STATE AGENCY ACTION REPORT

ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

   Select Specialty Hospital-Palm Beach, Inc./CON #9769
   2021 Church Street, Suite 202
   Nashville, Tennessee 37203-2016

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

   Kindred Hospital East, L.L.C. (CON 9770)
   680 South Fourth Street
   Louisville, Kentucky 40202

   Authorized Representative: Bud Wurdock
   (502) 596-7718

2. Service District

   District 9

B. PUBLIC HEARING

A public hearing was not held or requested with regard to the establishment of the proposed long-term care hospitals in District 9. However, letters of support were submitted for each applicant as follows:

Select Specialty Hospital-Palm Beach, Inc. (CON #9769) submitted 38 letters either in support of the proposed project or attesting to the LTCH services provided by Select Specialty in areas outside of Palm Beach County. The letters of specific support for the Palm Beach proposal include support from JFK Medical Center in Atlantis, Florida. In this support letter, JFK Medical Center's CEO provided the number of patients staying more than 24 days at the hospital for a three-year period as well as comments regarding other venues of post-acute care, and stating the belief that LTCHs provide a unique service. Bethesda Healthcare System (Bethesda Memorial Hospital) also supports the

project and identified 168 discharges in CY 2002, who remained in Bethesda Memorial for 24 or more days. Ms. Mary McClory, RN, CPHQ at Bethesda shares the CEO at JFK's belief that LTCH represents a unique service and rehabilitation and skilled nursing facilities do not represent the clinically appropriate setting for LTCH patients. A letter from Tenet South Florida Health System also supports the proposed project but was less specific in stating that the five acute care hospitals it operates in South Florida had "many" patients with lengths of stay greater than 15 days who could have benefited from LTCH services. Caregiver Services, Inc. d/b/a Friends Assisting Seniors & Families endorses the project indicating that there is a class of patients requiring LTCH services, whose needs cannot be met by in-home services. The Director of Case Management/Discharge Planning at Sebastian River Medical Center also supports the project stating that the hospital has patients on a daily basis that remain in the hospital for extended periods of time who could benefit from LTCH services within an accessible distance. However, none of the letters provided the disposition of these patients or provided evidence that patients were actually identified as needing LTCH services, but were not transferred to an existing LTCHs for a specific reason. All letters speculated that patients in the area might have benefited from LTCH services based on their length of stay and primary diagnosis.

The applicant also submitted 16 letters of support from physicians with at least eight letters submitted by Miami physicians familiar with Select Specialty's Miami LTCH. The location of the physician's practices was not disclosed and it is not known if the identified physicians will utilize the proposed Palm Beach facility.

Kindred Hospitals East, L.L.C. (CON #9770) submitted 120 letters of support for the project from various physicians and nurses/case workers in District 9. The majority of the letters state that the proposed project will enhance health care services in District 9 and offer patients and their families continuity of care and improved access. Approximately 30 letters of support were submitted by area physicians, several indicating anywhere between a few and several hundred patients who could have benefited from a LTCH being located in Palm Beach County. Approximately 85 of the letters, the majority from case workers and nurses associated with Delray Medical Center (owned by Tenet), Palm Beach Garden's Medical Center, Indian River Hospital, and Wellington Medical Center, identified several hundred patients who could have benefited from a LTCH in the district. The subsequent disposition of these patients is not known.

C. PROJECT SUMMARY

Select Specialty Hospital-Palm Beach, Inc. (CON #9769), a wholly-owned subsidiary of Select Medical Corporation, proposes to establish a 60-bed freestanding long-term care hospital to be located in Palm Beach County, Florida. The parent, Select Medical Corporation, currently operates 79 LTCHs in 24 states, including one operational LTCH in Miami that was licensed on December 23, 2002, and an approved 40-bed LTCH in District 7 (CON #9654). Select Specialty has submitted six 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 53,420 gross square feet of new construction and construction costs of $9,348,500. Total project cost is estimated to be $16,251,882. The funding for the proposed project will be provided by Select Medical Corporation.

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

Kindred Hospitals East, L.L.C. (CON #9770) proposes to construct a freestanding 70-bed LTCH to be located in the north central portion of Palm Beach County. Kindred Hospitals East is currently the licensee and operator of 16 LTCHs across the United States, and its parent company Kindred Healthcare, Inc., operates 66 facilities nationwide. Kindred also owns seven of the 11 licensed LTCHs in Florida and is approved to add 20 beds to Kindred Hospital-North Florida (District 4/Clay County).

The proposed project involves 45,896 gross square feet (GSF) of new construction. The total construction costs is estimated to be $8,128,000 with total project costs of $14,430,808.

As a condition of approval, the applicant agrees to a combined provision of 2.8 percent of its total patient days to Medicaid and charity care patients beginning with the second year of operation.

D. REVIEW PROCEDURE

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

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

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

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

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

1. Fixed Need Pool

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

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

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

According to the June 2003 Medicare Payment Advisory Commission (MedPAC) Report to Congress, there has been substantial growth in the number of 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 LTHCs, total payments and mortality rates for LTCH patients were considerably higher."[1]

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

b. Determination of Need.

In the absence of agency policy regarding long-term care hospital beds and services, Chapter 59C-1.008 (2)(e), Florida Administrative Code, provides a needs assessment methodology which must include, at a minimum, consideration of the following topics, except where they are inconsistent with the applicable statutory or rule criteria:

a. Population demographics and dynamics;
b. Availability, utilization and quality of like services in the district, subdistrict or both;
c. Medical treatment trends; and
d. Market conditions.

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

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

Note: The Centers for Medicare and Medicaid Services (CMS) have established a prospective payment system for short-stay acute care providers to include limited "outlier" payments for long-stay acute care patient s in short-stay acute care hospitals. Effective October 1, 2002, CMS implemented a new prospective payment system for long-term care hospital providers. Through this system, termed LTC DRGs, CMS is recognizing the patient population of LTCHs as separate and distinct from the populations treated by short-term acute care and post acute care providers that each have their own prospective payment system in recognition of the material differences in patient populations, cost of care, and health care delivery. Under this system, each patient admitted to a LTCH is assigned a DRG with a corresponding payment rate that is weighted based upon the patient's diagnosis and acuity. The LTCH will be reimbursed the pre-determined payment rate for that DRG, regardless of the cost of care. A proposed rule updating the LTCH annual payment rate and providing for certain policy changes was published in the Federal Register on January 30, 2004 (Vol. 69, No. 20).

