenue
Tampa, Florida 33613-4688

Authorized Representative: Brigitte W. Shaw, Corporate Chief
Operating Officer
(813) 615-7201

2. Service District/County

District 5 (Pinellas and Pasco Counties)

B. PUBLIC HEARING

No public hearing was requested or held regarding the establishment of long-term care hospital beds in District 5. However, letters of support were submitted with the respective applications as follows:

BayCare Long Term Care Acute Care, Inc. (CON #9753) submitted 73 letters of support with its application specifically supporting its proposal to establish a long-term care hospital within Mease Dunedin Hospital in District 5, Pinellas County. In addition, one letter of support was received by the Agency. The letters consisted of: five letters from the chief executive officers (CEOs) of the five BayCare affiliated hospitals in the area; one letter from the president of the host hospital; one letter from the medical director at St. Joseph's Hospital; one letter from the executive vice president of the South Easy Division of Catholic Health

East; 27 letters from local area physicians; three letters from registered nurses, three letters from social workers; five letters from case managers, nine letters from nursing home staff (eight from administrators and one from a community liaison); 10 letters from members of the board of trustees at St. Anthony's Hospital; one letter each from three members of the Pinellas County Board of Commissioners, one letter from the mayor of Safety Harbor; one letter each from Florida House of Representatives, Sandra L. Murman (District 56) and Donald C. Sullivan, M.D. (District 54), one letter each from Senators Mike Dasano (District 11) and Dennis L. Jones (District 13); and one letter from the Bishop of St. Petersburg.

The letters state that there is concern for patients who must transfer out of the area for LTCH services (particularly those on ventilators) or who must stay in the ICU units at acute care hospitals. There is only one skilled nursing facility the Pinellas County area that accepts ventilator-dependant patients and these patients must also have a tracheotomy. However, they cannot be in need of dialysis and must have certain types of insurance. The one LCTH in the county, Kindred Hospital-Bay Area-St. Petersburg, does not accept Medicaid coverage. Several of the letters from physicians stated that they could place patients at the applicant's proposed LTCH. Social workers and case managers cited examples of patients who were appropriate for LTCH placement, but did not have insurance that was accepted by Kindred. One physician stated that, as of March 23, 2004, there were four patients in the ICU of St. Anthony's Hospital in need of placement. However, the physician did not indicate if placement was attempted at Kindred's Bay Area-St. Petersburg facility.

University Community Hospital, Inc. (CON #9754) submitted 10 letters that specifically supported its proposal to establish a long-term care hospital at University Community Hospital in District 5, Pasco County. Five of the letters were from local physicians. Two of the letters were from the CEOs of Helen Ellis Memorial Hospital and Sun Coast Hospital. The directors of case management at Health Central, Oak Hill and Pasco Regional Hospitals submitted the remaining three letters.

The letters state that there is difficulty placing patients who need LTCH services because there is no LTCH in Pasco County. These patients often have medically complex conditions and either remain in the acute setting or are transferred out of the county for LTCH services. All of the LTCHs in the area are owned by one company (Kindred Healthcare); therefore there is no competition for offering these services.

Letters of Opposition

There were two letters submitted on behalf of Kindred Hospitals-Bay Area-St. Petersburg, Kindred Hospital-Bay Area-Tampa and Kindred Hospital-Central Tampa, by Bud Wurdock opposing the proposed projects for BayCare Long Term Care Inc. (CON #9753) and University Community Hospital, Inc. (CON #9754).

The first letter contends that establishing another LCTH in Pinellas County (**CON #9753**) would result in a duplication of services. More than 20 percent of all patients at Kindred's three Tampa-St. Petersburg hospitals are residents of Pinellas County. Specifically, 70 percent of the patients at Kindred Hospital-Bay Area-St. Petersburg are from Pinellas County. In 2003, 469 admissions to the Kindred facilities in St. Petersburg and Tampa came from BayCare affiliated hospitals, producing 24.7 million dollars in revenue that Kindred would lose if BayCare establishes its own LTCH in Pinellas County.

The second letter contends that establishing a LTCH in Pasco County (**CON #9754**) would also result in a duplication of services. More than seven percent of all patients at Kindred Hospital-Central Tampa are residents of Pasco County. During 2003, 162 admissions to the Kindred facilities in St. Petersburg and Tampa came from University Community Hospital producing \$7.9 million in revenue that Kindred would lose if University Community Hospital establishes its own LTCH in Pasco County.

C. PROJECT SUMMARY

BayCare Long Term Care Hospital, Inc. (CON #9753) is a newly formed not-for-profit corporation that proposes to establish a 48-bed long-term care hospital (LTCH) as a separate licensed facility, at Mease Dunedin Hospital, in District 5, Pinellas County. The applicant is owned by BayCare Health Systems, Inc, which also controls several hospitals through a joint operating agreement in the Bay area of Florida including St. Anthony's Hospital, South Florida Baptist Hospital, Morton Plant Hospital, and Trustees of Mease Hospital. Neither the applicant, nor its parent company, own or operate existing LTCHs.

Mease Dunedin (the host hospital) is a 189-bed not-for-profit hospital located in downtown Dunedin that has been operating since the 1930's. The host hospital is in the process of renovating and this project will be located in the areas left vacant by the relocation of the obstetrics and NICU units of the hospital.

The applicant is requesting that the project be conditioned on the facility's location at 601 Main Street, Dunedin, Florida 34608. Also the applicant has agreed to condition the award of this CON upon providing five percent of total patient days to Medicaid/Medicaid HMO/self-pay/underinsured patients. Additionally the applicant conditions this application for the provision of the delicensing of 10 acute care beds each at Mease Dunedin Hospital, Morton Plant Hospital and St. Anthony's. All three of these BayCare affiliates supplied letters indicating they would delicense 10 beds each upon approval of this project. As noted above, the applicant is owned by BayCare Health Systems, Inc. Mease Dunedin Hospital (host hospital) is operated by the Trustees of Mease Hospital, Inc., one of the hospitals managed by BayCare Health Systems, Inc.

Renovation and construction costs of \$2,329,060 will be assumed by the host hospital. The applicant's total project cost is estimated at \$358,220. Total cost for the host hospital is estimated at \$4,078,947. The project will involve 24,925 gross square feet (GSF) of new construction at the host hospital.

University Community Hospital, Inc. (CON #9754) is a not-for profit corporation that proposes to establish a freestanding 50-bed long-term care hospital on a 6.5 acre site located on Highway 54 in District 5, in east Pasco County.

The applicant currently operates two acute care hospitals located in District 6, Tampa, Florida. The two facilities, University Community Hospital and University Hospital at Carrollwood, are both Class I general acute care hospitals with licensed bed complements of 431 and 120 respectively.

The applicant is requesting that the project be conditioned for the provision of two percent of its total patient days to Medicaid and 2.4 percent of its total patient days to charity/self-pay/other.

The total project cost is estimated at \$16,982,715. Construction costs are projected at \$9,187,518 and the project will involve 42,000 gross square feet (GSF) of new construction.

D. REVIEW PROCEDURE

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

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

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

As part of the fact-finding, the consultant, Tina Mazanek, analyzed the application in its entirety with consultation from the Financial Analyst, Ryan Fitch, who evaluated the financial data, and the Architect, Joel Hill, who evaluated the architectural and the schematic drawings.

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

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

1. Fixed Need Pool

a. Does the project proposed respond to need as published by a fixed need pool? Ch. 59C-1.008 and Ch. 59C-1.042, Florida Administrative Code.

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

A long-term care hospital is defined as a hospital licensed under Chapter 395, Florida Statutes, which meets the requirements of Part 412, subpart B, paragraph 412.23(e), Code of Federal Regulations; and, where applicable, also meets the requirements for a hospital within a hospital specified under paragraph 412.22(e) of that subpart. A long-term care hospital has an average length of inpatient stay greater than 25 days for all hospital beds. Long-term care hospitals are designed to provide extended care to patients who are clinically complex and have multiple acute or chronic conditions. Long-term care hospitals typically provide 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 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 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 (LOS).

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;
- c. Medical treatment trends; and
- d. Market conditions.

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

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

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 postacute care providers, most notably rehabilitation providers (page 55965):

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

- LTCH admissions typically come from outlier acute care hospitals, nonoutlier acute care hospitals, and other (indicating direct admissions without acute stay).
- 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 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 language. LTCHs only condition of participation in addition to those required of all hospitals is to have an average Medicare LOS of stay greater than 25 days.

In addition to similarities to rehabilitation providers noted above, as previously stated, the *MedPAC Report to Congress* indicted that data suggests that care provided in LTCHs is similar to that provided in skilled nursing facilities and that care in 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 optional 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 Ft. 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 Bay Area-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	88.57%
**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 by District, published 01/23/04.

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

***SemperCare Hospital of Orlando was licensed on 6/12/03 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 7/15/03 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.**

As shown above, there are currently 82 LTCH beds in District 5 and 175 LTCH beds in District 6, distributed between three existing Kindred LTCHs, located in Tampa and St. Petersburg, Florida. The two Kindred facilities in Tampa and the one in St. Petersburg experienced average occupancy rates of 77.03 percent, 67.15 percent and 93.79 percent, respectively for the 12-month period ending June 30, 2003.

