

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Select Specialty Hospital-Lee, Inc./CON #9764

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

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

Long Term Care Hospital of SW Florida, Inc./CON #9765

1725 Mahan Drive, Suite 201
Tallahassee, Florida 32308

Authorized Representative: Michael D. Jernigan
(850) 877-4332

2. Service District

District 8

B. PUBLIC HEARING

A public hearing was not held or requested with regard to the establishment of a long-term care hospital in District 8. However, letters of support were submitted for each applicant as follows:

Select Specialty Hospital-Lee, Inc. (CON #9764) submitted 54 letters of support. The majority of the letters were from area physicians and nursing personnel stating that critically ill patients are remaining in an acute care setting and accessibility to LTCH services remains a problem. A letter was also submitted by the President/CEO of Gulf Coast Hospital and Southwest Florida Regional Medical Center attesting to problems in identifying providers to care for patients with chronic acute care needs which cannot be met by either hospital. Several letters from area physicians stated that they have "many patients" requiring a LTCH. However, none of the letters identified potential cases for referral to the

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proposed LTCH, nor did any of the letters show that residents of the district needing LTCH services were unable to obtain those services outside of the area.

Long Term Care Hospital of SW Florida, Inc. (CON #9765) submitted 53 letters of support for the proposed project. The majority of the letters were from physicians either associated with Lee Memorial Hospital/Health System or in private practice in the area. There were also letters of support submitted by other health care providers and interested individuals in the area. The majority of the letters address the difficulty in transferring patients to LTCHs, many of who remain in an acute care setting. The letters also address the access issue with having to transfer LTCH appropriate patients to either Tampa or St. Petersburg, located in excess of 100 miles from Lee Memorial. The letters from area physicians estimate in total approximately 249 LTCH appropriate patients who could utilize a LTCH serving Lee and surrounding counties. A letter from the system director for discharge planning and care management for the Lee Memorial Health System, estimates well over 350 patients from a patient universe of over 1,036 long-stay patients within the Lee Memorial Health System who would fully qualify for appropriate placement within the proposed LTCH for CY 2003. The identification of these patients by DRG, length of stay and discharge disposition was provided as Attachment 4 in the application. A letter from the executive director of The Rehabilitation Hospital, affiliated with Lee Memorial Health System, estimates approximately 365 potential appropriate LTCH placements. Although several of the letters identify potential cases for referral to the proposed LTCH, the letters did not show that any residents of the district needing LTCH services were unable to obtain those services outside of the area.

C. PROJECT SUMMARY

Select Specialty Hospital-Lee, Inc. (CON #9764), a wholly-owned subsidiary of Select Medical Corporation, proposes the creation of a 44-bed freestanding long-term care hospital to be located in Lee County, Fort Myers, Florida. The parent, Select Medical Corporation, currently has 79 LTCHs nationwide, including one operational LTCH in Miami. Select also has CON approval to develop a 40-bed LTCH located within Lucerne Medical Center in District 7. Select Specialty has submitted six separate proposals in the current review cycle to develop LTCHs within the State of Florida. These involve new proposals in Districts 1, 3, 4, 6, 8 and 9.

The proposed hospital will consist of 44,434 gross square feet of new construction and construction costs of \$8,504,650. Total project cost is

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estimated to be \$14,658,236. The funding for the proposed project will be provided by Select Medical Corporation.

As a condition of approval, the applicant agrees to condition award of the certificate of need on the provision of 2.0 percent of patient days to Medicaid and 0.8 percent of patient days for self-pay which includes charity care. The applicant's agreement to condition also targets 77.6 percent of patient days for Medicare; 14.7 percent for commercial insurance; and 4.9 percent for other managed care.

Long Term Care Hospital of SW Florida, Inc. (CON #9765) proposes to establish a 35-bed long-term care hospital (LTCH) as a hospital-within-a-hospital at Lee Memorial Hospital, in Lee County. The applicant is a wholly-owned subsidiary of Lee Memorial Hospital, Inc. d/b/a Lee Healthcare Resources (the Parent), a Florida not-for-profit corporation. The host, Lee Memorial Health System, encompasses three acute care hospitals, Lee Memorial Hospital (427 beds), HealthPark Medical Center (238 beds), and Cape Coral Hospital (281 beds).

The project will involve a partial renovation of the third, seventh and eighth floors within the existing Lee Memorial Hospital. The total project cost of \$2,611,555 includes renovation costs of \$1,399,801 and involves 18,122 gross square feet (GSF) of renovation.

As a condition of approval, the applicant agrees to provide a combined five percent of the inpatient admissions annually to Medicaid/charity patients.

D. REVIEW PROCEDURE

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

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

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

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

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

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

1. Fixed Need Pool

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

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

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

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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 LTCHs to substitute for less costly SNF care is exacerbated by the fact that there are currently no clinical patient admission criteria for LTCHs except for the anticipated 25-day length of stay.

According to the June 2003 *MedPac* report to Congress:

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

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

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

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.

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 recognized 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:

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

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

- Most patients in LTCHs had several diagnosis codes on their Medicare claims, indicating that they had multiple co-morbidities and are probably less stable upon admission than patients admitted to other postacute care settings. Relative to intensive rehabilitation facilities (IRFs), LTCHs had a higher proportion of patient costs attributable to ancillary services (for example, pharmacy, laboratory, and radiology charges).
- LTCHs provide care to a disproportionately large number of Medicare beneficiaries who are eligible because of disability. While individuals with disabilities make up about 10 percent of the Medicare population, they make up 17 percent of the LTCH patients.
- LTCH admissions typically come from outlier acute care hospitals, nonoutlier acute care hospitals, and other (indicating direct admissions without acute stay).
- In terms of age, those without prior acute care stays were younger and about twice as many were under the age of 65, with a mean age about five or three years lower than those with prior acute care stays (whether outlier or nonoutlier). When compared to intensive rehabilitation facilities (IRFs) the proportion of LTCH patients who are under 65 years of age (18 percent) was twice that of IRF patients (nine percent).
- About 1/3 of the LTCH Medicare stays were beneficiaries who are also eligible for Medicaid, compared to fewer Medicaid-eligible beneficiary stays at IRFs. CMS states that it is widely documented that dually eligible beneficiaries are generally much sicker than non-Medicaid eligible Medicare beneficiaries.

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

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

At present there are 11 licensed long-term care hospitals with a total of 769 beds licensed to operate in the State of Florida. There are 10 facilities (740 beds) reporting 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) shown as licensed but not yet operational. The licensed facilities are located in six of the 11 AHCA health planning areas and are in the following districts: 4, 5, 6, 7, 10 and 11. There are an additional 166 LTCH beds approved but not yet operational. 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 LTCH beds are approved, but not yet licensed: 20 beds at Kindred Hospital in District 4, six beds at Kindred in Fort Lauderdale in District 10 and the following approved new LTCHs: SemperCare (29 beds) in Tallahassee (District 2), Kindred Hospitals East, L.L.C. (31 beds) in District 3 at Munroe Regional in Ocala, HealthSouth (40 beds) in Sarasota (District 8); and Select Specialty (40 beds) in 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:

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

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

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

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

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

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

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

There are currently no licensed long-term care hospitals (LTCHs) located in District 8. However, HealthSouth LTCH of Sarasota, Inc. is currently in the construction phase of developing a 40-bed LTCH in Sarasota County in District 8. The HealthSouth LTCH is scheduled to open in January 2005.