Federal Regulations, 42 CFR Parts 412, 413 and 476 regarding prospective payment for long-term care hospitals published in Volume 67, Number 169 of the Federal Register describe the universe of LTCHs on page 55960 as:

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

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

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

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

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

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

At present there are 11 licensed long-term care hospitals with a total of 769 beds licensed to operate in the State of Florida. However, only 10 facilities (740 beds) reported utilization for the reporting period with Sister Emmanuel Hospital For Continuing Care (29 beds) located in District 11 (Miami) and Supercharge (30 beds) located in District 2 (Panama City), 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 beds approved but not yet operational LTCH beds. Sixty-six of these beds are approved for LTCHs in districts with existing facilities: Districts 4, 7 and 10. The remaining 100 beds will establish new LTCHs in Districts 2, 3 and 8. The following 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 District 8 (Sarasota), and Select Specialty (40 beds) in District 7 (Orlando).

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

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

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

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

Source: Florida Hospital Bed Need and Service Utilization, 1/23/04
****Kindred-North Florida approved under CON 9650 to add 20 LTCH beds***
*****SemperCare Hospital of Orlando licensed 06/12/03 with one quarter of operation shown.***
******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 for the 30 bed SemperCare Hospital in Panama City on 1/05/04..***

There are currently no existing long-term care hospitals (LTCHs) located in District 9. The nearest LTCHs to Palm Beach County are located in Broward County in District 10. Kindred Hospital-Hollywood has 124 licensed beds and reported an average occupancy of 69.08 percent for the July 2002 through June 2003 reporting period. Kindred Hospital-Fort Lauderdale is licensed for 64 beds and reported an average occupancy of 89.60 percent for the same time period. The Kindred facilities are within one-hour travel time for the majority of Palm Beach County residents.

The current bed complement, patient days and average occupancy of other distinct forms of care in District 9 shown below:

Acute Care and Post Acute Care Providers
District 9 Beds and Utilization

Facility Type	Total Beds District 9	District 9 Average Occupancy
Acute Care	4,413	65.78%
Comprehensive Med. Rehab	256	80.87%
Hospital Based Skilled Nursing	68	38.14%
Skilled Care Community Nursing Homes	8,760	87.19%

Source: Hospital Bed Need Projections 01/23/04 for LTCH, acute care and CMR beds By District for the July 2002-June 2003 reporting period.
Skilled care community nursing home and hospital based skilled nursing utilization for July 2002-June 2003.

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

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.

It was not demonstrated by either co-batched applicant that there is not an overlay in services or that patients cannot be treated in one of three other venues (rehabilitation, home health and skilled nursing), or that access to LTCH services in adjacent service areas are prohibitive.

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 9 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
Indian River	122,735	133,476	8.75%	8.79%	4.99%
Martin	136,769	148,956	8.91%	9.46%	5.92%
Okeechobee	37,633	39,838	5.86%	12.67%	12.53%
Palm Beach	1,230,993	1,352,730	9.89%	9.69%	3.99%
St. Lucie	211,455	231,488	9.47%	9.63%	6.62%
Total District	1,739,585	1,906,488	9.59%	9.63%	4.65%

Source: AHCA Pop. Projections, published June 2003.

As shown above, the overall population in District 9 is expected to increase by 9.59 percent during the next five years, with the 65 and over and 75 and over age cohort increasing by 9.63 percent and 4.65 percent, respectively. Palm Beach County is the most populous county in the district and by the year 2009 is projected to have 41 percent of the total population, 46 percent of the 65 and over population and 43 percent of the 75 and over population in the district.

Select Specialty Hospital-Palm Beach, Inc. (CON #9769) has defined its service area for the purpose of demonstrating need as Palm Beach County. The applicant contends that Palm Beach County is an appropriate service area for LTCH services due to the lack of LTCHs within the county; the limited number of patients accessing LTCH services outside the county; and the number of long-stay acute care patients remaining in hospital beds in the county. The applicant anticipates receiving referrals from area hospitals including JFK Medical Center, Delray Medical Center, St. Mary's Hospital, Palm Beach Gardens, Bethesda Memorial Hospital and Good Samaritan Medical Center, all located in Palm Beach County. However, the applicant's need analysis is primarily focused on data from JFK Medical Center. In a letter of support, JFK Medical Center's CEO provided the number of patients staying more than 24 days at the hospital for a three-year period as well as comments regarding other venues of post-acute care, and stating the belief that LTCHs provide a unique service. The letter of support states that an evaluation of the hospital's "long-stay" patients identified 401 calendar year 2002 discharges who remained in the hospital for 24 or more days. The average length of stay for these patients was 38.6 days and the average age was 67.8 years. Circulatory system diseases represented more than one-quarter of the total long-stay patient count. The letter further states that the aforementioned facts are not a single-year phenomenon and that a review of similar data for the past three years reveals that JFK Medical Center had 335 long-stay patient discharges in CY 2000 and 377 in CY 2001. Bethesda Healthcare System (Bethesda Memorial Hospital) also supports the project and identified 168 discharges in CY 2002, who remained in Bethesda Memorial for 24 or more days. The actual average length of stay for these patients was 33.3 days representing an aggregate 5,594 patient days, or an average daily census of 15. The single largest DRG groups were ventilator patients (14 percent) and digestive disorders (14 percent). Patients with respiratory system disease represented 11 percent; and patients with circulatory system disease represented eight percent. Sixty percent of the identified patients were Medicare/Medicare HMO patients and 16 percent were Medicaid patients. The review of similar data for the past three years reveals Bethesda Memorial had 173 potential LTCH discharges in CY 2000, 171 in CY 2001 and 168 in CY 2002.