The current bed complement, patient days and average occupancy of other forms of care in District 5 is presented as follows:

Acute Care and Postacute Care Providers District 5 Beds and Utilization July 2002-June 2003 *		
Facility Type	Total Beds	*Average Occupancy
Long Term Hospital Care	82	93.79%
Acute Care	4,388	49.98%
Comprehensive Med. Rehab	170	66.09%
Hospital Based Skilled Nursing Unit (HBSNU)	118	75.43%
Skilled Care Community Nursing Homes	10,395	82.94%

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.

As stated earlier, the table above illustrates the current bed compliment and number of beds and occupancy rates of the acute care and postacute care providers in District 5 (Pinellas and Pasco Counties).

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

Acute Care and Postacute Care Providers District 6 Beds and Utilization July 2002-June 2003*		
Facility Type	Total Beds	Average Occupancy
Long Term Hospital Care	175	72.91%
Acute Care	5,563	55.83%
Comprehensive Med. Rehab	131	76.55%
Hospital Based Skilled Nursing	*110	39.95%
Skilled Care Community Nursing Homes	9,087	86.27%

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.

*HBSNU bed total does not reflect approved CON to delicense 29 beds at St. Joseph's Hospital in Tampa. This will reduce total HBSNU beds to 81 beds. *With the exception of the HBSNU and skilled nursing utilization rate period, which is January 2003-December 2003.

As stated earlier, the table above illustrates the current bed compliment and number of beds and occupancy rates of the acute care and postacute care providers in District 6 (Hillsborough, Polk, Hardee, Highlands, and Manatee Counties).

As previously noted, LTCHs are designed to treat patients with medical conditions requiring extended hospital-level services, for a lengthy period of time (generally more than 25 days). Both co-batched applicants state that their respective proposals will provide LTCH services to patients with complex and medically unstable conditions that cannot be adequately addressed by licensed acute care beds, comprehensive medical rehabilitation beds, hospital-based skilled nursing unit beds, and nursing home beds in the service planning area. However, as noted earlier, studies recently conducted suggest the opposite.

As noted earlier, when no need methodology exists, it is the applicant’s responsibility to demonstrate need based upon the availability, utilization and quality of like services in the district. The Centers for Medicare and Medicaid, based on several studies, have determined that LTCH services are similar to home health services, skilled nursing services and comprehensive medical rehabilitation services. Applicants for LTCH services must therefore show that there is need based upon the availability, utilization and quality of LTCH, home health, skilled nursing and comprehensive medical rehabilitation services in the district. Although both applicants contend that LTCH services are distinct, neither demonstrated that its proposal addressed a quantifiable distinct population or showed that there was need for additional services regardless of the venue of care, beyond those beds already licensed and operating in the area. A discussion of each applicant’s need analysis is presented below following general findings regarding expected population growth in the Districts 5 and District 6 within the next five years.

Below is a table illustrating the population growth estimates for District 5.

Population Estimates for District 5 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
Pasco	372,073	402,263	8.11%	12.65%	6.93%
Pinellas	949,397	980,594	3.29%	4.55%	-1.30%
Total District 5	1,321,470	1,382,857	4.65%	7.19%	1.33%
State of Florida	17,241,689	18,646,149	8.15%	11.16%	7.77%

Source: AHCA Population Estimates.

As shown above, the overall population in District 5 is expected to increase by 4.65 percent during the next five years, with its 65 and over and 75 and over age cohort increasing by 7.19 percent and 1.33 percent, respectively. The population in Pasco County is expected to increase by 8.11 percent in total population, more than the district average, with their 65 and over and 75 and over population increasing at a rate higher than the district averages. The population in Pinellas County is expected to increase by 3.29 percent in total population, less than the district average, with their 65 and over population increasing by less than the district average and their 75 and over population decreasing at a higher rate than the district average.

Below is a table illustrating the population growth estimates for District 6.

Population Estimates for District 6 Counties and Percent Change by County For Total Population, 65 and over, and 75 and Over Population					
County	Total July 2004	Total July 2009	Percent Change	65+ Percent Change	75+ Percent Change
Hardee	28,325	30,582	7.97%	13.59%	14.55%
Highlands	93,083	101,197	8.72%	12.03%	10.23%
Hillsborough	1,081,082	1,160,866	7.38%	13.69%	9.72%
Manatee	287,116	311,931	8.64%	10.41%	6.75%
Polk	521,182	558,548	7.17%	13.44%	12.61%
Total District 6	2,010,788	2,163,124	7.58%	12.77%	10.01%
State of Florida	17,241,689	18,646,149	8.15%	11.16%	7.77%

Source: AHCA Population Estimates.

As shown above, the overall population in District 6 is expected to increase by 7.58 percent during the next five years, with the 65 and over and 75 and over age cohort increasing by 12.77 percent and 10.01 percent, respectively. Polk County is expected to increase by 7.17 percent in total population, less than the district average. Hillsborough County is expected to increase by 7.38 percent, again, less than the district average. However, the 65 and over population for both counties is expected to increase at a rate higher than the district averages.

BayCare Long Term Acute Care, Inc. (CON #9753) is proposing to establish a 48-bed LTCH within Mease Dunedin hospital in District 5, Pinellas County. Upon approval of this CON, three BayCare-affiliated hospitals (Mease Dunedin Hospital, Morton Plant Hospital and St. Anthony's) will delicense ten acute care beds each. It is the intent of the applicant to meet the LTCH needs of BayCare Health System, Inc. related hospitals in Pasco and Pinellas County. However, the applicant states that it also will accept patients from non-BayCare sources.

The applicant referenced population growth estimates for District 5 (Pasco and Pinellas Counties) and the State of Florida for the next 10 years. According to AHCA data provided by the applicant (and verified by this reviewer), the population of District 5 is expected to grow by 9.4 percent over the next 10 years and the state at 16.6 percent. The population primarily served by the proposed LTCH, the 65 and older cohort, is expected to grow in the next 10 years by 30.03 percent for the state, 22.2 percent for District 5. However, projections 10 years into the future for need for health care services are highly speculative primarily because this is a rapidly changing field, with often dramatic technological developments and frequently changing healing modalities.

The applicant referenced the utilization rate for Kindred Hospital-Bay Area-St. Petersburg, the only LTCH in District 5 as 93.79 percent for the 12-month period ending June 2003. The applicant anticipates that the newly added 22 LTCH beds at this facility will experience similarly quick increase in occupancy as it has been at or above 90 percent occupancy

since its second year of operation. The applicant provided data showing the utilization rates for this facility since 1997, when it first became operational, as shown below.

Kindred Hospital-Bay Area-St. Petersburg Annual Utilization 1997-2002	
Year	% Occupancy
1997	46.28%
1998	90.16%
1999	97.24%
2000	98.15%
2001	98.02%
2002	100.15%

Source: AHCA Utilization Rates, CON Application #9753, page 36.

As shown in the table above (data verified by this reviewer), Kindred Hospital had an occupancy rate of between 46.28 percent and 100.15 percent from 1997 to 2002. Except for its first year of operation, its occupancy rate has been above 90 percent. The applicant concludes that, because of the consistent occupancy rates, that the long-term care hospital concept has been well received by clinical and lay communities.

The applicant alleges that patient availability issues with regard to ability to pay or complex clinical conditions has constrained their access to the LTCH providers in the District 5.

The applicant states that patients referred to a LTCH usually have medically complex conditions that preclude admission to a rehabilitation hospital or nursing facility, but are candidates for post-acute care services. The applicant discussed one of the more difficult patient populations to place, those on ventilators, especially those with other medical co-morbidities such as renal failure/dialysis. The applicant referenced a survey done by the Department of Elder Affairs (DOEA) of LTCH facilities that (as of February 19, 2004) accept ventilator patients. Several of the skilled nursing facilities will not admit ventilator patients if they are receiving dialysis, or have certain kinds of insurance. However, no copy of the survey was provided in the application. The applicant contends that the one LTCH located in District 5 and the two LTCHs located within District 6, (all operated by Kindred) do not accept Medicaid patients. However, as discussed above and below, albeit a small percentage, Kindred does accept Medicaid patients. According to the 2002 AHCA Financial Data Report, Kindred's licensed Florida facilities provided a percent of Medicaid patient days to total patient days, ranging from a low of zero percent (Kindred-Fort Lauderdale) to a high of 13.3 percent (Kindred Bay Area-St. Petersburg). Charity care patient days ranged from a low of zero percent (Kindred-Fort Lauderdale) to a high of 4.1 percent (Kindred-Coral Gables).

**Kindred Florida LTCH Provision of Care to the Medically Indigent
Calendar Year (CY) 2002**

Hospital	District	Medicaid %	Charity %
Kindred North Florida	4	0.2%	0.3%
Kindred St. Pete	5	13.3%	1.5%
Kindred Central Tampa	6	0.7%	3.4%
Kindred Bay Area Tampa	6	0.2%	2.6%
Kindred Hollywood	10	0.2%	0.2%
Kindred Fort Lauderdale	10	0.0%	0.0%
Kindred Coral Gables	11	0.4%	4.1%
Average Kindred		2.14%	1.73%
Specialty Hospital Jacksonville—not affiliated with Kindred	4	0.0%	0.0%
Average State CY 2002		1.8%	1.7%

Source: ACHA Financial Data CY 2002

NOTE: Facilities above represent all of the LTCH reporting financial data for CY 2002.