The current bed complement, patient days and average occupancy of other forms of care in District 8 is as follows:

**Acute Care and Post-acute Care Providers
District 8 Beds and Utilization**

Facility Type	Total Beds District 8	District 8 Average Occupancy
Long-term Hospital Care	*40	Under Construction
Acute Care	3,883	46.58%
Comprehensive Med. Rehab	**240	79.54%
Hospital Based Skilled Nursing	98	66.65%
Skilled Care Community Nursing Homes	7,070	89.14%

Source: Hospital Bed Need Projections 1/23/04 for LTCH, acute care and CMR beds by District July 2002-June 2003 Skilled care community nursing home utilization for July 2002-June 2003.

***40 bed LTCH approved for HealthSouth/CON 9499/currently under construction.**

****1CMR bed approved for HealthSouth/CON 9449. Will increase licensed beds to 241 CMR beds.**

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

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service planning area. However, the MedPAC report states that patients may have different levels of functional limitation, differences in severity of illness within a given DRG, or personal preferences. The supply of providers, Medicare's eligibility requirements, and local practice patterns also may influence what type of post-acute care patients receive. The MedPAC analysis of LTCHs found that patients in market areas with LTCHs had similar acute hospital lengths of stay regardless of whether they used LTCHs or not. Patients who used these hospitals were three to five times less likely to use skilled nursing care, suggesting that skilled nursing facilities and LTCHs may be substitutes. In other words, the MedPAC report suggests that the potential exists for substitution of services among alternative settings. Although the Medicare payment system now specifically recognizes the LTCH patient population as being distinct from the patient populations treated by traditional acute care hospitals and post-acute care providers, there may be overlap between patient populations served, especially between the diagnoses and services provided to lower acuity LTCH patients.

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, has determined that LTCH services are similar to home health services, skilled nursing services and comprehensive medical rehabilitation services. It is therefore imperative that the applicant shows 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 LTCHs serve a distinct population and do not represent a substitute for other post-acute care options, neither demonstrated this contention.

The June 2003 MedPAC Report referenced above also found that patients in market areas with LTCHs had similar acute hospital lengths of stay regardless of whether they used LTCHs or not. Patients who used these hospitals were found to be three to five times less likely to use skilled nursing facility (SNF) care, suggesting that SNFs and LTCHs may be substitutes. Compared with similar patients who did not use LTCHs, total payments and mortality rates for LTCH patients were considerably higher. Although the MedPAC report questions the role LTCHs play in providing acute and post-acute care and the relationship of patient outcomes and the high cost of care in this post-acute setting, the report admits that more information is needed on a number of issues regarding LTCHs before concluding that LTCHs represent a valid post-acute care option.

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It was not definitively demonstrated by either co-batched applicant that there is not an overlap in services or that patients cannot be treated in one of three other venues: rehabilitation, home health and skilled nursing.

A discussion of each applicant's need analysis is presented below following general findings regarding expected population growth in the district within the next five years.

Population Estimates for District 8 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
Charlotte	153,511	167,400	9.05%	6.92%	3.81%
Collier	295,430	342,695	16.00%	21.19%	23.79%
DeSoto	35,363	39,029	10.37%	14.54%	16.96%
Glades	11,307	12,286	8.66%	14.46%	23.79%
Hendry	39,262	43,846	11.68%	13.83%	14.67%
Lee	488,187	538,700	10.35%	10.52%	7.84%
Sarasota	349,854	373,203	6.67%	9.08%	4.55%
Total District	1,372,914	1,517,159	10.51%	11.96%	9.58%

Source: AHCA Pop. Projections, published June 2003.

As shown above, the overall population in District 8 is expected to increase by 10.51 percent during the next five years, with the 65 and over and 75 and over age cohort increasing by 11.96 percent and 9.58 percent, respectively. Lee County, the most populous county in the district, is expected to increase at a lower rate than the total overall district average as well as the 65 and over and 75 and over age group averages for the district.

Select Specialty Hospital-Lee, Inc. (CON #9764) contends that there is a need for a LTCH to serve Lee and Collier Counties that exceeds the capacity of the HealthSouth (CON #9499) 40-bed LTCH currently under construction in Sarasota County. The applicant states that as an indication that access to LTCH services does not exist in District 8, for the 12-month period October 2002 through September 2003, only 94 residents of District 8 were admitted to Florida LTCHs. Of this number, the applicant states that 25 patients were from Lee County and 19 were from Collier County. The applicant contends that data support need for LTCH services for a county, rather than district planning area and presented an analysis of existing LTCHs in Florida to support its belief.

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The applicant selectively chose discharge data reported by existing Florida LTCHs from certain areas of the state, which partially illustrated its claim and did not consider all Florida LTCH discharge data to support this claim. When all Florida LTCHs are considered, the applicant's belief is not supported. Kindred Hospital-North Florida in Clay County (District 4), for example, not only serves Clay County, it also serves surrounding counties as well as other Agency districts and other states. Additionally, as the applicant has noted, almost all Florida LTCHs serve patients in other districts and certainly in other counties. The applicant's chart on page 1-12 of the need analysis illustrates this point. Table 1-7 on that page shows that, with the exception of a recently opened LTCH physically located within Florida Hospital with 27 discharges, only LTCHs in Dade County illustrate its claim. Of the two LTCHs in Hillsborough County one had slightly over half of its patients from Hillsborough County. Six of the 11 LTCHs shown in the chart had between 11.1 and 69.7 percent of their patients from the same county. The applicant's table actually demonstrates that LTCH service areas are not counties in Florida. The applicant also discussed the use of other post-acute care options and the distinguishing criteria for each in an effort to demonstrate that LTCHs do not represent a substitute for other forms of post-acute care services. However, as previously discussed, the June 2003 MedPAC Report to Congress does suggest that SNFs and LTCHs may be clinical substitutes for each other and that an overlap exists between the types of patients being treated in each venue. This issue may only be resolved if and when clinical criteria is developed for LTCH services.

The applicant did not conduct a study, similar to the *MedPAC* study, to look at the impact of LTCH services on skilled nursing or rehabilitation admissions to see if these services are used as a substitute for skilled nursing or comprehensive medical rehabilitation care. It is not known if the data illustrates that having LTCH beds available in the county or hospital is more of a convenience than a need. The Agency has no policy or existing rule for the establishment of LTCH services. There is no defined planning area. Need must be demonstrated by the applicant and the patient population in a defined service area.

In response to population and demographics, the applicant compares Agency population estimates (June 2003) for District 8 with state estimates to demonstrate that the district is expected keep pace with the 65 and over population growth for the state (1.87 percent/1.72 percent) and exceed the 75 and over growth rate for the state (2.42 percent/1.98 percent). However, as previously shown, the increase in population percentages for total population as well as the 65 and over and 75 and over age groups in Lee County is actually expected to be less than the district averages. Lee County is expected to account for approximately

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36 percent of the total population in District 8 and 33 percent of the 65 and over population in 2009.