The applicant states that while closest in proximity, the two Kindred LTCHs in Broward County are not accessible due to distance and travel times. Discharge data for Kindred-Fort Lauderdale for the period July 2002 through June 2003 shows that approximately 26 percent of total admissions (137 admissions) to that facility originated from Palm Beach County. This reasonably high number of LTCH admissions originating from Palm Beach County alone would tend to indicate that access to LTCH services in contiguous District 10 (Broward County) is not constrained for District 9 residents and specifically Palm Beach County residents. For the same period of time the Kindred-Hollywood facility had 13 LTCH admissions from Palm Beach County. The Kindred facilities in Tampa and Coral Gables had only one Palm Beach County admission each.

In response to population and demographics, the applicant compares Agency population estimates for Palm Beach County with total District 9 estimates for the five-year period January 2003 to January 2008, to demonstrate both an increase in total population and elderly population. According to AHCA Population projections, the percentage of growth in both total population and 65 and over population approximates the district average while the 75 and over population in Palm Beach County is estimated to be slightly less than the total overall growth of this age group in the district. Palm Beach County is the most populous county in the district and by the year 2008 is projected to have 41 percent of the total population, 46 percent of the 65 and over population and 43 percent of the 75 and over population in the district.

In the absence of an approved methodological approach to need for LTCH beds, the applicant presented five methods for estimating need. The first method involves an extended length of stay analysis based on Palm Beach County acute care hospital long-stay discharges. The second method addresses the geometric mean length of stay plus 15 days and seven days, respectively. The third method analyzes long-stay in acute care versus LTCH penetration, the fourth method employs a statewide use rate analysis applied to the Palm Beach County population, and the fifth method focuses on a UB-92 (Universal Billing Form 92) patient discharge analysis for Palm Beach County.

The long length of stay model evaluates hospital cases that are likely to result in long lengths of stay of 24 days or longer to determine how many cases are appropriate for LTCH services. The evaluation of the hospital discharges excluded lengths of stay of less than 24 days, patients under the age of 14, psychiatric diagnosis, substance abuse diagnosis, obstetric diagnosis, newborn diagnosis and rehabilitation diagnosis. The net number of discharges were then identified to show a purported need for LTCH beds. The applicant arrived at a total of 1,870 hospital discharges

with a length of stay of 24 days and longer. The applicant multiplied the potential number of patients by the average length of stay for LTCHs in Florida (40.6 days) to arrive at a total patient days and then divided this number by 365 to arrive at the average daily census of 208 patients for Palm Beach County. Based on a 75 percent occupancy rate, the applicant arrived at a need for 277 beds, substantially more than the 60 beds requested. In view of the applicant's intention to provide a wide range of LTCH services and not concentrate just on ventilator/pulmonary services, the use of a statewide average length of stay may overstate need. A review of the most recent reported utilization (CY 2003) for the Select Specialty Hospital in Miami shows that hospital with an ALOS of approximately 30 days, less than the state average. The experience in Miami may be more representative of this applicant than the state average. However, the applicant did not show that patients in District 9 or Palm Beach County needing LTCH services were unable to access them in a timely manner.

In view of the applicant's intention to be located in close proximity to JFK Medical Center and accept long-stay admissions from that facility, the applicant applied the same analysis as above, based on 391 potential long-stay patients. According to the applicant's calculations, JFK patients alone would support a need for 58 beds (391/40.6/365/75 percent). However, the application of a 25 to 30-day length of stay results in a theoretical need for 20 to 24 beds to serve JFK only, less than the 60 beds requested. Using the national median length of stay of 33 days results in a need for 27 beds, still less than requested. The applicant also conducted a long-stay analysis of the five Tenet facilities in District 9 to arrive at a potential long-stay caseload of 844 patients. According to the applicant's calculations, these patients alone would support a LTCH of 125 beds. Assuming the Tenet facilities would discharge all of its long-stay appropriate patients to the proposed facility, a more realistic but also theoretical need for 57 beds can be shown based on the national median length of stay of 33 days. However, it is unlikely that the proposed LTCH will capture all potential hospital discharges. It was also not demonstrated that patients in District 9, Palm Beach County, JFK Medical Center or any of the five Tenet facilities in District 9, needing LTCH services were unable to access them in a timely manner.

In addition to the support from JFK Medical Center and Bethesda Healthcare System (Bethesda Memorial Hospital), support was also provided by Tenet South Florida Health System representing the five Tenet hospitals it operates in South Florida. However, other than potential discharges identified by JFK Medical Center and Bethesda Memorial, potential LTCH discharges were not identified for the Tenet hospitals. There were also numerous letters from area physicians, but

again no specific admission data was provided with regard to potential LTCH patients. As noted earlier, a recent study of LTCH care shows that even when a LTCH is established in an area, lengths of stay at acute care hospitals do not necessarily decrease. Again, the applicant has not shown that patients in District 9, Palm Beach County or Bethesda Memorial Hospital needing LTCH services were unable to access them in a timely manner.

The second method examines the geometric mean length of stay (GMLOS) plus 15 days to arrive at 2,358 potential LTCH discharges from Palm Beach County hospitals and a resulting need for 350 beds based on an average length of stay of 40.6 days and 284 beds based on an average length of stay of 33 days. The application of this method to JFK only results in needed beds of 60 (33 day LOS) or 74 beds (40.6 day LOS). The applicant also analyzed discharges using the GMLOS plus seven days to arrive at needed beds of between 1,129 and 1,389 in Palm Beach County and between 223 and 275 beds for JFK alone. However, the GMLOS plus seven-day method of calculating potential LTCH beds was not considered since it does not recognize the nationally accepted GMLOS as assigned by CMS. However, the applicant did not show that patients in District 9 or Palm Beach County or JFK Medical Center needing LTCH services were unable to access them in a timely manner.