The applicant reiterates that access problems result in discharge problems for patients in need of LTCH services. The applicant cites a review of a sample of medical records, for those patients who had a stay of 20+ days in FY 2003, done by the discharge planners at BayCare affiliated hospitals (Mease Dunedin, Mease Countryside, St. Anthony’s, Morton Plant and Morton Plant North Bay Hospitals), in District 5 to identify patients who experienced access limitations to LTCH care. From an initial sample of 466 patients, the discharge planners identified 326 medically complex patients felt to be potentially appropriate for LTCH care. Of these, 54 patients were referred to a Kindred facility (applicant did not indicate which Kindred facilities). It is noted that the applicant has identified 466 possible patients, yet it attempted to discharge only 326 of those patients to an existing LTCH. It is not clear why all 466 were not identified initially as LTCH patients if they were LTCH appropriate and appropriate placement sought, as there are LTCH hospitals in the area experiencing occupancy levels that would suggest beds are available on most days.

The applicant indicates that its affiliate’s record show that of the 54 patients these hospitals sought to discharge to existing LTCH area providers 18 were successfully discharged to an area LTCH. Records indicate that one was not discharged because of either patient or physician choice. According to the applicant, the remaining 35 were denied admission for the following reasons:

- Kindred did not accept the patient’s insurance (four patients were denied admission for this reason refer to discussion in E. 4.b.).
- Kindred did not have an available bed (three patients were denied admission for this reason). It is again noted that Kindred Hospital-Bay Area-St. Petersburg was approved to add 22 beds on December 14, 2001.
- Other reasons (28 patients were denied for unknown reasons).

Therefore, the applicant has demonstrated that 35 patients needing and seeking LTCH services in the St. Petersburg and Tampa areas were unable to obtain this service.

The applicant formulated a need methodology reflecting LTCH potential discharges for St. Anthony’s Hospital, Morton Plant Hospital, Mease Dunedin Hospital, Mease Countryside Hospital, and Morton Plant North Bay Hospital and utilizing the actual experience of Florida’s LTCH providers. The applicant first identified all patients with a length of stay of 15 days or more, excluding rehabilitation, skilled nursing and psychiatric patients, for the 12-month period ending September 2003, for the five BayCare-affiliated hospitals. The applicant defined the 160 Diagnosis Related Group (DRG) out of a potential of 540 existing DRGs that were treated by Florida LTCH providers during the 12-month period ending June 2003 (and provided the list in its application) and also included invasive cardiology (both cardiac surgery and angioplasty) as the applicant intends to serve this patient sector. The table below lists the selected hospitals and the results of this analysis.

BayCare Related Hospitals LTCH Target Patients Patients with a 15+Length of stay/DRG in the Target LTCH Categories	
Hospital	Number of Patients
St. Anthony’s	322
Morton Plant	545
Mease Dunedin	343
Mease Countryside	307
Morton Plant North Bay	97
Total	1,614

Source: CON Application #9753, page 47.

As shown in the table above, the applicant identified a total of 1,614 patients at its affiliated hospitals who met the length of stay and DRG categories criteria for its need methodology.

The applicant then took the 15+ length of stay/LTCH DRG pool of potential patients and identify those patients with a length of stay three times the Medicare mean for the DRG. The applicant applied the 2004 DRG-specific Medicare geometric mean length of stay (GMLOS) as an evaluation point. The applicant then consolidated all of the DRG specific data into their Major Diagnostic Code (MDC) (with the exception of DRGs 475, respiratory system diagnosis and thracheostomy with mechanical ventilator as the applicant contends that DRG 475 and DRG 483 are appropriate for independent review).

The applicant provided the following table summarizing the MDC categories and the number of patients by hospital per MDC category.

BayCare Related Hospital LTCH Target Patients Patients with a 15+ Length of Stay/DRG in the Target LTCH Categories/At Least Three Times Medicare Geometric Mean Length of Stay		
Hospital	Number of Patients 15+LOS plus LTCH DRG	Number of Patients 15+LOS plus LTCH DRG plus>3XGEO Mean LOS
St. Anthony'	322	189
Morton Plant	545	265
Mease Dunedin	343	180
Mease Countryside	307	182
Morton Plant North Bay	97	55
Total	1,614	871

Source: CON #9753 Application, page 48.

According to the applicant, the table above shows that there are a total of 871 potential LTCH patients. The applicant the applied a “referral factor”, using a 33 percent referral source from St. Anthony’s, 66 percent for Morton Plant and Morton Plant North Bay, 75 percent for Mease Countryside and 90 percent for Ease Dunedin for a total forecast of 571 potential LTCH patients. (There was no reasoning given for the “assumption” of the percent referral rates-only that that the applicant contends that they are conservative percentages.)

In order to forecast patient days, the applicant applied AHCA data for the actual length of stays for DRGs 475/483 (approximately 2/3 the total of all the patients). Based on its methodology, the applicant forecasted 20,265 patient days. In order to forecast patient days, the applicant assumed that 25 percent of patient volume (“in-flow factor”) would originate from providers other than BayCare related hospital (no reason was given for the specificity of these estimates other than the applicant’s intent to serve an array of patients outside of the related BayCare facilities). The applicant took the 20,265 patient-day base and applied its 25 percent in-flow factor for a potential total of 27,020 patient days. The applicant applied a 90 percent occupancy level (no reason was given for the specificity of using 90 percent for this rate) and then applied an average daily census (ADC) of 74.0 ($27,020/365 = 74.0$) for a result of 82 beds needed ($74.0 \text{ ADC}/90 \text{ percent target occupancy} = 82$). The

applicant maintains that even without the in-flow factor that 62 beds are needed (20,265 (patient days)/365=55.5 ADC, 55.5 ADC/90 percent target occupancy rate = 62 beds). However, the only evidence that patients seeking LTCH services but not receiving needed care were the 54 patients discussed earlier. As previously discussed, the applicant's estimation of patients needing care in a 12-month period exceeded that shown as actually needed. Using the applicant's own records, of the 326 patients it considered potential, 54 actually needed the care and of those, some declined. The applicant has not demonstrated that the projections above are reasonable.

The applicant has demonstrated potential access issues. Using the DOEA information presented by the applicant however, it is possible that some of the LTCH appropriate patients initially referred to Kindred might have been appropriately placed in community nursing homes. The applicant did not provide actual placement information for those denied access to Kindred's facilities. It is also not known if these patients were denied access to other appropriate post-acute care providers.

University Community Hospital, Inc. (CON #9754) states that the elderly population of District 5 will grow faster than the elderly rate for the state and for Pinellas County within the next five years. An examination of the data presented in the table above indicates that the 65 and older populations is 17.4 percent of the state total and this will increase to 17.9 percent by July 2009. The 65 and older population for District 5 is 23.3 percent of its total population and will increase to 23.9 percent by July 2009. Additionally the Pasco County growth rate for 65 and older population will be greater than that of Pinellas County and for the state overall. The applicant states that long-term care hospitals primarily serve the elderly with co-morbidities, with 77 percent of the cases represented by persons 65 years of age and older. The 85 and older cohort represents 18 percent of the cases served. (Data table provided on page 1-7 of the application).

The applicant states that high utilization rates are an indication that long-term care facilities in the area are accepted by the physician community.

The applicant contends that the residents of Pasco County do not have access to LTCH services and cites AHCA data for cases admitted to Kindred Hospital-Bay Area-St. Petersburg and LTCH cases for the state for the time frame of October 2002 to September 2003. Data provided by the applicant shows two cases from Pasco County for Kindred Hospital-Bay Area-St. Petersburg and 54 total cases from Pasco County for all Florida LTCHs, with both going to Kindred's Tampa facilities. The

applicant used zip code data to show that these residents go to Pinellas County (still within District 5) for services or, if they live closer, to Tampa (Hillsborough County). The applicant contends that approval of this CON, based on zip code usage, will also improve access for residents of Hernando and Polk Counties (table provided on page 1-17 of the application for the 12-month period ending September 30, 2003). The data includes acute care long stay patients (with the exception of MDCs 15 (newborns and other neonates), 19 (mental diseases and disorders), 20 (alcohol/drug use and alcohol/drug-induced organic mental disorders) and DRG 463 (rehabilitation). The data indicates that 231 acute care long-stay patients were treated from Hernando County (108 Hernando County residents treated in Hernando County Hospitals plus 123 Hernando County residents served at other acute care hospitals- none of which were in Polk County). A total of 747 patients were treated from Polk County (207 treated in Polk County hospitals). The applicant contends that, when applying the statewide average length of stay (LOS) of 40 days to the 108 long-stay acute patients in Hernando County; this yields 4,320 patient days at an (ADC) of 12 persons. Applying the 40-day average LOS to the 207 patients treated in Polk County (residing in zip code areas proximate to Pasco County) would generate a potential of 8,280 patient days or an average daily census of 23 persons. According to the applicant, this results in a demand of at least 37 beds from counties adjacent to Pasco County. The applicant contends that if you apply the 38 percent to the 37 beds from the adjacent counties to Pasco County, then it is reasonable to expect need for 14 beds to serve the patients from these nearby areas. However, the applicant has not shown that patients needing access to LTCH services are being denied access. Other than the 54 patients discussed above by co-batched applicant BayCare, no other access issues have been demonstrated by either applicant.