The applicant states that rather than employ a methodology for generalizing LTCH demand, the actual demand is demonstrated by matching DRGs treated in Florida's LTCHs with those long-stay patients in acute care hospitals in Lee and Collier Counties in District 8. The applicant identified LTCH cases by DRG for the period October 2002 through September 2003 and for the same time period identified acute care patients with a length of stay of 25 days or longer in acute care hospitals in District 8. There were certain exclusions made (newborns, mental diseases, alcohol/drug abuse, etc.) to ensure comparability. The result was the identification of 876 potential cases from acute care hospitals that could be used for comparison purposes with LTCH cases.

The applicant identified 262 acute care cases in Lee and Collier County Hospitals during the 12-month period ending September 2003 it believes would meet its proposed LTCH admission criteria. The applicant increased this number by 25 percent, because the 262 cases were identified in DRGs that accounted for 75 percent of the statewide LTCH caseload. It is also not clear that it can be assumed that because patients were in acute care beds for an extended period of time with primary DRGs that are often seen in LTCHs that these 262 patients needed LTCH services or would have been discharged any earlier if the applicant's hospital were open and had an available bed. The average length of stay in licensed Florida LTCHs of 43.9 days was used to generate patient days and the subsequent cases arrived at were increased at a compounded annual growth rate of the elderly population (65 and over) of 1.8 percent for Lee and Collier Counties combined (1.2 percent for Lee County and 2.8 percent for Collier County), resulting in forecasted cases for the proposed LTCH. These compounded growth rates are based on AHCA population estimates for the period January 2004 through January 2007). These forecasted cases are presented in "conservative" and "most conservative" form. Under the "most conservative" method, the applicant contends that demand produces an average daily census of 41 and 42 patients for Lee and Collier Counties for the first and second years of operation (2006 and 2007). Under the "conservative" method, forecasted cases produce a perceived demand with an average daily census for the first two operating years of 56 and 57 patients, respectively. In looking at Lee County only, the applicant projects an average daily census of 27 patients for each of the first two years of operation using the "most conservative" estimate and an average daily census of 36 patients using the "conservative" estimate. In the "conservative" method, the forecasted cases are increased only by the rate of the elderly population growth, whereas the "most conservative" approach employs the cases that matched the statewide LTCH

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experience, inflated by 25 percent, to approximate the relationship between the LTCHs top 25 DRGs representing 75 percent of the cases and the balance or 25 percent of the 146 DRGs that were treated. The "conservative" forecast increases the baseline cases of 262 by one-half of the cases in the other DRGs that had long-stays. The result is then increased by the population growth for the elderly.

The applicant's results show anticipated demand but without consideration of other factors including patient, family, or physician preferences. These factors will have an influence on the decisions made to access LTCH services and impact the use of the hospital. The presumed need identified by the applicant was not supported by letters from citizens, government groups, activist's groups, physician groups, and hospitals citing real cases rather than suspected cases. If there were in fact hundreds of actual cases, the letters of support would be stronger and based on real examples of need. Although there were several letters from area physicians stating that they have "many patients" requiring LTCH services, none of the letters identified potential cases for referral to the proposed LTCH based on long-stay criteria, nor did any of the letters show that residents of the district needing LTCH services were unable to obtain those services outside of the area. There was also no indication provided from hospital case workers in Lee and Collier Counties with regard to potential LTCH cases. It also cannot be demonstrated that Lee and Collier County residents will not utilize the 40-bed freestanding LTCH currently under construction in Sarasota County or that the LTCHs in Districts 5 and 6 are not accessible or represent an acceptable solution.

In further support of the project, Select Specialty presented two methodological approaches for consideration. The first methodology utilizes a length of stay methodology to identify acute care patients with lengths of stay in acute care hospitals that exceed the acceptable DRG stay. The second method involves statewide age-specific LTCH use rates applied to population projections for July 2006 to predict the number of LTCH patient days in District 8.

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

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

The applicant contends that the Major Diagnostic Code (MDC) that creates the longest length of stays is not associated with DRGs but the DRGs that appear are tracheotomies of head, neck and throat with or without complications, that are assigned the MDC is "ALL", meaning that the result can occur within any of the MDCs. Likewise, DRGs 468 and 477, extensive operating room procedure related/unrelated to principle diagnosis, are assigned the MDC "PRE" meaning that it is a pre-event that can occur across all the MDCs. The applicant deleted the diagnoses not considered appropriate for the services offered at a LTCH (psychiatric and substance abuse diagnoses for example). The applicant states that the results of examining the long-stay days for the hospitals in District 8 estimate that 169 LTCH beds will be needed in calendar year 2006 for District 8, inflating the calendar year patient days greater than 25 days by the compounded annual growth rate.

In order to determine where to allocate the beds, the applicant states that the proportion of the days of care provided (skilled nursing care, hospital based skilled nursing, and comprehensive medical rehabilitation) was obtained and assigned to the counties that comprise what the applicant refers to as the "Northern Tier" and the "Southern Tier" of District 8. Both Lee and Collier Counties, considered the primary service area for the proposed LTCH are considered to be in the "Southern Tier" and represent 42.79 percent of the total District 8 cases. It can only be assumed that these "tiers" are presented by the applicant to show that the 40-bed LTCH currently under construction in Sarasota County is intended to serve the "Northern Tier", whereas the need in support of the proposed LTCH is primarily contained in the "Southern Tier" of counties that includes Lee and Collier Counties. The 169-bed calculated by the applicant as needed were allocated to the "Northern

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Tier" (97 beds) and 42.79 percent were allocated to the "Southern Tier" (72 beds). As noted earlier, in a recent report to Congress, *MedPAC* gathered data that suggests the length of stay in an acute care beds is not reduced when LTCH care is available. Using this method, which captures these excess acute days, does not appear valid. Additionally, this method assumes that patients with long lengths of stay cannot be appropriately placed in existing post-acute beds and are therefore held in acute beds and that has not been demonstrated by the applicant. This method is also somewhat arbitrary and not supported by evidence that patients needing post-acute services are unable to access them in either Lee or Sarasota Counties or within District 8.

In addition, as with any length of stay methodology, certain variations in patient characteristics can alter assumptions of need. These include the patient's functional ability, availability of caregivers at home, ethnicity, age, socio-demographics, and dependence on technology. The applicant's projected cases and patient days are based on assumed capture rates that may or may not occur. There was no documentation presented from area hospital discharge planners/case workers with regard to potential discharges of LTCH patients and no evidence was presented that would indicate that area residents requiring LTCH services have been unable to obtain post acute care from one of the several venues of post-acute services currently available within District 8 or from LTCHs located outside the district. Additionally, the introduction of LTCH services in District 8 by HealthSouth with the 40-bed freestanding LTCH currently under construction in Sarasota should help alleviate any perceived need for LTCH services in the total district. There is nothing to preclude Lee County hospitals from discharging patients in need of post-acute care to the new HealthSouth LTCH in Sarasota County. The applicant provided no evidence to suggest that once this new LTCH is established in Sarasota County that Lee County hospitals will not discharge patients needing LTCH services to this facility.