The third method presented by the applicant looks at long-stay acute care versus LTCH penetration. The applicant basically contends that the apparent lack of referrals of Palm Beach patients to statewide LTCHs is clear evidence of an access and availability problem associated with LTCH services. To support this, the applicant states that a statewide analysis was conducted of all long-stay patients by county of residence to determine at what type of acute care facility they receive services. The applicant determined that counties with at least one existing LTCH had a higher percentage of LTCH admissions (ranging from 13.2 percent to 27.9 percent). The applicant states that Palm Beach County had actual LTCH discharges that accounted for 7.1 percent of total potential county long-term discharges. However, as previously shown, discharge data for the Kindred-Fort Lauderdale LTCH, the closest to Palm Beach County, indicates that approximately 26 percent of total admissions (137 admissions) to that facility originated from Palm Beach County. This would tend to indicate that access to LTCH services in contiguous

District 10 (Broward County) is not constrained for Palm Beach County residents. There was no demonstration presented by the applicant that Palm Beach County patients requiring LTCH services cannot receive those services or that care is denied at LTCHs in contiguous districts.

The fourth method presented by the applicant addresses a use rate analysis by calculating the need for LTCH beds by determining the statewide use rate of LTCH patients by age and applying these use rates to the projected population in Palm Beach County. The use rate approach is based on the assumption that its proposed service area will perform, on average, the same as other areas with LTCHs. 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 law judge found that *"a use rate methodology is not necessarily a reliable indicator of bed need because the existing LTCHs are not evenly distributed statewide and the utilization rates for the existing LTCHs vary significantly."* This method also does not take into account other variables that may impact utilization including changes in population growth of the various age groups, the availability of other care options and a change in referral patterns.

The applicant's fifth method of calculating need, involves a patient specific extended stay analysis that was conducted of JFK Medical Center's discharges with average length of stays greater than 24 days. As previously shown, JFK identified 391 potential LTCH discharges for the 12 months ending September 30, 2003 for patients with a length of stay of 24 days or greater. According to this analysis, approximately 75 percent of JFK's long-stay patients (24 days or longer) had a length of stay of between 25 to 45 days. The applicant maintains that these patients were in a critical state and may have benefited from a stay at a LTCH. The applicant provided summaries of six separate patient cases at JFK Medical Center, Delray Medical Center, Bethesda Memorial Hospital and St. Mary's Medical Center in which the patients were found to be appropriate candidates for LTCH services based on condition and lengths of stay. The applicant states that many of these patients were eventually discharged to a skilled nursing facility or other after-care options, after spending months in an acute care setting. The summaries indicate that the patients profiled stayed in an acute care setting between 46 days and 140 days. According to the letter of support submitted by JFK Medical Center, the average length of stay of its long-stay patients (24 days and over) was 38.6 days. This analysis does not provide an estimated bed need but rather presents discharge data in support of the applicant's need estimates to demonstrate that these patients are not candidates for other post acute settings. It is again noted that a recent study has shown that despite the close proximity of LTCHs, length of

stay in acute care beds does not decrease. This is somewhat evidenced in this area by the occupancy in existing LTCHs in District 10.

In summary, the various methods presented by the applicant do not account for other factors that may impact the applicant's conclusions of need. The need analysis presented by the applicant in all of its forms relies on speculation rather than demonstration of actual access problems. There was no supporting documentation provided that patients who the applicant contends were deemed LTCH appropriate were unable to access or denied access to LTCH services in District 10 LTCHs, specifically the Kindred-Fort Lauderdale LTCH. It was further not demonstrated that patients are unable to access other post-acute care options available within District 9 or that patients are being inappropriately cared for.

Kindred Hospitals East, L.L.C. (CON #9770) states that it intends to serve all counties in District 9 from the proposed 70-bed freestanding LTCH proposed to be located in Palm Beach County. The applicant intends to serve patients with complex needs requiring specialized medical, nursing and therapeutic services. The applicant states that the average length of stay of patients at Kindred Florida LTCHs for calendar year 2003 was longer than 40 days and that in comparison, the average length of stay in acute care hospitals in District 9 was 4.0 days (Treasure Coast Health Council Health Plan, 2003 Edition). The applicant notes that the average case mix index for the acute care hospitals in District 9 is 1.44 as compared to Kindred's facilities in Florida, which reported a case mix index of 2.36 for year to date (August 2003). *(Note: The case mix index is a measure developed in conjunction with Medicare's prospective payment system (PPS) as a means of adjusting payments to hospitals based upon case complexity).* According to the applicant, this demonstrates that Kindred's Florida LTCHs care for a significantly sicker patient with a longer length of stay. It is therefore anticipated that a similar patient mix will occur at the proposed Palm Beach County facility.

The applicant presented a use rate analysis to project potential LTCH patient days in District 9 based on the utilization of existing long-term care hospitals in Florida for the year ending June 2003. The applicant arrived at an average use rate of 121.74 days per 1,000 population for the age 65 and over population. This population group is expected to utilize LTCH services at a greater rate than younger ages. The application of this rate by the applicant to the 65 and over population in District 9 for the January 2007 horizon is expected to produce 50,188 LTCH patient days (or a daily census of 137 patients). The use rate approach is based on the assumption that the proposed service area will perform, on average, the same as other areas with LTCHs. This

approach uses varying use rates and is not considered a valid method of calculating need. In arriving at the 121.74 per 1,000 use rate average for the state, the applicant used district averages ranging from 56.03/1,000 to 160.37/1,000. In the Recommended Order arising out of Case No. 03-2484CON (Select Specialty Hospital-Sarasota, Inc. versus AHCA), the law judge found that *"a use rate methodology is not necessarily a reliable indicator of bed need because the existing LTCHs are not evenly distributed statewide and the utilization rates for the existing LTCHs vary significantly."* This method also does not take into account other variables that may impact utilization including changes in population growth of the various age groups, the availability of other care options and a change in referral patterns.