The applicant contends that LTCHs do not compete for the same patients as skilled nursing facilities (SNF), hospital based skilled nursing facilities (HBSNF) or comprehensive medical rehabilitation (CMR) beds. The applicant provided a table representing data from the Centers for Medicare and Medicaid Services (CMS) listing the average daily census, number of beds, number of Medicare discharges and the case mix index for the hospitals in Pasco County. The case mix ranged from Regional Medical Center Bayonet Point at 2.00 to a low of 1.35 at Helen Ellis Memorial Hospital. The applicant applied the Medicare acute care relative weight to Kindred Hospital-Bay Area-St. Petersburg's 315 cases for a case mix result of 2.21. The applicant contends that this indicates that long-term care hospitals have patients who differ and whose needs are greater than those served in the acute care hospitals. Although it is acknowledged that Kindred's average case mix is higher than acute care hospitals, it is noted that acute care hospitals provide care to a varied mix of patients including mothers giving birth. The applicant did not

compare patient severity levels with those of skilled nursing facilities or rehabilitation hospitals. Additionally, a discussion of what another corporation does is not an indication of what the applicant might or might not do. In its need methodology, the applicant did not look at the case mix index of the patients it identified as potential patients. Rather, it looked at the length of stay, indicating it believed that alone, in certain DRGs, was an indication of need. Additionally, as discussed in the beginning of this section, MedPAC in its June 2003 report, found that LTCH services may be a substitute for skilled nursing care.

The applicant states that when acute care hospitals retain long-term care hospital patients that medical complications can arise, the recovery process may be longer, and/or the patients consume resources at much greater rates than acute care patients. The applicant described the different criterion for admission and reimbursement rates for DRGs at SNF, HBSNF and CMR facilities. The applicant concludes that LTCHs provide a different mix of services for patients who do not qualify for care in other settings, therefore LTCHs are not a substitute for existing providers, rather they are an addition on the continuum of care. However, as noted previously, these statements are contrary to a federal study and have not been demonstrated by the applicant. The MedPAC report indicates that acute care lengths of stay are not shorter when LTCH beds are available and that LTCH appears to be a substitute for skilled nursing care.

The applicant contends that Kindred Hospital-Bay Area-St. Petersburg has a monopoly, as it is the sole provider of LTCH services in District 5. District 6, Hillsborough County, has two Kindred LCTH hospitals. The applicant alleges that this situation lacks choice for physicians and patients for LTCH services. Regarding care to the medically indigent, the applicant also contends, “the differences are so disparate that it is apparent that charity care patients have far different experiences with respect to accessing LTCH services.” However, the applicant has not shown that charity patients have been denied access to these services. Agency data indicates that area LTCHs provided the following percentage of care to Medicaid and charity patients:

Medicaid and Charity Care Provided by Area LTCHs during Calendar Year 2002

Facility	# Beds	Medicaid/ Medicaid HMO	Adjusted Charity Days	Combined Medicaid/Charity
Kindred Hospital – St. Petersburg	60	13.3%	1.5%	14.8%
Kindred Hospital – Central Tampa	102	0.7%	3.4%	4.1%
Kindred Hospital – Tampa	73	0.2%	2.6%	2.8%

Source: AHCA 2002 financial data

The applicant proposes to provide two percent of its total annual patient days to Medicaid recipients and 2.4 percent of its total annual patient days to charity/self-pay/other patients. This appears to be less of a commitment to the medically indigent population than is currently being provided by existing area LTCHs.

The applicant contends that, based on the criterion of a 25-day or longer hospital stay, that there is demand for a LTCH in Pasco County. However, as pointed out by the applicant, the severity level of the patient is equally as important in a need methodology for LTCH services as the length of stay. The applicant did not provide such a study. The applicant provided AHCA discharge data showing the number of discharges by county, by age cohort at Pasco County as well as University Hospital and its affiliates that exceed 25 days (page 1-34 of the application) for the 12-month period ending September 2003 time, excluding MDCs 15, 19, 20, and DRG 463. There were 609 combined cases that exceeded the 25-day LOS. Of those cases, 368 were aged 65 or older, representing 60 percent of all the cases. The applicant then ranked the number of patients within each MDCs for patients that exceeded 25-day lengths of stay and compared them to LTCH cases. Of the total 4,570 LTCH cases, 3,642 (79.7 percent) of the cases matched 469 (77 percent) of the 609 25-day or longer lengths of stay cases. The average LOS for the 469 cases was 54 days or 25,326 patient days for and ADC of 69. Using the established 40-day average LOS for these patients, 469 cases represent a potential of 18,760 patients days or an ADC of 51 needed LTCH beds.

The applicant then matched long-stay acute cases by age at the selected hospital on the basis of DRG with those by age and DRG served in Florida's LTCH using the statewide LOS of stay of 40 days. By applying first and second year occupancy rates of 39 and 74 percent respectively, the applicant projects 7,118 patient days with an ADC of 20 for year one and 13,538 patient days for year two with an ADC of 37.

The applicant presented a table using AHCA discharge data demonstrating the length of stay greater than the geometric mean length of stay plus 15 days for cases treated at Pasco County hospitals. A total of 13,818 long-stay patients occurred which yields an ADC of 38 persons. The applicant applied an 80 percent occupancy for a 48-bed need. The applicant then calculated excess days (the difference between "length of stay greater than the geometric mean" and the length of stay greater than the geometric mean + 15 days. According to the applicant, 360 cases were identified for the hospitals in Pasco County with 13,818 patient days and an ADC of 38.4 days. Of the 360 cases, 257 (71 percent) were 65 years of age or older with the associated days of 9,813 having an average LOS of 38.2 days.

The applicant applied a use rate methodology from Hillsborough County to Pasco County for the 65 and older population in order to show the need for LTCH beds in Pasco County. The applicant took June 2003 AHCA population estimates by age for Pasco and Hillsborough Counties, then took the number of cases in Hillsborough County by age and divided them by 1,000 to get a use rate. The applicant then multiplied the use rate times the 1,000 persons and then by the average length of stay (ALOS) to obtain patient days. Then divide the patient days by 365 for the ADC, and then divide the ADC by the 80 percent occupancy rate for the applicant's projected current bed need at 38. The applicant then applied compounded growth rate by age cohort, multiplied the number of cases by the ALSO, divided the days by 365 for the ADC, multiplied that by the 80 percent occupancy rate to forecast beds needed by January 2009 as 71. The methodology presumably considers patients being discharged to existing area LTCHs and therefore, as Mr. Wurdock stated in his letter of opposition, represents a duplication in LTCH services.

Additionally without evidence of a reduction in the length of stay in the acute care hospitals, any methodology based on GMLOS or LOS cannot be considered because it has little relevance; patients might be discharged to a SNF, HBSNF, CMR or directly home with no post-acute care. It was not demonstrated by the applicant that patients meeting the definition of a LTCH patients are not currently being placed or that an access problem exists in the district.

2. Local Health Plan Preferences

Is need for the project supported by the applicable district plan? ss. 408.035(1) and 408.037(1), Florida Statutes, and Ch. 59C-1.030(2)(c), Florida Administrative Code.

The 2003 District 5 CON Allocation Factors Report, contains the following preference statements pertaining to long term care beds as well as appropriate generic preference statements:

Long Term Care Hospital Beds:

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

BayCare Long Term Acute Care, Inc. (CON #9753) proposes to establish a 48-bed long-term care hospital within Mease Dunedin

Hospital. As part of the conditions for this project, three of BayCare's affiliates, Mease Dunedin Hospital, Morton Plant Hospital and St. Anthony's Hospital, will each delicense 10 acute care beds. The applicant did not state that these were "underutilized" beds. There were letters in the application from each hospital attesting to this delicensing.

University Community Hospital, Inc. (CON #9754), located in District 6 (Hillsborough County) proposes to establish a free-standing 50-bed long-term care facility in District 5. Preference is not given.

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

BayCare Long Term Acute Care, Inc. (CON #9753) is a new corporate entity and does not operate an existing LTCH. This project will be developed with Mease Dunedin Hospital, a 189-bed, not-for-profit Florida licensed, and JCAHO accredited facility. The applicant states it will seek JCAHO accreditation upon CON approval.

University Community Hospital, Inc. (CON #9754) states that its acute care hospital is accredited by JCAHO and that, once approved, it will seek accreditation for this proposed project.

Generic Preference Statements:

Preferences 1-7 pertain to the transfer of beds. Neither applicant is transferring beds in order to accommodate its proposed projects.

BayCare Long Term Care Acute Care, Inc. (CON #9753) has conditioned this application for the provision of delicensing of 10 beds at each of three BayCare-affiliated hospitals located in District 5.

University Community Hospital, Inc. (CON #9754) proposes to establish a 50-bed LTCH facility in District 5. The applicant is the owner of two acute care hospitals in District 6.

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

BayCare Long Term Acute Care, Inc. (CON #9753) states that this project is for a not-for-profit LTCH and will admit all patients

without regard to their ability to pay. The applicant cites AHCA discharge data revealing that for the 12-month period ending June 2003, this Kindred facility discharged four patients, (one Medicaid and three self-insured or underinsured) for a 1.2 percent patient discharge rate for patients categorized as Medicaid/self-pay/under-insured.

The applicant has requested that this applicant be conditioned for five percent of its patient days for a combination of Medicaid/Medicaid/HMO/self-pay/underinsured patients.

University Community Hospital, Inc. (CON #9754) states that its proposed project will afford all of the residents of Pasco County (including charity care and Medicaid patients) access to LTCH services. However, the applicant did not show that residents of Pasco County were unable to access needed care.