The applicant also presented a "Use Rate Model", calculating a statewide utilization rate to be applied in District 1 utilizing data from other Districts with LTCH beds. This approach uses varying use rates and is not considered a valid method of calculating need. In the Recommended Order arising out of Case No. 03-2484CON (Select Specialty Hospital-Sarasota, Inc. versus AHCA), the judge found that *"a use rate methodology is not necessarily a reliable indicator of bed need because the existing LTCHs are not evenly distributed statewide and the utilization rates for the existing LTCHs vary significantly."*

In summary, the applicant's need analysis is based on assumed capture rates that do not take into consideration other factors that will have an influence on the decisions made to access LTCH services and impact the

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use of the hospital. The letters provided in support of the project are not specific with regard to potential LTCH referrals and no indication was given that hospital case workers/discharge planners in the area were contacted with regard to potential cases. It was further not demonstrated by the applicant that patients that may meet the definition of a LTCH patient are not currently being placed, that an access problem exists in the district, or that patients are being denied access to LTCH services currently offered outside of District 8.

Long Term Care Hospital of SW Florida, Inc. (CON #9765) contends that there a need for LTCH beds in District 8 and specifically in Lee County within Lee Memorial Health System (LMHS) consisting of Lee Memorial Hospital, HealthPark Medical Center, and Cape Coral Hospital.

In response to population demographics and dynamics, the applicant focuses on five-year and ten-year projections to demonstrate continued growth in both total population and age 65 and over population. The applicant states that the age 65 and over population is expected to make up approximately 90 percent of the admissions to the LTCH and will increase by 25.8 percent in Lee County and 27.3 percent in District 8 over the next 10 years. In comparison, the State of Florida is expected to show a 26.2 percent growth for the 65 and over population over the 10-year period.

In an effort to demonstrate the lack of availability and access to LTCH services the applicant states that LMHS referred 22 patients to the three Tampa/St. Petersburg LTCHs in the past year but only had three accepted for admissions. According to the applicant, the majority of potential LTCH patients is currently being treated in the acute care (including ICU) and rehabilitation settings within LMHS and are not transferred out of the district due to family reasons, physician concerns regarding continuity of care, and patient's conditions for travel. The Kindred-St. Petersburg facility has historically been utilized at near capacity, thus explaining the lack of access to that facility. However, the facility added 22 beds, increasing its LTCH bed complement from 60 to 82 beds in April 2003. The facility reported an average utilization of 93.79 percent for the most recent reporting period ending in June 2003.

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The impact of the additional 22 beds is not reflected in the reported utilization but is expected to alleviate capacity constraints at that facility. Kindred-Central Tampa was utilized at 79.42 percent for CY 2002, while the Kindred-Tampa facility was utilized at only 67.50 percent, an indication of the availability of beds at those facilities. It is unclear why the Kindred-Tampa facilities did not admit referred patients from Lee Memorial.

The applicant recognizes the approved 40-bed HealthSouth LTCH project (CON #9499) but questions whether the project will be developed given HealthSouth's current financial situation. However, as previously discussed, the HealthSouth facility commenced construction in April 2004 with completion expected in January 2005. As a freestanding LTCH, the HealthSouth facility is expected to accept referrals from numerous area providers and will be in reasonable proximity to both the Sarasota and Lee metropolitan areas.

In an effort to determine need, the applicant reviewed 1,036 patient stays solely from LMHS to determine potential admissions to the LTCH. These patient stays are classified by the applicant as "long-stay." According to the Need Analysis by DRG (Attachment 4), the average length of stay was greater than 15 days.

These potential admissions represent patients over the age of 17 that originate solely from Lee Memorial (46.6 percent), Cape Coral Hospital (26.3 percent), and Health Park Medical Center (27.1 percent), the three hospitals that comprise LMHS. From the universal group identified, the applicant determined a patient day capture rate of 80 percent as being appropriate and an average length of stay of 30 days. The applicant arrived at projected admissions of 329 in year one, 2006 (9,870 patient days) and 365 admissions in year two, 2007 (10,950 patient days). The occupancy is projected to be 77.3 percent in year one and 85.7 percent in year two.

According to letters from physicians affiliated with Lee Memorial, a total of approximately 249 LTCH appropriate patients could utilize a LTCH serving Lee and surrounding counties. A letter from the executive director of The Rehabilitation Hospital, affiliated with Lee Memorial Health System, appears to be the basis for the applicant's projections, with estimates of over 350 patients from a patient universe of over 1,036 long-stay patients within the Lee Memorial Health System who would qualify for appropriate placement within the proposed LTCH for CY 2003.

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In addition, a letter from the executive director of The Rehabilitation Hospital, affiliated with LMHC, estimates approximately 365 potential LTCH placements. Although several of the letters identify potential cases for referral to the proposed LTCH and address travel constraints to LTCH services outside the district, the letters did not show that any residents of the district needing LTCH services were unable to obtain those services outside of the area or utilize other care options within the district, specifically skilled nursing and home health care. According to the MedPac report to Congress regarding monitoring post-acute care, patients with identical DRGs may use different post-acute providers because of a number of factors. The patients may have different levels of functional limitation, differences in severity of illness within a given DRG, or personal preferences. The supply of providers, Medicare's eligibility requirements, and local practice patterns also may influence what type of post-acute care patients receive. In addition, certain variations in patient characteristics can alter need assumptions. This may include the patient's functional ability, availability of caretakers at home, ethnicity, age, socio-demographics, and dependence on technology.

As previously noted, certain variations in patient characteristics and the availability of other care options may alter the need assumptions as presented. In addition, a 40-bed LTCH is currently under construction in District 8.

2. Local Health Plan Preferences

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

The 2003 District 8 CON Allocation Factors Report, effective July 2003, contains the following preference statement pertaining to long-term care beds:

Preference shall be given to applications that demonstrate the use of shared services and transfer arrangements that mutually increase existing resource efficiency.

Select Specialty Hospital-Lee, Inc. (CON #9764) states that it is currently working with area hospitals to foster relationships in anticipation of project approval. The applicant does not currently have any written transfer agreements or letters of intent to work with area

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providers. However, the applicant states its intention to establish transfer agreements with area providers to offer a continuum of care for the community. The applicant listed several services that it intends to contract for but does not demonstrate that the use of any shared services and transfer arrangements will mutually increase existing resource efficiency.

Long Term Care Hospital of SW Florida, Inc. (CON #9765) states that the proposed hospital within a hospital project will utilize the existing resources of Lee Memorial Health System. The applicant provided a letter of intent to enter into a lease with Lee Memorial Health System and copies of numerous patient transfer agreements that Lee Memorial has with other health care providers in the area. The applicant did not specifically demonstrate that the use of any shared services and transfer arrangements will mutually increase existing resource efficiency.

3. **Agency Rule Criteria** (*The Agency does not currently have adopted preferences relating to LTCHs*).

4. **Statutory Review Criteria**

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

Select Specialty Hospital-Lee, Inc. (CON #9764) states that at the present time the residents of District 8 do not have access to LTCH services and the closest LTCHs are located in District 6 (two in Hillsborough County), and in District 5 (one in Pinellas County). The applicant acknowledges the development of the 40-bed HealthSouth LTCH in District 8 but contends that it has documented sufficient numbers and types of long-stay in acute care hospitals that would benefit from an additional LTCH in the district. However, the applicant's need analysis as previously discussed is based on assumed capture rates that do not take into consideration other factors that will have an influence on the decisions made to access LTCH services and impact the use of the hospital. The applicant failed to provide sufficient documentation from area hospitals, physicians or other health care providers identifying potential referrals to the proposed LTCH. As discussed in the need section above, the applicant failed to demonstrate need for the project.