In addition to the use rate approach, the applicant also presented an analysis of acute care discharge data to identify DRGs most frequently associated with long lengths of stay. The applicant arrived at 50 DRGs after deleting certain inappropriate DRGs (pediatric, psychiatric, heart transplants, obstetrics, etc.). The applicant then examined the geometric mean length of stay (GMLOS) plus seven days to arrive at an estimated 26,522 potential LTCH patient days for an average daily census of 73 patients for the 12 months ending December 2002. As previously discussed in response to the need analysis presented by co-batched applicant Select Specialty (CON #9769), the GMLOS plus seven-day method of calculating potential LTCH beds cannot be considered valid since it does not recognize the nationally accepted GMLOS as assigned by CMS. The analysis of the GMLOS plus 15 days would represent a more conservative approach but would also result in less than the 70 beds proposed by the applicant.

In support of the project, the applicant presented numerous letters from physicians, nurses and case workers in District 9. The majority of the letters identify several hundred patients who could have benefited from a LTCH in the district. However, it was not shown how many of these patients are actually appropriate for the primarily ventilator focused services proposed, or the subsequent disposition of these patients within or outside of the district.

The closest LTCHs to Palm Beach County are the Kindred LTCHs located in District 10 (Broward County). The 64-bed Kindred LTCH located in Fort Lauderdale (District 10), which is approximately 45 miles south of the West Palm Beach area is the most accessible to Palm Beach County residents. With regard to accessibility to LTCH services for residents in Martin, Indian River, Okeechobee, and St. Lucie Counties, the closest LTCH services are also located at the Kindred LTCH in District 10 ranging from one hour and 30 minutes from Stuart, Florida (Martin County) to two hours and 14 minutes from Okeechobee (Okeechobee

County). Residents in Port St. Lucie and Fort Pierce (St. Lucie County) and Vero Beach (Indian River County) are in excess of one hour and 30 minutes from the District 10 LTCH. The existing LTCHs in District 6 (Tampa) and District 7 (Orlando) are both in excess of two hours travel time for residents in Martin, Indian River, Okeechobee and St. Lucie Counties. According to reported data, Kindred-Fort Lauderdale had an average occupancy rate of 89.60 percent. As previously discussed, discharge data for Kindred-Fort Lauderdale shows that approximately 26 percent of total admissions (137 admissions) to that facility originated from Palm Beach County. This reasonably high number of LTCH admissions originating from Palm Beach County alone would tend to indicate that access to LTCH services in contiguous District 10 (Broward County) is not constrained for District 9 residents and specifically Palm Beach County residents.

In summary, the applicant contends that both its use rate methodology and GMLOS methodology support the need for the proposed 70-bed LTCH. Anticipating that the proposed LTCH will have a similar patient mix as found at other Kindred LTCHs, primarily related to diseases and disorders of the respiratory system (respiratory/pulmonary) requiring a higher amount of ventilator services as opposed to circulatory (six percent), infectious/parasitic (five percent), musculoskeletal (five percent), etc., a more accurate projection of potential area LTCH discharges should have focused primarily on discharges involving respiratory/pulmonary patients with extended lengths of stay in district hospitals. In view of the Kindred's historical focus on complex services, primarily involving a high number of respiratory distressed patients, an analysis of area intensive care admission data from acute care hospitals would have provided a more accurate approach to determining potential LTCH admissions for this specific facility. The applicant failed to provide any specific discharge studies or data from area hospitals and/or other inpatient providers in the district identifying potential LTCH admissions by DRG or length of stay. There was also no supporting documentation provided that LTCH appropriate patients were unable to access or denied access to LTCH services in District 10 LTCHs, specifically its sister facility in Fort Lauderdale. It was further not demonstrated that patients are unable to obtain other post-acute care services available within District 9 or that patients are being inappropriately cared for.

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 9 CON Allocation Factors Report does not contain any preference statements pertaining to long-term care beds or generic preferences that may be applicable.

3. Agency Rule Criteria

The Agency does not currently have adopted preferences or Rule criteria relating to LTCHs

4. Statutory Review Criteria

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

Both co-batched applicants basically contend that its respective proposal will increase the availability and accessibility of LTCH services since patients deemed appropriate for LTCH services are presently having to travel outside District 9 for these services. As previously discussed, the closest LTCHs to Palm Beach County are the Kindred LTCHs located in District 10 (Broward County). The 64-bed Kindred LTCH located in Fort Lauderdale (District 10), which is approximately 45 miles south of the West Palm Beach area is the most accessible to Palm Beach County residents. With regard to accessibility to LTCH services for residents in Martin, Indian River, Okeechobee, and St. Lucie Counties, the closest LTCH services are also located at the Kindred LTCH in District 10 ranging from one hour and 30 minutes from Stuart, Florida (Martin County) to two hours and 14 minutes from Okeechobee (Okeechobee County). Residents in Port St. Lucie and Fort Pierce (St. Lucie County) and Vero Beach (Indian River County) are in excess of one hour and 30 minutes from the District 10 LTCH. The existing LTCH in District 6 (Tampa) and the LTCH in District 7 (Orlando) are both in excess of two hours travel time for residents in Martin, Indian River, Okeechobee and St. Lucie Counties. According to reported data, Kindred-Fort Lauderdale

had an average occupancy rate of 89.60 percent. As previously discussed, discharge data for Kindred-Fort Lauderdale shows that approximately 26 percent of total admissions (137 admissions) to that facility originated from Palm Beach County. This reasonably high number of LTCH admissions originating from Palm Beach County alone would tend to indicate that access to LTCH services in contiguous District 10 (Broward County) is not constrained for District 9 residents and specifically Palm Beach County residents.

Select Specialty Hospital-Palm Beach, Inc. (CON #9769) contends that clinically appropriate patients are remaining in inappropriate bed situations and that the proposed project will provide Palm Beach County residents necessary LTCH services to improve the health status of the county. However, the applicant presented no studies demonstrating that the health status of an area is improved when LTCH services are available. The applicant basically refers to the factors previously presented in response to the "fixed need" section in support of the project. These various methods presented by the applicant do not account for other factors that may impact the applicant's conclusions of need. There was no supporting documentation provided that patients were unable to access LTCH services or were denied access to LTCH services. The reasonably high number of District 10 LTCH admissions originating from District 9 would tend to indicate that access to LTCH services in contiguous District 10 (Broward County) is not constrained for District 9 residents and specifically Palm Beach County residents. The applicant did not demonstrate that District 9 residents needing LTCH services were unable to receive them in the adjacent district or access post-acute care options available in District 9.