The applicant has requested that this application be conditioned for the provision for two percent of its annual total patient days to Medicaid and 2.4 percent of its total patient days to charity/self pay/other patients.

(9) Preference shall be given to an applicant who agrees that an awarded CON be predicated on the following condition which is subject to annual monitoring:

- **An applicant that will commit to provide for at least one Medicaid/charity care admission in every 10 admissions.**

BayCare Long Term Acute Care, Inc. (CON #9753) has conditioned this application such that five percent of total patients days served are dedicated to the pool of patients with Medicaid/charity/self-pay /under insured insurance coverage. Preference is not met.

University Community Hospital, Inc. (CON #9754) has conditioned this application such that two percent and 2.4 percent of total patient days are served to the pool of patients with Medicaid and charity/self-pay/other insurance respectively. Preference is not met.

- (10) **Preference shall be given to an applicant who commits to participate in a “real-time” system of disease pattern tracking, specifically as it relates to the early identification of illness resulting from chemical and/or biological agents. Furthermore, facilities that actively participate in committees such as MMRS (Metropolitan Medical Response System) and Hospital Liaison where terrorism response needs are addresses by Community Partners, will be supported. (The participation in terrorism exercises to be included). These can be quantified by QA reports for syndromic surveillance, attendance rosters at the meetings, and exercise participation by facilities which EM tracks.**

BayCare Long Term Acute Care, Inc. (CON #9753) states that in Morton Plant Mease Health Care (MPMHC), which includes five BayCare-affiliated hospitals, including the host hospital for the applicant, is actively involved in the MMRS in Pinellas County. The director of safety for MPMHC is the chair of the Hospital Disaster Liaison Committee and sits on the County Disaster Advisory Committee representing Pinellas hospitals. One of the hospitals, Morton Plant, has received a grant from the Department of Health for bioterrorism equipment and training (for which participation in four drills a year is a requirement). MPMHC is also discussing its participation in the current syndromic surveillance program in Pinellas County.

University Community Hospital, Inc. (CON #9754) states that it is a “real time” participant in exercises and provided documentation of such in its application. It does participate in major disasters such as hurricanes as well as chemical and biological terrorism. The applicant states that continued participation in these activities (including the early tracking of illness in the event of chemical or biological disasters) will occur with the development its LTCH in Pasco County.

3. Agency Rule Criteria

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

4. Statutory Review Criteria

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

BayCare Long Term Acute Care, Inc. (CON #9753) states that need is evidenced in District 5 for this project based on utilization in acute care hospitals, by patients with long length of stay and the utilization of long-term care providers in the district. The applicant referenced the utilization rates for Kindred Hospital-Bay Area-St. Petersburg for the 12-month period ending June 2003 as 93.79 percent and states that this indicates that facility operates at near or full capacity. The applicant contends this is evidence of acceptance of the long-term care concept, within the scope of services provided, and acceptable level of quality of care has been provided at this Kindred facility, and the area could support additional long-term care beds. The applicant did show that within an unspecified 12-month period three attempted discharges to a local Kindred facility by its affiliate hospitals were denied due to bed availability. As also noted above, Kindred added 22 beds in 2002.

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

University Community Hospital, Inc. (CON #9754) refers to the Need Analysis section (Section E.1.b. of this report) for its detailed analysis that Pasco County residents do not have access to LTCH services. There is one LTCH in District 5, located in St. Petersburg. According to the applicant, this LCTH is too far away to serve the residents of Pasco County and physicians do not transfer patients to that facility. However, the applicant does indicate that patients are transferred to the two LTCHs in adjacent Hillsborough County. The applicant did not show that the residents of Pasco County could not access LTCH services or that this project would reduce the length of stay for acute care patients with ALOS over 25 days.

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

- 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.**

BayCare Long Term Acute Care, Inc. (CON #9753) is a newly formed not-for-profit corporation with no operating history. The applicant described the history of its host hospital, Mease Dunedin Hospital, and states that it is accredited by JCAHO, licensed by AHCA, certified to participate in Medicare and Medicaid programs, and has been recognized as giving quality service as evidenced by several awards it has received. The applicant also intends to enlist the services of Acuityhealthcare (consulting firm) to assist in the development of this project and provided a copy of Acuity's policies and procedures.

The Complaint Summary Reports for the six licensed BayCare Health System Inc. hospitals in the state dated May 20, 2004, indicate a combined listing of 46 complaints, including 11 without deficiencies. The 35 confirmed allegations involve: patient care (10), discharge planning (three), EMTALA/ER access (three), plan of care (three), medical problems/errors/formulary (three), infection control (two), falls/injury (two), physical plant (two) restraints (two), surgery wrong site (one), dietary (one), inappropriate discharge (one) failure to report and incident (one) and lack of assessment (one).

Because the applicant noted that Kindred had refused to admit certain patients, the reviewer examined Agency compliant files for Kindred. The files for the seven licensed Kindred LTCHs in the state dated March 19, 2004 indicates a combined listing of 26 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 at Kindred Hospital South Florida/Coral Gables with three confirmed allegations. The review of the files indicated that there have been allegations of patients being denied access to Kindred because of their insurance status. However, allegations were not confirmed.

University Community Hospital, Inc. (CON #9754) states that its high quality is evidenced by its accreditation by a variety of local, state, and national organizations including the Joint Commission on Accreditation of Health Care Organizations (JCAHO). The applicant further states that it has developed of seven *Centers of Excellence* that provide specialized care to patients. The applicant described its patient safety program, strategic plan, objectives and goals, its process for quality improvement and provided a sample of treatment protocols.

According to AHCA data, the applicant had 18 confirmed complaints at its main campus during the past three years, all with deficiencies. The number of confirmed complaints for each category were as follows: six related to billing/refunds, three related to EMTALA/ER access, two each related to medicine problems/error/formulary, and one each for pressure sores, medical services, plan of care, dietary, and lack of assessment. The applicant's affiliate, University Community Hospital at Carrollwood had seven confirmed complaints during the past three years all with deficiencies. The number of confirmed complaints for each category were as follows: two related to untrained staff, and for each of the following; patients rights, patient care, staffing and discharge planning.

- 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 project involves special health care services that are not reasonably or economically accessible in adjacent districts.

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

While both applicants offered discussion as to various studies being performed, neither proposed project will be located in a statutorily defined teaching hospital, nor will the primary purpose of the proposed projects involve research or physician education.

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

BayCare Long Term Acute Care, Inc. (CON #9753) provided a copy of the list of policies and procedures from its consulting firm, Acuityhealthcare that included human resource policies. However, no actual policies pertaining to recruitment and retention were provided.

Audited financial statements of the applicant were analyzed for the purpose of evaluating its ability to provide the capital and operational funding necessary to implement the project.

The applicant is a start up company with \$100,000 in net assets as of March 31, 2004. According to the audit, initial funding of the applicant was provided by BayCare Health Systems, Inc. and Trustees of Mease, Inc. d/b/a Mease Health Care.

BayCare Health Systems, Inc. controls, through a Joint Operating Agreement (JOA) several acute care hospitals in the Tampa Bay area as well as nursing homes, life care facilities, home health agencies, ambulatory care centers and physician practices. The JOA provides for the members to maintain ownership of their assets while agreeing to operate as one organization, with common governance and management.

Included under this agreement are:

- St. Joseph's Hospital, Inc.
- St. Anthony's Hospital, Inc.
- South Florida Baptist Hospital, Inc.
- Morton Plant Hospital, Inc.
- Trustees of Mease Hospital, Inc.

BayCare Long Term Acute Care, Inc will lease the space required to operate the hospital from Mease Dunedin Hospital. Mease Dunedin Hospital is an affiliate of the Trustees of Mease Hospital, Inc., one of the hospitals managed by BayCare Health Systems, Inc. The applicant did not provide a copy of the actual lease.

Both BayCare Health Systems, Inc. (sponsor) and Mease Dunedin Hospital (host hospital) will be providing funding for the project. Audited financial statements were submitted for the period ended December 31, 2002, for both the sponsor and the parent of the host hospital Trustees of Mease Hospital, Inc. Those statements reported cash and short-term investments of \$26.2 million and \$293,000, current assets of \$273 million and \$41.9 million, with an operating profit of \$50.1 million and \$12.1 million, and operating cash flows of \$207.4 million and \$29.4 million respectively.

Capital requirements:

Total capital costs for this project from Schedule 1 are \$358,220. Schedule 2 indicates the applicant has capital projects totaling \$903,200. The capital cost on Schedule 2 does not include renovation cost (\$2.6 million) or equipment cost (\$1.3 million), which will be provided by the host hospital.

Available capital:

As discussed above, funding for the proposed project is coming from the sponsor and host hospital. Both the sponsor and the host hospital submitted letters committing to fund the applicant until the applicant can become self-sustaining.

Conclusion:

Due to the financial resources of the sponsor and host hospital, funding for this project is likely to be available as needed.

University Community Hospital, Inc. (CON #9754) listed eight recruitment activities including loan forgiveness, scholarships, providing employment as nurse technicians during training, and working with local, state, and National Nursing Associations. The applicant listed 15 retention activities including obtaining timely feedback from new employees regarding levels of job satisfaction and utilize. The applicant focused on nursing personnel, listing the director of nursing resources/organizational development as a person who will assist in assuring the recruitment of a qualified workforce for this proposed project. The applicant cites its turnover rates for nurses two percent, verses the state rate of 16 percent, as per FHA Nurse Staffing Supply Surveys, 1989-2002 and its nursing vacancy rate as eight percent for March 2003.