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

Long Term Care Hospital of SW Florida, Inc. (CON #9765) basically summarizes its previous discussion regarding need, pointing out that estimates of potential LTCH patients is demonstrated by an analysis of LMHS patients and survey support letters from area physicians. The applicant further questions the ability of HealthSouth to develop the approved 40-bed LTCH proposed for Sarasota. However, the HealthSouth project is currently under construction with a planned completion date of January 2005.

In response to quality of care, the applicant references several attachments to the application documenting the quality of care being provided by the host and its affiliates (see Item 4b for further discussion regarding quality of care).

In regard to accessibility and efficiency, the applicant references its condition to provide five percent of total patient days to Medicaid/charity care patients and to improve access to LTCH services, currently provided in excess of 100 miles away in Tampa and St. Petersburg. The applicant discussed the advantages of the hospital within a hospital concept, including less capital outlay, utilization of existing resources and continuity of care.

It was not shown that patients are unable to obtain LTCH services outside of the area or utilize other care options within the district. The *MedPAC* report to Congress notes that there are different levels of functional limitation, illness, personal preferences and other variations that impact post-acute care options as well as need assumptions.

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

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

Select Specialty Hospital-Lee, Inc. (CON #9764) is a development stage corporation, and as such has no operating history. The applicant is a controlled entity of Select Medical Corporation, an existing provider of LTCH services nationwide with 79 existing facilities, including one operational LTCH in Miami and a CON approved 40-bed LTCH to be located within Lucerne Medical Center in District 7. The applicant states that all existing Select Medical facilities have current JCAHO accreditation, except those that have recently opened and are awaiting survey. The JCAHO accreditation is an indication that quality of care is being delivered and that the components are in place to ensure the delivery of quality of care.

The applicant provided a description of its performance improvement plan for establishing specific methods and techniques for monitoring and improving care delivery. The processes and procedures described by the applicant appear to offer assurances that the LTCH will meet standards of care that reflect that quality of care will be provided.

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

Long Term Care Hospital of SW Florida, Inc. (CON #9765) is a new entity with no prior LTCH operational experience. The applicant intends to enter into a management arrangement with an as yet selected management group. The applicant did submit documentation of the Joint Commission of Accreditation of Healthcare Organizations (JCAHO) accreditation for the host, Lee Memorial Health System. The JCAHO accreditation is an indication that quality of care is being delivered and that the components are in place to ensure the delivery of quality of care.

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

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

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

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

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

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

Select Specialty Hospital-Lee, Inc. (CON #9764), a wholly-owned subsidiary of Select Medical, Inc., is a start-up company with \$10 in assets as of February 4, 2003. Since the financial statements presented for Select Medical Corporation are the same as those submitted with the previous application, we accessed the parent's latest publicly available 10-K report. The parent company had, at December 31, 2003, \$165.5 million in cash on hand, \$485.1 million in current assets and \$1.1 billion in total assets. Reported net operating revenue increased by 24 percent to \$1.4 billion, producing cash flows from operations of \$246.3 million, which is an increase of 104 percent over the previous year. This is a financially strong company.

Capital requirements:

Total capital costs for this project from Schedule 1 are \$14.7 million. Schedule 2 indicates that the applicant has included the cost from two previous applications of \$13.0 million (CON #9715) and \$12.3 million (CON #9656), as well as routine capital costs in year two of \$100,000 for a total capital budget of \$40.1 million. *If approved, the actual capital expenditures would be limited to the current project's cost.* Other than those listed above, no other capital projects are listed by the applicant. However, the parent in their 10-K filing stated that they are committed to developing eight to 10 projects a year as part of their expansion strategy. Although no dollar figure was attached to the projected development plan, we have seen in previous applications an estimated cost per hospital project that was in the \$2 to \$3 million range. The cost of the current application is much higher as it is for a freestanding hospital, rather than a "Hospital Within A Hospital".

Available capital:

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

Staffing:

According to Schedule 6, the applicant is anticipating that the 44-bed LTCH will require 63 FTE's in year one, increasing to 88 FTE's in year two. As a freestanding LTCH, all required staffing will be required with nursing staff/nursing aides comprising 33 FTE positions in year one and 42 positions in year two. The applicant provided a reasonable discussion of staff recruitment and retention plans and states that a range of benefits supports the staff, including multiple health and dental plans, retirement options along with full tuition reimbursement, and paid time off. The applicant provided a listing of various recruitment options. The applicant states its confidence in effectively recruiting and maintaining appropriately qualified staff to meet patient needs.

Conclusion:

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

Long Term Care Hospital of SW Florida, Inc. (CON #9765) is a development stage company with \$48,931 in assets as of September 30, 2003. Lee Memorial Hospital, Inc. d/b/a Lee Healthcare Resources, the parent, was formed for the purpose of serving as the support organization for Lee Memorial Health System (Hospitals). The company had, at September 30, 2002, \$5.2 million in unrestricted cash on hand, \$16.5 million in current assets and \$168.9 million in total assets. The company has total net assets of \$17.8 million, a net operating loss for the period of \$2.9 million with cash flows from operations of \$3.3 million. Currently, the company's supported entity (hospitals) operates three acute care general hospitals and a 112-bed nursing home. LHCR also operates several non-health care related businesses.

Long Term Care Hospital of SW Florida, Inc. will lease the space required to operate the hospital from Lee Memorial Hospital, Inc. The applicant presented a letter of intent to lease, which did not disclose the terms of the proposed lease. However, the applicant budgeted \$588,258 and \$607,670, respectively, for rent in the first and second years of operation.

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Capital requirements:

Total capital costs for this project from Schedule 1 are \$2,611,555. Schedule 1 did not include the estimated loss during the initial six-month qualification period of \$1,257,373, bringing the total project costs for the applicant to \$3,868,928. Schedule 2 indicates that the applicant has included the cost from the previous application of \$2,560,038, as well as routine capital costs in year two of \$200,000 and maturities on long-term debt of \$711,445 for a total capital budget of \$6.1 million.

Available capital:

Funding for the proposed project is coming from a subsidiary of one of the parent's wholly-owned for profit subsidiaries Lee Health Ventures, Inc. (LHV). A commitment letter from LHV states that it has the resources to fund the entire capital budget. The current line of credit and term loan balances available are sufficient to fund this project and adequate funding should be available. Examination of the consolidated financial statements shows that LHV, Inc.'s parent company Lee Memorial Hospital d/b/a Lee Healthcare Resources has the available financial resources to adequately fund the project.

Staffing:

The applicant anticipates that the proposed LTCH will require 32.65 new full-time equivalent (FTE) staff during the qualification period, increasing to 78.85 FTEs in each of the first two full years of operation. In view of the fact that several of the ancillary services will be leased from the host hospital, the listed FTEs primarily involve nursing staff and administrative staff. The applicant states that staffing levels are based upon the operating experience of the LTCHs management consultants. The applicant's fringe benefits package includes group health insurance, workman's compensation, the employer portion of FICA, bonuses, pension plan contributions, and education assistance. Fringe benefits have been set at 25 percent of the wage base for each FTE. There was no discussion regarding actual staff recruitment and retention plans.

Conclusion:

Contingent on access to the lines of credit by LHV, Inc., funding for the project should be available.