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

Kindred Hospitals East, L.L.C. (CON #9770) also contends that the project will increase the availability and accessibility to care in District 9 due to the non-availability of LTCH services in the district. The applicant cites the projected increase in population in the district, especially with regard to the senior population. The applicant states that the typical patient seen at a Kindred hospital is frail with multiple complications, age 65 or older. The applicant contends that for these patients and family members to travel long distances to obtain LTCH services is often impractical. The applicant acknowledges that there are skilled nursing facilities, subacute care providers and short-term acute care services available but states that they do not have the ability to provide the same level of care as provided in the proposed LTCH. However, as discussed

above in E. 1., a recent study of LTCH and other post-acute services indicates that LTCH care is most likely a substitute for skilled nursing care.

The applicant states that efficiency will be improved by sharing services with other area Kindred facilities and utilizing centralized services at the corporate office, such as purchasing, project management, clinical and quality management, medical records and other services. However, the applicant did not specifically demonstrate what efficiencies will be achieved as a result of the project.

The reasonably high number of LTCH admissions originating from District 9 would tend to indicate that access to LTCH services in contiguous District 10 (Broward County) is not constrained for District 9 residents and specifically Palm Beach County residents. The applicant did not demonstrate that District 9 residents needing LTCH services were unable to receive them.

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 district.

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-Palm Beach, Inc. (CON #9769) is a development stage corporation, and as such has no operating history. The applicant is a controlled entity of Select Medical Corporation, an existing provider of LTCH services nationwide with 79 existing facilities, including one in Miami, Florida that was licensed on December 23, 2002. Select Specialty has also been approved for a 40-bed LTCH in District 7. The applicant did not indicate in this proposal that all existing Select Medical facilities have current JCAHO accreditation as stated in other Select projects under concurrent review. 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.

Select's Quality Improvement Programs already in place at other Select locations nationwide will be implemented in the proposed facility.

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.

Kindred Hospitals East, L.L.C. (CON #9770) states that all of its currently licensed LTCHs are accredited by the JCAHO, an indication that quality of care is being delivered and that the necessary components are in place to ensure delivery of care. The applicant provided a reasonable description of the admission, care planning and discharge process. The quality management functions are contained in the Kindred Strategic Quality Plan, a copy of which is contained in the application as Appendix 6.

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

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

Neither applicant proposes 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 projects are not affiliated in any way with 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 both 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-Palm Beach, Inc. (CON #9769), a wholly-owned subsidiary of Select Medical, Inc., is a start-up company with $10 in assets as of February 4, 2003. The applicant submitted Form 10K for Select Medical, Inc. for the period ended December 31, 2003. The parent company reported $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 $16.3 million. Schedule 2 indicates that the applicant has included the cost from two previous applications of $13.5 million (CON #9719) and $12.8 million (CON #9661), as well as routine capital costs in year two of $100,000 for a total capital budget of $42.7 million. The applicant eliminated the duplicate capital costs leaving a net capital budget of $16.4 million. Schedule 2 included no capital projects other than those listed above. However, the parent in their 10-K filling 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 60-bed LTCH will require 65 FTEs in year one, increasing to 115 FTE's in year two. As a freestanding LTCH, all required staffing will be required with nursing staff/nursing aides comprising 35 FTE positions in year one and 67 FTE positions in year two. Select states that it is confident it will be able to effectively recruit and maintain appropriately qualified staff to meet the needs of its patients on a daily basis. The applicant anticipates employee benefits to be 26 percent. The applicant provided an overview of Select's inpatient recruitment strategies and resources (Attachment #26) including retention practices.

Conclusion:
Funding for this project, with the support of the applicant's parent, should be available as needed.

Kindred Hospitals East, L.L.C. (CON #9770) is a wholly-owned subsidiary of Kindred Healthcare, Inc. (formerly Vencor, Inc.). On April 20, 2001 Kindred Hospitals East, LLC emerged from proceeding under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") under a Plan of Reorganization. Under the plan the applicant adopted the fresh start accounting provisions of SOP 90-7. Under fresh-start accounting, a new reporting entity is created and the recorded amounts of assets and liabilities are adjusted to reflect their estimated fair values. Accordingly, the prior period financial statements are not comparable to the current period statements and will not be considered in this analysis.

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

Financial Accounts and Ratios

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

Note: The financial statements presented for the applicant, Kindred Hospitals East, LLC are the same as those submitted with the previous application (CON #9719). The applicant, however, did present the parent's latest publicly available 10-K report. The parent company had, at December 31, 2003, $66.5 million in unrestricted cash on hand, $843.1 million in current assets and $1.6 billion in total assets. Reported net operating revenue increased by five percent to $3.3 billion, producing cash flows from operations of $119.3 million, which is a decrease of 52 percent over the previous year.

Short-term position:
The applicant's current ratio of 2.0 approximates the 50th percentile of Florida Hospitals in 2001. The ratio of cash flow to current liabilities of 1.02 is strong. Working capital (current assets less current liabilities) of $48.1 million is substantial in relation to the entity's size. Overall the applicant has a good short-term position.

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

Total equity is $96.6 million; the ratio of equity to assets is 67.0 percent. Overall, the applicant has a strong long-term position.

Capital requirements:
Schedule 2 indicates capital projects of $18.8 million. Missing from that schedule was CON #9605, a previously awarded 20-bed addition to this hospital. Total capital projects, including CON #9605 would be $21.6 million.