The audited financial statements for the periods ending September 31, 2003 and 2002 were analyzed for the purpose of evaluating the applicant's ability to provide the capital and operational funding necessary to implement the project. The following is a list of accounts and ratios used in the analysis:

University Community Hospital, Inc.

	<u>09/30/2003</u>	<u>09/30/2002</u>
Current Assets	\$ 130,752,895	\$ 94,492,975
Cash and Current Investment	\$ 17,962,583	\$ 17,996,158
Assets Restricted for Capital Projects	\$ 54,711,998	\$ 46,552,032
Total Assets	\$ 384,993,314	\$ 341,044,375
Current Liabilities	\$ 81,458,238	\$ 55,343,873
Total Liabilities	\$ 242,297,963	\$ 217,557,005
Net Assets	\$ 142,695,351	\$ 123,487,370
Total Revenues	\$ 328,976,001	\$ 287,312,689
Interest Expense	\$ 8,398,768	\$ 8,441,121
Excess of Revenues over Expenses	\$ 13,372,552	\$ (3,523,071)
Cash Flow from Operations	\$ 23,665,191	\$ 11,646,292
Working Capital	\$ 49,294,657	\$ 39,149,102
Current Ratio (CA/CL)	1.6	1.7
Cash Flow to Current Liabilities (CFO/CL)	0.3	0.2
Long-Term Debt to Net Assets (TL-CL/NA)	1.1	1.3
Times Interest Earned (NPO+Int/Int)	2.6	0.6
Net Assets to Total Assets (TE/TA)	37.1%	36.2%
Total Margin (ER/TR)	4.1%	-1.2%
Return on Assets (ER/TA)	3.5%	-1.0%
Operating Cash Flow to Assets (CFO/TA)	6.1%	3.4%

Short-term position:

The applicant's current ratio of 1.6 and cash flow to current liabilities ratio of 0.3 are both below average and indicate a moderately weak short-term position. The working capital (current assets less current liabilities) of \$49.3 million indicates that current assets are sufficient to cover current liabilities and to provide some excess liquidity that could be used to fund capital projects. Overall, the applicant has a moderately weak but adequate short-term position.

Long-term position:

The ratio of long-term debt to net assets is 1.1 indicates long-term debt is greater than equity. This is well above average and a weak position. The ratio of cash flow to assets of 6.1 percent is below average and a moderately weak position. The most recent year had \$13.4 million revenues in excess of expenses, which resulted in a total margin of 4.1 percent. Overall, the applicant has a moderately weak but adequate long-term position.

Capital requirements:

Schedule 2 indicates the applicant has \$42.7 million in capital projects and maturities of long-term debt due through 2005. In addition to the long-term debt reported on Schedule 2, the audited financial statements show long-term debt of \$4.7 million coming due through 2006, which brings the total capital needs to \$47.4 million.

Available capital:

Schedule 2 indicates funding for these projects will come from operations and debt financing. Cash flows for the most recent year were \$23.7 million. As discussed above working capital is \$49.3 million. The applicant's reported limited use assets include \$46.5 million in board-designated funds for use in capital projects and acquisitions. In addition, the applicant provided a letter from Merrill Lynch stating that the applicant would be able to obtain cost-effective financing for the project.

Conclusion:

Funding for this project and all capital projects 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 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 on 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 LTCH-DRG. The law requires that the LTCH PPS be budget neutral, which means that total payments must equal the amount that would have been paid if the PPS had not been implemented. Therefore, a comparison of the applicant's revenue estimates to the control group values, based on the reasonable cost-based reimbursement system, provide a rational basis for evaluating estimated revenues.

Comparative data were derived from hospitals in peer groups that reported data in 2002; the applicant will be compared to the hospitals in peer group 12. Per Diem rates are projected to increase by an average of 3.7 percent per year. Inflation adjustments were based on 2003 4th Quarter Health Care Cost Review, New CMS Hospital Market Basket Index.

BayCare Long Term Acute Care, Inc. (CON #9753): Projected net revenue per adjusted patient day (NRAPD) of \$974 in year one and \$1,152 in year two is between the control group median and lowest values of \$1,214 and \$925 in year one and \$1,253 and \$955 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). It should be noted that NRAPD increased by 18.3 percent from year one to year two. This drastic increase in revenues is likely due to the fact that the applicant will be reimbursed at the Medicare acute care rate until it can establish its LTCH credentials (approximately six months). Once established as a LTCH, the applicant will receive the higher LTCH reimbursement rate under the Medicare program.

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 42 CFR Part 412.23, for reimbursement under the prospective payment system a long-term acute care facility, operating as a hospital within a hospital, must not exceed more than 15 percent of its total inpatient operating costs in services obtained under contract with the host hospital or at least 75 percent of the hospital's inpatient population must be referred from a source other than the host facility. The applicant stated it intends to comply with this provision. Failure to comply would have a material negative impact on revenues.

This application appears to be in conflict with 42 CFR section 412.22(e), which prohibits a single entity from controlling both the host hospital and the long-term care hospital within a hospital. The sponsor and host hospital appear to have control over the applicant by way of funding the entire net assets of the applicant. Further, the sponsor appears to have control of the host hospital through the JOA with the Trustees of Mease Hospital, Inc. These relationships appear to preclude the applicant from being certified as a LTCH, which would make it ineligible for reimbursement under the LTCH PPS program. The applicant is projecting 66 percent of revenues will come from Medicare.

Projected cost per adjusted patient day of \$1,026 in year one and \$997 in year two is between the control group median and lowest values of \$1,130 and \$793 in year one and \$1,166 and \$819 in year two. Compared to the control group, these costs are efficient. (See Comparative Table).

The year two operating profit for the hospital of \$2,307,316 computes to an operating margin per adjusted patient day of \$155, which falls between the peer group highest and median values of \$280 and \$125 respectively. The operating margin of 13.5 percent indicates that net revenues are not proportional to costs; however, this operating margin is slightly above the group average.

This project appears to be financially feasible at LTCH PPS reimbursement rates. However, as noted above, it is questionable that the applicant would meet Federal eligibility rules for long-term care hospitals within hospitals. If the applicant does not meet the Federal eligibility rules for long-term care hospitals within hospitals, then the project is likely to resemble the year one projections, which did not include the LTCH PPS rate for the first six months. Based on the information provided, this project would not be financially feasible if the applicant does not meet the Federal eligibility rules for long-term care hospitals within hospitals.

BAYCARE LONG TERM ACUTE CARE, INC.

CON # 9753 2002 DATA Peer Group 12	2007	YEAR 2	VALUES ADJUSTED		
	YEAR 2	ACTIVITY	FOR INFLATION		
	<u>ACTIVITY</u>	<u>PER DAY</u>	<u>Highest</u>	<u>Median</u>	<u>Lowest</u>
ROUTINE SERVICES	22,287,218	1,497	1,286	954	702
INPT. AMBULATORY	0	0	13	0	0
INPATIENT SURGERY	0	0	0	0	0
INPATIENT. ANCILLARY SERVICES	31,398,442	2,108	4,009	3,071	2,495
OUTPATIENT SERVICES	0	0	237	2	0
TOTAL PATIENT SERVICES REV.	53,685,660	3,605	4,962	4,458	2,371
OTHER OPERATING REVENUE	0	0	4	2	0
TOTAL REVENUE	53,685,660	3,605	5,028	4,050	3,200
DEDUCTIONS FROM REVENUE	36,533,425	2,453	0	0	0
NET REVENUES	17,152,235	1,152	2,325	1,253	955
EXPENSES					
ROUTINE	4,969,758	334	596	336	203
ANCILLARY	6,100,192	410	683	317	216
AMBULATORY	0	0	0	0	0
TOTAL PT. CARE COST	11,069,950	743	0	0	0
ADMIN. & OVERHEAD	2,242,226	151	1,000	537	393
PROPERTY	1,532,743	103	0	0	0
TOTAL HOSP. EXPENSE	3,774,969	253	0	0	0
OTHER OPERATING EXPENSE	0	0	0	0	0
TOTAL EXPENSES	14,844,919	997	2,385	1,166	819
OPERATING INCOME	2,307,316	155	280	125	-31
		13.5%			
PATIENT DAYS	14,892				
ADJUSTED PT. DAYS	14,892				
TOTAL BED DAYS AVAILABLE	17,520				
ADJ. FACTOR	1.0000				
TOTAL No. OF BEDS	48				
PERCENT OCCUPANCY	85.00%				
PAYER TYPE	<u>PATIENT DAYS</u>	<u>% TOTAL</u>	VALUES NOT ADJUSTED FOR INFLATION		
SELF PAY	615	4.1%			
MEDICAID	665	4.5%	13.3%	0.2%	0.0%
MEDICAID HMO	154	1.0%			
MEDICARE	9,877	66.3%	97.3%	75.4%	67.4%
MEDICARE HMO	1,399	9.4%			
INSURANCE	0	0.0%			
HMO/POP	1,843	12.4%	23.4%	10.5%	0.0%
OTHER	339	2.3%			
TOTAL	14,892	100%			

University Community Hospital, Inc. (CON #9754): Projected net revenue per adjusted patient day (NRAPD) of \$1,084 in year one is between the control group median and lowest values of \$1,223 and \$932. Projected NRAPD of \$1,299 in year two is between the control group highest and median values of \$2,343 and \$1,263. The highest value is generally viewed as the practical upper limit on economies of operation. With net revenues per adjusted patient day falling between the highest and median the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table). It should be noted that NRAPD increased by 19.8 percent from year one to year two. This drastic increase in revenues is likely due to the fact that the applicant will be reimbursed at the Medicare acute care rate until it can establish its LTCH credentials (approximately six months). Once established as a LTCH, the applicant will receive the higher LTCH reimbursement rate under the Medicare program.