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

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

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

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

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

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Select Specialty Hospital-Lee, Inc. (CON #9764) projects net revenue per adjusted patient day (NRAPD) of \$1,025 in year one and \$1,131 in year two is between the control group lowest and median values of \$938 and \$1,231 in year one and \$969 and \$1,272 in year two. The lowest value is generally viewed as the practical lower limit on economies of operation. With net revenues per adjusted patient day falling between the lowest and median the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table).

Projected cost per adjusted patient day of \$1,273 in year one and \$1,018 in year two is between the control group median and highest values of \$1,146 and \$2,343 in year one and the control group lowest and median values of \$831 and \$1,183 in year two. Compared to the control group these costs are efficient. (See Comparative Table).

The year two operating profit for the hospital of \$1,369,559 computes to an operating margin per adjusted patient day of \$113, which falls between the peer group median and lowest values of \$125 and \$-31 respectively. The operating margin of 10.0 percent indicates that net revenues are somewhat disproportional to costs. The applicant's year two revenue projections might be overly optimistic to produce a 236.3 percent increase in operating margin in a single year's operation.

This project appears to be financially feasible.

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Select Specialty Hospital-Lee, Inc.

**TABLE TWO
PEER GROUP 12**

	2008	YEAR 2	<u>INFLATION ADJ. VALUES</u>		
	YEAR 2	ACTIVITY	Highest	Median	Lowest
	ACTIVITY	PER DAY			
ROUTINE SERVICES	11,530,150	950	1,305	968	713
INPATIENT AMBULATORY	26,631,379	2,194	13	0	0
INPATIENT SURGERY	295,371	24	0	0	0
INPATIENT ANCILLARY SERVICES	0	0	4,068	3,116	2,532
OUTPATIENT SERVICES	0	0	241	2	0
TOTAL PATIENT SERVICES REV.	38,456,900	3,169	5,099	4,108	3,247
OTHER OPERATING REVENUE	0	0	4	2	0
TOTAL REVENUE	38,456,900	3,169	5,103	4,110	3,247
DEDUCTIONS FROM REVENUE	24,728,805	2,037	N/A	N/A	N/A
NET REVENUES	13,728,095	1,131	2,360	1,272	969
EXPENSES					
ROUTINE	2,961,968	244	605	341	206
ANCILLARY	4,936,958	407	693	321	219
AMBULATORY	0	0	0	0	0
TOTAL PATIENT CARE COST	7,898,926	651	1,298	662	425
ADMINISTRATIVE & OVERHEAD	1,953,965	367	1,015	545	399
PROPERTY	2,505,645	*	*	*	*
TOTAL HOSPITAL EXPENSE	12,358,536	1,018	2,420	1,183	831
OTHER OPERATING EXPENSE	0	0	0	0	0
TOTAL EXPENSE	12,358,536	1,018	2,420	1,183	831
OPERATING INCOME (MARGIN)	1,369,559	113	280	125	-31
PERCENT OPERATING MARGIN	9.98%				
PERCENTAGES NOT INFLATION ADJUSTED					
PATIENT DAYS	12,137				
ADJUSTED PATIENT DAYS	12,137				
TOTAL BED DAYS AVAILABLE	16,060				
ADJ. FACTOR	1.0000				
TOTAL NUMBER OF BEDS	44				
PERCENT OCCUPANCY	75.6%		100.2%	84.2%	52.2%
PAYER CLASS					
	PATIENT	PERCENT			
	DAYS	OF			
		TOTAL			
SELF-PAY	97	0.8%	4.1%	0.9%	0.0%
MEDICAID	243	2.0%	13.3%	0.2%	0.0%
MEDICAID HMO	0	0.0%			
MEDICARE	9,413	77.6%	97.3%	75.4%	67.4%
MEDICARE HMO	0	0.0%			
INSURANCE	1,788	14.7%			
HMO/PPO	596	4.9%	23.4%	10.5%	0.0%
OTHER	0	0.0%			
TOTAL	12,137	100.0%			

Long Term Care Hospital of SW Florida, Inc. (CON #9765) submitted estimated revenues for the project that were developed based on the

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prospective payment system. In order to qualify for an exemption under CFR Part 412.23 for reimbursement under the prospective payment system a LTCH, 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 they intend to comply with this provision. Failure to comply would have a material negative impact on revenues.

The applicant submitted schedules for a six-month period (qualification period) required for Medicare reimbursement under the LTCH PPS. This period is required to demonstrate a minimum 25-day average length of stay. During the qualification period the hospital is reimbursed at the acute care rate. For the best estimation of long-range financial feasibility the two years subsequent to the demonstration period are being used in this analysis. However, the applicant estimated average reimbursement to be \$31,500 per Medicare discharge during the qualification period. The revenue amount on Schedule 7A for the qualification period calculates to an average for the estimated 46 discharges of \$33,655. The methodology appears contradictory and the applicant provided no data in support of these projections or any explanations for the revenue variances. At the higher revenue amount, the applicant is projecting a loss of \$1,257,373 during the qualification period. If the estimated average payment amount (Schedule 7A) is not realized, the loss projected for the qualification period will be much greater.

The application appears to be in conflict with section 412.22 42 CFR. This regulation prohibits a single entity controlling both the host hospital and the long-term hospital. Lee Memorial Health System, Inc., which is the operating arm of the Lee Health District ultimately, controls both the applicant and its host. This relationship could preclude the hospital being certified as a LTCH, which would make it ineligible for reimbursement under the LTCH-PPS program. If the hospital were to be reimbursed at acute care rates, this project would not be financially feasible.

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.

Projected net revenue per adjusted patient day (NRAPD) of \$1,255 in year one and \$1,287 in year two is between the control group median and

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highest values of \$1,214 and \$2,253 in year one and \$1,254 and \$2,327 in year two. The highest level is generally viewed as the practical upper limit on economies of operation. With net revenues falling slightly above the median, the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table.)

Projected cost per adjusted patient day of \$1,202 in year one and \$1,148 in year two is between the control group median and highest values of \$1,130 and \$2,311 in year one and in year two is between the control group lowest and median values of \$819 and \$1,167. Compared to the control group these costs are efficient. (See Comparative Table).

The year two operating profit for the hospital of \$1,519,246 computes to an operating margin per adjusted patient day of \$139, which falls between the peer group median and highest values of \$125 and \$280 respectively. The operating margin of 10.8 percent indicates that net revenues are somewhat disproportional to costs.

With the support of the parent, Lee Memorial Hospital d/b/a Lee Healthcare Resources, this project is financially feasible.

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Long Term Care Hospital of SW Florida, Inc.