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

Staffing:
As reflected in Schedule 6, the majority of FTEs required by the implementation of the project are direct care givers consisting of a mix of RNs, LPNs and CNAs. The clinical staffing figures are based upon staffing levels at all Kindred Hospitals. The project calls for recruitment of 106.7 FTEs in the first year of operation, increasing to 136.5 FTE's in year two. The nursing staff will consist of 46.7 FTE's in year one and 63.3 FTE's in year two. The applicant states that it allocates resources to attract and retain qualified staff, including competitive salary and benefit levels, and opportunities for recognition and promotion. Kindred uses a number of methods to attract employees, including media advertising, job fairs, direct marketing and Internet recruitment.

Conclusion:
Based on the audited financial statements of the applicant, cash on hand and cash flows, if they continue at the current level, would be sufficient to fund the projects as proposed. With additional support from the parent, funding for this project and all capital projects is likely to be available as needed.

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

A comparison of each of the co-batched applicant's estimates to the corresponding control group values provides for an objective evaluation of financial feasibility, (the likelihood that the services can be provided under the parameters and conditions contained in Schedules 7 and 8), and efficiency, (the degree of economies achievable through the 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. The applicants will be compared to the hospitals in peer group 12. However, it should be noted that seven of the eight hospitals that comprise peer group 12 are Kindred Hospitals. 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. Medicare requires a six-month period (demonstration period) before a hospital is eligible for reimbursement under the LTCH PPS. This period is required to demonstrate a minimum 25-day average length of stay. During the demonstration period the hospital is reimbursed at the acute care rate. Neither Select (CON #9769) nor Kindred (CON #9770) disclosed how this period was accounted for in their financial projections. With regard to the Select proposal (CON #9769), since Medicare accounts for 78 percent of the applicant's anticipated revenue for this project, we assume that the estimated revenues submitted for the hospital were developed based on the LTCH prospective payment system.

Select Specialty Hospital-Palm Beach, Inc. (CON #9769) projects net revenue per adjusted patient day (NRAPD) of $1,031 in year one and $1,106 in year two is between the control group lowest and median values of $983 and $1,290 in year one and $1,015 and $1,332 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 $1,293 in year one and $992 in year two is between the control group median and highest values of $1,200 and $2,455 in year one and the control group lowest and median values of $870 and $1,240 in year two. Compared to the control group these costs are efficient. (See Comparative Table).

The year two operating profit for the hospital of $1,777,194 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 computed operating margin ratio is 10.2 percent.

The applicant has projected an operating margin of 10.2 percent in the second year of operation. This was achieved after a $2.0 million loss (-25.4 percent) in the first year, which estimates a $3,826,581 or 215.3 percent increase in the bottom line in a single year's operation. The average margin for Group Twelve is 10.2 percent.

With no further explanations of how the applicant will achieve LTCH-PPS status, the overall revenue projections are subject to some degree of question. If the hospital were to be reimbursed at acute care PPS rates, this project would not be financially feasible. The project is feasible with the attainment of Medicare LTCH certification and with the financial resources of the parent sustaining working capital during the first two years of operation.

Select Specialty Hospital-Palm Beach, Inc

TABLE TWO
PEER GROUP 12

	2008 YEAR 2 ACTIVITY	YEAR 2 ACTIVITY PER DAY	INFLATION ADJ. VALUES Highest	Median	Lowest
ROUTINE SERVICES	14,916,900	950	1,367	1,014	747
INPATIENT AMBULATORY	34,391,426	2,190	14	0	0
INPATIENT SURGERY	382,264	24	0	0	0
INPATIENT ANCILLARY SERVICES	0	0	4,262	3,265	2,653
OUTPATIENT SERVICES	0	0	252	2	0
TOTAL PATIENT SERVICES REV.	49,690,590	3,165	5,342	4,304	3,402
OTHER OPERATING REVENUE	0	0	4	2	0
TOTAL REVENUE	49,690,590	3,165	5,346	4,306	3,402
DEDUCTIONS FROM REVENUE	32,331,472	2,059	*	*	*
NET REVENUES	17,359,118	1,106	2,473	1,332	1,015
EXPENSES					
ROUTINE	4,846,600	309	634	358	216
ANCILLARY	5,985,028	381	726	337	230
AMBULATORY	0	0	0	0	0
TOTAL PATIENT CARE COST	10,831,628	690	1,360	695	446
ADMINISTRATIVE & OVERHEAD	2,012,476	303	1,063	571	418
PROPERTY	2,737,820	*	*	*	*
TOTAL HOSPITAL EXPENSE	15,581,924	992	2,182	1,067	749
OTHER OPERATING EXPENSE	0	0	0	0	0
TOTAL EXPENSE	15,581,924	992	2,536	1,240	870
OPERATING INCOME (MARGIN)	1,777,194	113	280	125	-31
PERCENT OPERATING MARGIN	10.2%				
			PERCENTAGES NOT INFLATION ADJUSTED		
PATIENT DAYS	15,702				
ADJUSTED PATIENT DAYS	15,702				
TOTAL BED DAYS AVAILABLE	21,900				
ADJ. FACTOR	1.0000				
TOTAL NUMBER OF BEDS	60				
PERCENT OCCUPANCY	71.7%		100.2%	84.2%	52.2%
PAYER CLASS	**PATIENT DAYS**	**PERCENT OF TOTAL**			
SELF-PAY	126	0.8%	4.1%	0.9%	0.0%
MEDICAID	314	2.0%	13.3%	0.2%	0.0%
MEDICAID HMO	0	0.0%			
MEDICARE	12,174	77.5%	97.3%	75.4%	67.4%
MEDICARE HMO	0	0.0%			
INSURANCE	2,316	14.7%			
HMO/PPO	772	4.9%	23.4%	10.5%	0.0%
OTHER	0	0.0%			
TOTAL	**15,702**	**100.0%**			

Kindred Hospitals East, L.L.C. (CON #9770) projects net revenue per adjusted patient day (NRAPD) of $988 in year one and $1,111 in year two is between the control group lowest and median values of $966 and $1,268 in year one and $998 and $1,310 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 $1,494 in year one and $996 in year two is between the control group median and highest values of $1,180 and $2,413 in year one and the lowest and median values of $856 and $1,219 in year two. (See Comparative Table). Compared to the control group these costs are considered cost-efficient.