Projected cost per adjusted patient day of \$1,445 in year one and \$1,247 in year two is between the control group highest and median values of \$2,329 and \$1,138 in year one and \$2,403 and \$1,175 in year two. The CAPD in year two approximates the median and balances the opposing forces of efficiency and feasibility. (See Comparative Table).

The year two operating profit for the hospital of \$695,628 computes to an operating margin per adjusted patient day of \$51, which falls between the peer group lowest and median values of \$-31 and \$125 respectively. The operating margin of 4.0 percent indicates that net revenues are proportional to costs.

Based on the above, financial feasibility of this project appears likely.

COMPARATIVE TABLE

UNIVERSITY COMMUNITY HOSPITAL, INC.

CON # 9754

2002 DATA Peer Group 12

	2008	YEAR 2	VALUES ADJUSTED		
	YEAR 2	ACTIVITY	FOR INFLATION		
	<u>ACTIVITY</u>	<u>PER DAY</u>	<u>Highest</u>	<u>Median</u>	<u>Lowest</u>
ROUTINE SERVICES	67,175,630	4,962	1,296	961	708
INPATIENT AMBULATORY	0	0	13	0	0
INPATIENT SURGERY	0	0	0	0	0
INPATIENT ANCILLARY SERVICES	0	0	4,039	3,094	2,514
OUTPATIENT SERVICES	0	0	239	2	0
TOTAL PATIENT SERVICES REV.	67,175,630	4,962	4,999	4,492	2,389
OTHER OPERATING REVENUE	0	0	4	2	0
TOTAL REVENUE	67,175,630	4,962	5,066	4,080	3,224
DEDUCTIONS FROM REVENUE	49,591,686	3,663	0	0	0
NET REVENUES	17,583,944	1,299	2,343	1,263	962
EXPENSES					
ROUTINE	4,259,505	315	600	339	205
ANCILLARY	4,831,097	357	688	319	218
AMBULATORY	0	0	0	0	0
TOTAL PATIENT CARE COST	9,090,602	671	0	0	0
ADMIN. AND OVERHEAD	5,824,361	430	1,007	541	396
PROPERTY	1,973,353	146	0	0	0
TOTAL HOSPITAL EXPENSE	7,797,714	576	0	0	0
OTHER OPERATING EXPENSE	0	0	0	0	0
TOTAL EXPENSES	16,888,316	1,247	2,403	1,175	825
OPERATING INCOME	695,628	51	280	125	-31
		4.0%			
PATIENT DAYS	13,538				
ADJUSTED PATIENT DAYS	13,538				
TOTAL BED DAYS AVAILABLE	18,250		VALUES NOT ADJUSTED		
ADJ. FACTOR	1.0000		FOR INFLATION		
TOTAL NUMBER OF BEDS	50		<u>Highest</u>	<u>Median</u>	<u>Lowest</u>
PERCENT OCCUPANCY	74.18%		100.2%	84.2%	52.2%
PAYER TYPE	<u>PATIENT DAYS</u>	<u>% TOTAL</u>			
SELF PAY	948	7.0%			
MEDICAID	271	2.0%	13.3%	0.2%	0.0%
MEDICAID HMO	0	0.0%			
MEDICARE	9,476	70.0%	97.3%	75.4%	67.4%
MEDICARE HMO	0	0.0%			
INSURANCE	406	3.0%			
HMO/POP	2,437	18.0%	23.4%	10.5%	0.0%
OTHER	0	0.0%			
TOTAL	13,538	100%			

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

District 5 LTCH Projects		
Project in 2008 Dollars		
	*BayCare Long Term Acute Care, Inc.	University Community Hospital, Inc.
CON number	9753	9754
Net Revenue per adjusted patient day	\$1,194	\$1,299
Cost per adjusted patient day	\$1,033	\$1,247
Operating profit per patient day	\$161	\$51
Estimated Managed Care level	12.4%	18.0%
Estimated Medicaid level	4.5%	2.0%

***Project values inflated to 2008 dollars for comparison purposes.**

BayCare Long Term Acute Care, Inc. (CON #9753) projects managed care to represent 22.8 percent of its patient days, which approaches the control group highest value of 23.4 percent. The projected levels, if realized, will have a positive impact on competition to promote quality assurance and cost-effectiveness.

University Community Hospital, Inc. (CON #9754) projects managed care to represent 18.0 percent of its patient days, which is between the control group highest and median values of 23.4 percent and 10.5 percent. According to the application, the applicant will be the only alternative to Kindred Hospital Bay Area-St. Petersburg (Kindred), which reported NRPD of \$1,166 in 2002. Kindred's NRPD in 2008 Dollars is \$1,450, which is greater than the projected NRPD of the applicant of \$1,299. Therefore, the projected levels, if realized, will have a positive impact on competition to promote quality assurance and cost-effectiveness.

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

BayCare Long Term Acute Care, Inc. (CON #9753) proposes to establish a 48-bed long-term care hospital in Mease Dunedin Hospital. The new hospital will occupy a relatively small portion of the first floor.

The narrative states in several places that three facilities will delicense 10 beds each to create the new facility. It is not clear where the other 18 beds are coming from, but the AHCA Office of Plans and Construction will have to know what is going to happen to the bed space that will be vacated in those facilities.

The project space is all existing, but about 40 percent is shown to be renovated and 60 percent will be refurbished. Most of the patient rooms will be private and their toilet rooms include a shower, most sized for a patient in a wheelchair. There is a centrally located shower for the five rooms without one. Quite a few patient toilet rooms are part of the renovation since the large-scaled plans show them as new. The patient rooms have the requisite square footage and appear to have been patient rooms previously, so they are not required to need all the new codes and standards.

Without a demolition plan it is not possible to adequately comment on the cost information. Most toilet rooms are going to be renovated as stated above and this is an expensive proposition as always with plumbing changes. Some of the windows are going to be replaced, but the narrative does not say how many.

A pharmacy is not included in the new hospital and must be added. There are several spaces that could house basic radiographic equipment as required. This equipment must belong to the new facility and cannot be leased from the host hospital.

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.

University Community Hospital, Inc. (CON #9754) proposes a new 50-bed, 42,000 square foot hospital in Pasco County.

A 6.5-acre site for the new facility has been chosen. It cannot be determined if a building on this site can meet the disaster preparedness requirements of the Florida Building Code, Section 419.4.56 regarding the flood plain elevation and the Category 3 surge inundation. It is **required** that the site and the new facility meet these code requirements. This will have to be addressed if the project progresses.

The application included a floor plan of the single-story building and larger scaled plans of typical patient rooms. Part of the plan has only single-line walls, which is acceptable at the schematic phase. The corridor system is not fully developed, but appears to be workable. Attention should be drawn to the guidelines, Section 7.2.B, for all the required ancillary spaces within each patient wing. Most of them seem to have been provided, but some items such as hand washing stations are not shown on the floor plan, although they are on the large-scaled patient room plans.

There are two patient wings that project from the main hospital area. Half of each wing has the typical “race track” layout with ancillary support spaces in the center and patient rooms on the exterior walls. In each wing, the nurse station might be better placed at the end the center core where the clean room and equipment storage are located. This would give the staff clear views down the corridor, particularly in smoke compartment 1.

The other patient wing has two smoke compartments. Smoke compartment 4 is the intensive care unit with its own nurse station. This ICU does not have the required isolation space. Additionally, each patient space must be 200 square feet and the headwall width must be at least 13 feet. These are deficiencies that can be corrected, but will increase the budget somewhat.

On the front of the facility, there is a projecting surgery suite with one operating room. The OR is not dimensioned and must be at least 400 square feet. There is a recovery/holding room which could be made into another OR in the future. This suite does not have is the required nurse station. The hospital also must have a space for emergency services to provide care for any emergency medical condition that is within the service capability of the hospital. Since the plan is schematic, some of the doors are not shown. For instance, the only door to the kitchen is through medical records that must be a drafting error. These issues can be corrected if the CON is granted design progresses. The pharmacy seems a bit small.

The patient rooms and their toilet rooms appear to meet codes. Some 5’ turning space circles for disabled patients are indicated on the plans. The patient rooms also have the required lavatory within the room as well as the one in the toilet room.

Other than the deficiencies listed above, the overall project is straightforward and the layout is good. The ancillary spaces, in general, seem to be adequately sized and conveniently arranged for the functions that they support. For an entirely new facility, more details about the spaces would have been helpful to determine if all the required spaces are provided and their relations to each other. One 16” floor plan and 1/4” patient room plans are not quite enough to thoroughly evaluate the physical plant for a new facility, but this is all that is required for a CON application.