**TABLE TWO
PEER GROUP 12**

	2007	YEAR 2	<u>INFLATION ADJ. VALUES</u>		
	YEAR 2	ACTIVITY	Highest	Median	Lowest
	ACTIVITY	PER DAY			
ROUTINE SERVICES	14,249,026	1,301	1,287	955	703
INPATIENT AMBULATORY	0	0	13	0	0
INPATIENT SURGERY	0	0	0	0	0
INPATIENT ANCILLARY SERVICES	0	0	4,012	3,073	2,497
OUTPATIENT SERVICES	0	0	238	2	0
TOTAL PATIENT SERVICES REV.	14,249,026	1,301	5,028	4,051	3,203
OTHER OPERATING REVENUE	0	0	4	2	0
TOTAL REVENUE	14,249,026	1,301	5,032	4,053	3,203
DEDUCTIONS FROM REVENUE	161,119	15	N/A	N/A	N/A
NET REVENUES	14,087,907	1,287	2,327	1,254	955
EXPENSES					
ROUTINE	3,336,632	305	596	337	203
ANCILLARY	4,673,873	427	683	317	216
AMBULATORY	77,928	7	0	0	0
TOTAL PATIENT CARE COST	8,088,433	739	1,279	654	419
ADMINISTRATIVE & OVERHEAD	3,097,495	371	1,001	538	394
PROPERTY	965,746	*	*	*	*
TOTAL HOSPITAL EXPENSE	12,151,674	1,110	2,387	1,167	819
OTHER OPERATING EXPENSE	416,987	0	0	0	0
TOTAL EXPENSE	12,568,661	1,148	2,387	1,167	819
OPERATING INCOME (MARGIN)	1,519,246	139	280	125	-31
PERCENT OPERATING MARGIN	10.8%				
PERCENTAGES NOT INFLATION ADJUSTED					
PATIENT DAYS	10,950				
ADJUSTED PATIENT DAYS	10,950				
TOTAL BED DAYS AVAILABLE	12,775				
ADJ. FACTOR	1.0000				
TOTAL NUMBER OF BEDS	35				
PERCENT OCCUPANCY	85.7%		100.2%	84.2%	52.2%
PAYER CLASS					
	PATIENT	PERCENT			
	DAYS	OF			
		TOTAL			
SELF-PAY	116	1.1%	3.8%	0.9%	0.0%
MEDICAID	435	4.0%	13.3%	0.2%	0.0%
MEDICAID HMO	0	0.0%			
MEDICARE	9,906	90.5%	97.3%	75.4%	67.4%
MEDICARE HMO	0	0.0%			
INSURANCE	232	2.1%			
HMO/POP	261	2.4%	23.4%	10.5%	0.0%
OTHER	0	0.0%			
TOTAL	10,950	100.0%			

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

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District 8 Long-term Care Hospital Projects Comparison Table

Second Operational Year

Selected Financial Indicators	Long Term Care Hospital of SW Florida, Inc.	Select Specialty Hospital of Lee, Inc.
CON Number	<u>9765</u>	<u>9764</u>
Net Revenue per adjusted patient day	\$1,287	\$1,131
Cost per adjusted patient day	\$1,148	\$1,018
Operating profit (loss) per patient day	\$ 139	\$ 113
Estimated Managed Care level	2.4%	4.9%
Estimated Medicaid level	4.0%	2.0%

Select Specialty Hospital-Lee, Inc. (CON #9764) projects managed care days, including Medicare and Medicaid managed care days, to represent 4.9 percent of its patient days. This is between the control group lowest and median level of activity of 0.0 and 10.5 percent. The projected levels, if realized, will not have a positive impact on competition to promote quality assurance and cost-effectiveness.

Long-Term Care Hospital of SW Florida, Inc. (CON #9765) projects managed care days, including Medicare and Medicaid managed care days, to represent 2.4 percent of its patient days. This is between the control group median and lowest level of activity of 10.5 and 0.0 percent. The projected managed care levels are not significant in promoting quality assurance and cost-effectiveness.

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

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

Select Specialty Hospital-Lee, Inc. (CON #9764) proposes to establish a freestanding 44-bed long-term care hospital to be located in Fort Myers, Florida.

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There are code issues in the surgical suite regarding the toilet/shower/locker spaces for the staff and doctors. Differentiation between staff and physicians varies for different facilities. Usually, physicians do not share these spaces with nurses, orderlies and other employees. In this application, there are separate locker and toilet rooms for physicians and staff indicating that the two do not share spaces. There is a toilet/shower room labeled PHY. TLT. that also shows a degree of separation.

The guidelines, in paragraph 7.7.C11, states that “appropriate areas shall be provided for male and female personnel”. The same paragraph states that “these areas shall contain lockers, showers, toilets lavatories equipped for hand washing, and space for donning surgical attire”. The plan only provides for one gender and must have another toilet room for the opposite gender. A space labeled STAFF TLT. opens off the semi-restricted area outside the operating room and has no shower. This room is inappropriately located just outside the operating room in what appears to be a semi-restricted corridor.

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

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

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

New hospital construction must meet the requirements of disaster preparedness in the Florida Building Code, Section 419.4. These provisions not only prescribe the protection of the exterior shell of the facility, but also affect the location and protection of the generator and other mechanical and electrical systems. The site for the proposed

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

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

Long Term Care Hospital of SW Florida, Inc. (CON #9765) proposes to establish a 35-bed long-term care hospital to occupy portions of the third, seventh and eighth floors of Lee Memorial Hospital. The beds will be almost equally distributed between the seventh and eighth floors with the third floor used for administrative and some support spaces. The administrative spaces will require much more demolition than the patient room floors which have many spaces that will remain intact.

The location of the existing bank of elevators makes it necessary for people accessing Lee Memorial's seventh and eighth floors to travel through the new hospital, but this sometimes occurs with the hospital within a hospital concept. The situation is not considered ideal, but is acceptable.

Both the seventh and eighth floors will have an isolation room that is part of the new bed count and these will be renovated to be handicapped accessible. There is also one semi-private handicapped accessible patient room on each of these floors. All other patient rooms are existing and will remain as they are except for some minor refurbishing. All renovated patient rooms have the required hand washing station within the patient room as well as one in the toilet room.

The patient rooms do not appear to have showers large enough to accommodate a patient on a stretcher. Although this is desirable it is not required. The seventh floor has a sitz-bath/shower room that appears to be large enough to accommodate a stretcher.

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The codes listed in the drawings appear to be correct. The costs and schedules appear to be reasonable for a project of this scope. The new facility has the requisite pharmacy, but a space for basic radiographic equipment is not specifically shown. There is an equipment storage space on the seventh floor that may be of sufficient size to accommodate this equipment. The radiographic equipment must belong to the new facility and may not be leased from the host hospital.

It was not readily apparent in the narrative as to the disposition of the Lee Memorial beds that will be replaced by the new hospital patient rooms.

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

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

Select Specialty Hospital-Lee, Inc. (CON #9764) is a development stage company with no operating history. As a condition of approval, the applicant is requesting to condition award of the certificate of need on the provision of 2.0 percent of patient days to Medicaid and 0.8 percent of patient days for self-pay which includes charity care. Financial Schedule 7A reflects the applicant's expectation to meet the requested condition in both the first and second year of operation. The applicant proposes to exceed the state Medicaid average for LTCH patient days but falls short of meeting the state average for charity care.

Long Term Care Hospital of SW Florida, Inc. (CON #9765) is a development stage company with no operating history. As a condition of approval, the applicant agrees to provide a combined five percent of the inpatient admissions annually to Medicaid/charity patients. According to Financial Schedule 7A, the applicant is showing 4.11 percent of total patient days allocated to Medicaid and 0.88 percent allocated to charity care in year one. In year two, the applicant is showing a slight decrease in Medicaid patient days to 3.97 percent and a slight increase in charity care patient days to 1.06 percent. The applicant's projected Medicaid provision is higher than the state average for LTCHs while the projected charity care provision is less than the state average in both operating years.

F. SUMMARY

Select Specialty Hospital-Lee, Inc. (CON #9764) proposes the development of a 44-bed freestanding long-term care hospital to be located in Lee County, Fort Myers, Florida.