There is a list of applicable codes on the drawings that is mostly correct. The information from Schedule 10 indicates that sufficient time has been allowed for construction and the budget is probably sufficient.

It is required that schematic drawings be submitted as part of the CON application. The drawings for this proposal 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 as shown in the chart below.

**Kindred Florida LTCH Provision of Care to the Medically Indigent
Calendar Year (CY) 2002**

Hospital	District	Medicaid %	Charity %
Kindred North FL	4	0.2%	0.3%
Kindred St. Pete	5	13.3%	1.5%
Kindred Central Tampa	6	0.7%	3.4%
Kindred Bay Area Tampa	6	0.2%	2.6%
Kindred Hollywood	10	0.2%	0.2%
Kindred Ft. Lauderdale	10	0.0%	0.0%
Kindred Coral Gables	11	0.4%	4.1%
Average Kindred		2.14%	1.73%
Specialty Hosp. Jacksonville – not affiliated with Kindred	4	0.0%	0.0%
Average State CY 2002		1.8%	1.7%

Source: ACHA Financial Data CY 2002

NOTE: Facilities above represent all of the LTCH reporting financial data for CY 2002.

BayCare Long Term Acute Care, Inc. (CON #9753) is a newly formed not-for-profit corporation with no operating history.

The applicant is proposing to condition the proposed project on the provision of five percent Medicaid/Medicaid HMO/charity/self-pay patients. Schedule 7B indicates that the applicant expects to deliver up to four percent of its total patient days to Medicaid and 3.09 percent to charity care in both the first and second year of operation. However, because the applicant has included self-pay days in its combined condition, it cannot be determined if the proposed provision of indigent care exceeds the state average for either Medicaid or charity care.

University Community Hospital, Inc. (CON #9754) provided 5.2 percent of its total patient days to Medicaid patients for CY 2002, according to AHCA data. According to the applicant, it provided 2.8 percent of its patient days to Medicaid patients for its fiscal year ending September 2003.

The applicant is proposing to condition the proposed project on the provision of two percent Medicaid and 2.4 percent charity/self-pay/other. Schedule 7 indicates that the applicant intends to provide two percent of total patient days to Medicaid during the first two years of operation (ending September 2007), exceeding the state average by 0.2 percent. However, because the applicant has self pay days in its combined condition, it cannot be determined if the proposed condition of indigent care exceeds the state average for charity care.

F. SUMMARY

BayCare Long Term Acute Care, Inc. (CON #9753) is a newly formed not-for-profit corporation that proposes the establishment of a 48-bed long-term care hospital within Mease Dunedin Hospital in District 5, Pinellas County.

Renovation and construction costs of \$2,329,060 will be assumed by the host hospital. The applicant's total project cost is estimated at \$ 358,220. Total cost for the host hospital is estimated at \$4,078,947. The project will involve 24,925 gross square feet (GSF) of new construction at the host hospital.

The applicant agrees to condition this certificate of need on the provision of five percent of total patient days to Medicaid/Medicaid HMO/self-pay/underinsured patients. Three BayCare-affiliated hospitals have agreed to delicense 10 beds each in order to accommodate this project.

University Community Hospital, Inc. (CON #9754) proposes to establish a freestanding 50-bed long-term care hospital in District 5, Pasco County.

The total project cost is estimated at 16,982,715. Construction costs are projected at \$9,187,518 and the project will involve 42,000 gross square feet (GSF) of new construction.

The applicant is requesting that the project be conditioned for the provision of two percent of its total patient day to Medicaid and 2.4 percent of its total patients days to charity/self-pay/other.

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

Need

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

BayCare Long Term Acute Care, Inc. (CON #9753) contends that certain patients in Pinellas and Pasco Counties have been denied access to LTCH care by area LTCH providers. However, data provided by the applicant is questionable and if accurate shows a small number of patients having difficulty accessing needed LTCH care. A letter of opposition submitted by the existing provider indicates that LTCH services are being provided to a number of District 5 residents and that if this project is approved, existing facilities will be negatively impacted. There are two licensed LTCHs with an average occupancy rate, for the 12-month period ending June 2003, below 75 percent located in District 6 (Hillsborough County) and one licensed LTCH located in District 5 (Pinellas County) with a utilization rate of 93.79 percent. Travel distances to existing LTCHs, skilled nursing facilities, comprehensive medical rehabilitation facilities, or any appropriate provider of post-acute care were not demonstrated to be unreasonable. Need for a 48-bed LTCH was not shown.

University Community Hospital, Inc. (CON #9754) contends that the residents of Pasco County do not access to LTCH services as there is no LTCH located in Pasco County. However, the applicant did not demonstrate that Pasco County residents are being denied access to existing post-acute care services, including LTCH services at either of the three LTCH hospitals. There is one LTCH with an average occupancy rate, for the 12-month period ending June 2003, located in District 5 (Pinellas County) with a utilization rate of 93.79 percent and averaged below 75 percent in adjacent Hillsborough County. Travel distances to

existing LTCHs, skilled nursing facilities, comprehensive medical rehabilitation facilities, or any appropriate provider of post-acute care were not demonstrated to be unreasonable.

Quality of Care:

BayCare Long Term Acute Care, Inc. (CON #9753) is a new development stage corporation with no significant operating experience. The host hospital, Mease Dunedin is JCHAO accredited, licensed by AHCA and certified to participate in Medicaid and Medicare programs. AHCA data reveal that in the past three years BayCare affiliated hospitals had a combined listing of 35 confirmed complaints with deficiencies, Mease Dunedin Hospital accounted for 10 of those complaints with deficiencies.

University Community Hospital, Inc. (CON #9754) states that it has a history of providing quality care as evidenced by its being licensed by AHCA, accredited by JCAHO and certified by a variety of other professional organizations and its being a full participant in the Medicaid and Medicaid programs. It is a Class I general acute care hospital that provides tertiary services. AHCA data reveals that in the past three years the applicant had 18 confirmed complaints while its affiliate had seven confirmed complaints.

Medicaid/Indigent Care:

BayCare Long Term Acute Care, Inc. (CON #9753) agrees to condition this certificate of need on the provision of five percent of total patient days to Medicaid/Medicaid HMO/self-pay/underinsured patients.

University Community Hospital, Inc. (CON #9754) is requesting that the project be conditioned for the provision of two percent of its total patient day to Medicaid and 2.4 percent of its total patients days to charity/self-pay/other.

Financial/Cost:

BayCare Long Term Acute Care, Inc. (CON #9753) is a newly formed corporation that proposes to establish a hospital within a hospital in District 5. Its sponsor and parent, BayCare Health System Inc. appears to be financially capable of financing his project. Funding for the proposed project is coming from the sponsor and host hospital (Mease Dunedin). Both the sponsor and the host hospital submitted letters committing to fund the applicant until the applicant can become self-sustaining. Due to the financial resources of the sponsor and host hospital, funding for this project is likely to be available as needed.

It is noted that, the applicant appears to be in conflict with 42 CFR section 412.22(e), which prohibits a single entity from controlling both the host hospital and the long-term care hospital within a hospital. The sponsor and host hospital appear to have control over the applicant by way of funding the entire net assets of the applicant. Further, the sponsor appears to have control of the host hospital through the joint operating agreement (JOA) with the Trustees of Mease Hospital, Inc. These relationships appear to preclude the applicant from being certified as a LTCH, which would make it ineligible for reimbursement under the LTCH PPS program.

The applicant projects managed care to represent 22.8 percent of its patient days, which approaches the control group highest value of 23.4 percent. The projected levels, if realized, will a positive impact on competition to promote quality assurance and cost-effectiveness.

University Community Hospital, Inc. (CON #9754) is a not-for-profit corporation that proposes to establish a 50-bed freestanding LTCH in District 5. The applicant indicates funding for these projects will come from operations and debt financing. In addition, the applicant provided a letter from Merrill Lynch stating that the applicant would be able to obtain cost-effective financing for the project. Funding should be available for this project as needed.

The applicant projects managed care to represent 18.0 percent of its patient days, which is between the control group highest and median values of 23.4 percent and 10.5 percent. Therefore, the projected levels, if realized, will have a positive impact on competition to promote quality assurance and cost-effectiveness.

Architectural:

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. It is required that schematic drawings be submitted as part of the CON application. The drawings for these proposals 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.

BayCare Long Term Acute Care, Inc. (CON #9753): Without a demolition plan it is not possible to adequately comment on the cost information. Most toilet rooms are going to be renovated as stated above and this is an expensive proposition as always with plumbing changes. Some of the windows are going to be replaced, but the narrative does not say how many.

A pharmacy is not included in the new hospital and must be added. There are several spaces that could house basic radiographic equipment as required. This equipment must belong to the new facility and cannot be leased from the host hospital.

University Community Hospital, Inc. (CON #9754): Other than the deficiencies listed earlier, the overall project is straightforward and the layout is good. The ancillary spaces, in general, seem to be adequately sized and conveniently arranged for the functions that they support. For an entirely new facility, more details about the spaces would have been helpful to determine if all the required spaces are provided and their relations to each other. One 16" floor plan and 1/4" patient room plans are not quite enough to thoroughly evaluate the physical plant for a new facility, but this is all that is required for a CON application.

There is a list of applicable codes on the drawings that is mostly correct. The information from Schedule 10 indicates that sufficient time has been allowed for construction and the budget is probably sufficient.

G. RECOMMENDATION

Deny CON #9753 and CON #9754.

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