The proposed hospital will consist of 44,434 gross square feet of new construction and construction costs of \$8,504,650. Total project cost is estimated to be \$14,658,236. The funding for the proposed project will be provided by Select Medical Corporation.

As a condition of approval, the applicant agrees to condition award of the certificate of need on the provision of 2.0 percent of patient days to Medicaid and 0.8 percent of patient days for self-pay which includes charity care.

Long Term Care Hospital of SW Florida, Inc. (CON #9765) proposes to establish a 35-bed long-term care hospital (LTCH) as a hospital-within-a-hospital at Lee Memorial Hospital, in Lee County, Florida.

The project will involve a partial renovation of the third, seventh and eighth floors within the existing Lee Memorial Hospital. The total project cost of \$2,611,555 includes renovation costs of \$1,399,801 and involves 18,122 gross square feet (GSF) of renovation.

As a condition of approval, the applicant agrees to provide a combined five percent of the inpatient admissions annually to Medicaid/charity patients.

After weighing and balancing all applicable review criteria, the primary issues are summarized below:

Need:

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

Select Specialty Hospital-Lee, Inc. (CON #9764)

- The applicant's need analysis and methodological approaches are based on assumed capture rates and improved access to LTCH services. The assumptions of need are not supported by recent federal studies or specific support from area health care providers with regard to potential LTCH cases. It was further not demonstrated that patients that meet the definition of a LTCH patient are not currently being placed or that patients are being denied access to

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LTCH services currently offered outside of District 8. Additionally, with the construction of a new freestanding 40-bed LTCH in District 8 and the licensure of 22 additional LTCH beds for the Kindred-St. Petersburg facility in contiguous District 5, the need for additional LTCH beds in the area is not demonstrated.

Long Term Care Hospital of SW Florida, Inc. (CON #9765)

- The applicant basically contends that LTCH appropriate patients are not accessing LTCH services outside of the district due to travel constraints, concerns regarding continuity of care, and lack of availability of LTCH beds due to high utilization. The applicant did not explain why some hospital referrals requiring LTCH services were denied access those services outside of the area and specifically in LTCHs in District's 5 and 6. Although the applicant identified potential referrals based on identified health system long-stays, it was not demonstrated that patients were unable to utilize other care options in the area. Additionally, with the construction of a new freestanding 40-bed LTCH in District 8 and the licensure of 22 additional LTCH beds for the Kindred-St. Petersburg facility in contiguous District 5, the need for additional LTCH beds in the area is not demonstrated.

Quality of Care:

Select Specialty Hospital-Lee, Inc. (CON #9764)

- The applicant is a new development stage corporation with no operating experience. However, the applicant's parent company is an existing provider of LTCH services and states that all existing LTCHs have a current JCAHO accreditation with the exception of those that have recently opened and are awaiting survey. The applicant provided a description of its performance improvement plan. The processes and procedures described by the applicant appear to offer assurances that the LTCH will meet standards of care that reflect that quality of care will be provided.

Long Term Care Hospital of SW Florida, Inc. (CON #9765)

- The applicant is a development stage corporation with no prior operational experience. The applicant intends to enter into a management arrangement with an as yet selected management group.

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The host (Lee Memorial Health System) is JCAHO accredited and does appear to be a quality provider. The applicant provided a description of its performance improvement plan. The processes and procedures described by the applicant appear to offer assurances that the LTCH will meet standards of care that reflect that quality of care will be provided.

Cost/Financial Analysis:

Select Specialty Hospital-Lee, Inc. (CON #9764)

- The applicant is a start-up company with limited assets. However, the parent, Select Medical, Inc. is a financially strong company with total assets of \$1.1 billion. Reported net operating revenue increased by 24 percent to \$1.4 billion in 2003, producing cash flows from operations of \$246.3 million, which is an increase of 104 percent over the previous year. The funding for the proposed project should be available as needed from the parent company.
- With net revenues falling between the lowest and median values in the first two years of operation, the facility is expected to consume health care resources in proportion to the services provided. In comparison with the control group hospitals, the applicant's projected cost per adjusted patient day are efficient. The projected operating margin of 10.0 percent indicates that net revenues are somewhat proportional to costs. The year two revenue projections might be overly optimistic to produce a 236.3 percent increase in operating margin in a single year's operation. The project appears to be financially feasible.
- The applicant projects managed care to represent 4.9 percent of its patient days. This is between the control group lowest and median level of activity of 0.0 and 10.5 percent. The projected levels, if realized, will not have a positive impact on competition to promote quality assurance and cost-effectiveness.

Long Term Care Hospital of SW Florida, Inc. (CON #9765)

- The applicant is a development stage company with limited assets. The funding for the proposed project will be provided by a subsidiary of the parent corporation. The funding source's current line of credit and term loan balances appear sufficient to fund the proposed project.

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- The applicant's financial projections for the qualification period indicates a discrepancy that may result in a greater loss than anticipated. The proposed project appears to be in conflict with Section 412.2242 CFR. This regulation prohibits a single entity controlling both the host hospital and the LTCH. LMHC, Inc., which is the operating arm of the Lee Health District ultimately, controls both the applicant and its host. This relationship could preclude the hospital being certified as a LTCH, which would make it ineligible for reimbursement under the LTCH prospective payment system program. If the hospital were to be reimbursed at acute care rates, the project would not be financially feasible. As presented, and with net revenues falling slightly above the median, the facility is expected to consume health care resources in proportion to the services provided. In comparison with the hospital control group, the applicant's projected costs appear efficient. The operating margin of 10.8 percent indicates that net revenues are somewhat disproportional to costs. With the support of the parent company, the project is considered financially feasible. However, the viability of the project is brought into question as the result of a potential conflict with regulations regarding the controlling relationship between the applicant and the host. This potential problem may preclude the facility from receiving reimbursement under the LTCH PPS program.
- The applicant projects managed care days, including Medicare and Medicaid managed care days, to represent 2.4 percent of its patient days. This is between the control group median and lowest level of activity of 10.5 and 0.0 percent. The projected managed care levels are not significant in promoting quality assurance and cost-effectiveness.

Architectural Analysis:

Select Specialty Hospital-Lee, Inc. (CON #9764)

- The project involves new construction of a 44-bed freestanding LTCH. The list of applicable building codes appear to be essentially correct. However, no information was provided specific to the requirements regarding disaster preparedness in the Florida Building Code.

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- The project as submitted has code issues with regard to identified areas within the surgical suite. The plan also provides certain required and appropriate staff areas for only one gender rather than both. There is also identified area that is inappropriately located outside the operating room. There are also other areas that are not properly identified. Although the surgical area is not expected to be The costs and schedule appear to be reasonable.

Long Term Care Hospital of SW Florida, Inc. (CON #9765)

- The project involves a 35-bed LTCH to be located on the third, seventh, and eighth floors of Lee Memorial Hospital in medical/surgical space. The disposition of the current beds is not shown. The new facility has the required pharmacy, but space for basic radiographic equipment is not specifically shown. However, there is equipment storage space that may be of sufficient size to accommodate this equipment. The listing of applicable building codes appear to be correct.
- The projected costs and schedules appear to be reasonable.

G. RECOMMENDATION

Deny CON #9764 and CON #9765.

AUTHORIZATION FOR AGENCY ACTION

Authorized representatives of the Agency for Healthcare 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