The year two operating loss for the hospital of $1,441,738 computes to an operating margin per adjusted patient day of $114 which falls between the group lowest and median values of -$31 and $125. The computed operating margin ratio is 10.3 percent.

The applicant has projected an operating margin of 10.8 percent in the second year of operation. This was achieved after a $2.5 million loss (-51.3 percent) in the first year, which estimates a $3,977,357 or 275.8 percent increase in the bottom line in a single year's operation. The average margin for Group Twelve is 10.2 percent. No supporting schedule was provided to substantiate these estimates. However, the profit in the second year was based upon an average occupancy of only 49.3 percent. The average occupancy level of the group is 77.2 percent with an average length of stay of 42.4 days, which calls into question revenue estimates that project margin increases of this magnitude. *Note:* Seven of the eight hospitals in Group Twelve are Kindred hospitals.

With no further explanations of how the applicant will achieve LTCH PPS status and how the year two level of occupancy will generate sufficient revenues to attain the projected margin, the overall revenue projections are questionable. The project is feasible with the parent sustaining working capital during the first two years of operation.

Kindred Hospitals East-Palm Beach

TABLE TWO
PEER GROUP 12

	2007 YEAR 2 ACTIVITY	YEAR 2 ACTIVITY PER DAY	INFLATION ADJ. VALUES Highest	Median	Lowest
ROUTINE SERVICES	9,249,873	734	1,344	997	734
INPATIENT AMBULATORY	0	0	13	0	0
INPATIENT SURGERY	0	0	0	0	0
INPATIENT ANCILLARY SERVICES	36,999,491	2,936	4,190	3,210	2,608
OUTPATIENT SERVICES	0	0	248	2	0
TOTAL PATIENT SERVICES REV.	46,249,364	3,670	5,252	4,231	3,345
OTHER OPERATING REVENUE	0	0	4	2	0
TOTAL REVENUE	46,249,364	3,670	5,256	4,233	3,345
DEDUCTIONS FROM REVENUE	32,253,729	2,559	N/A	N/A	N/A
NET REVENUES	13,995,635	1,111	2,431	1,310	998
EXPENSES					
ROUTINE	4,128,117	328	623	352	212
ANCILLARY	3,737,114	297	713	331	226
AMBULATORY	0	0	0	0	0
TOTAL PATIENT CARE COST	7,865,231	624	1,336	683	438
ADMINISTRATIVE & OVERHEAD	3,522,654	372	1,045	562	411
PROPERTY	1,166,012	*	*	*	*
TOTAL HOSPITAL EXPENSE	12,553,897	996	2,493	1,219	856
OTHER OPERATING EXPENSE	0	0	0	0	0
TOTAL EXPENSE	12,553,897	996	2,493	1,219	856
OPERATING INCOME (MARGIN)	1,441,738	114	280	125	-31
PERCENT OPERATING MARGIN	10.3%				
			PERCENTAGES NOT INFLATION ADJUSTED		
PATIENT DAYS	12,602				
ADJUSTED PATIENT DAYS	12,602				
TOTAL BED DAYS AVAILABLE	25,550				
ADJ. FACTOR	1.0000				
TOTAL NUMBER OF BEDS	70				
PERCENT OCCUPANCY	49.3%		100.2%	84.2%	52.2%

PAYER CLASS	PATIENT DAYS	PERCENT OF TOTAL	Highest	Median	Lowest
SELF-PAY	0	0.0%	3.8%	0.9%	0.0%
MEDICAID	161	1.3%	13.3%	0.2%	0.0%
MEDICAID HMO	40	0.3%			
MEDICARE	8,278	65.7%	97.3%	75.4%	67.4%
MEDICARE HMO	2,070	16.4%			
INSURANCE	1,902	15.1%			
HMO/POP	0	0.0%	23.4%	10.5%	0.0%
OTHER	151	1.2%			
TOTAL	12,602	100.0%			

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

District 9 Long-term Care Projects Comparison Table		
	Select Specialty Hospital-Palm Beach, Inc. CON #9769	**Kindred Hospitals East, LLC. CON #9770**
Net Revenue per adjusted patient day	$1,106	$1,106
Cost per adjusted patient day	$ 992	$ 992
Operating profit per patient day	$ 113	$ 113
Estimated Managed Care level	4.9%	4.9%
Estimated Medicaid level	2.0%	2.0%

Select Specialty Hospital-Palm Beach, Inc. (CON #9769) 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.

Kindred Hospitals East, L.L.C. (CON #9770) projects managed care days to represent 31.8 percent of its patient days. This is above the control group highest level of activity of 23.4 percent. The projected levels, if realized, are likely to increase competition to promote quality assurance and cost-effectiveness.

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

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

Select Specialty Hospital-Palm Beach, Inc. (CON #9769) proposes to establish a freestanding 60-bed long-term care hospital to be located in Palm Beach County.

There are code issues in the surgical suite regarding the toilet/shower/locker spaces for the staff and doctors. These issues are not insurmountable. The guidelines, in paragraph 7.7.C11, state that

"appropriate areas shall be provided for male and female personnel". The same paragraph states the "these areas shall contain lockers, showers, toilets, lavatories equipped for hand washing, and space for donning surgical attire". The plan only provides for one sex and there must be another toilet room for the opposite sex.

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

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

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

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

New hospital construction must meet the requirements of disaster preparedness in the Florida Building Code, Section 419.4. The applicant is aware of these requirements and refers to them in the narrative. The importance of this cannot be stressed enough since site selection represents a significant portion of the project's cost as well as its feasibility.

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

Kindred Hospitals East, L.L.C. (CON #9770) proposes to establish a new freestanding single-story 70-bed long-term care hospital to be located in Palm Beach County.

There was a 1/16" scale plan of the proposed facility included in the application along with larger scaled plans of two typical patient rooms. The plan appears to be an exact duplicate of that submitted for CON #9662 and reviewed in May of 2003. Smoke compartment walls were indicated. Most of the rooms will be semi-private and all patient rooms have handicapped accessible toilet/shower rooms. All patient room showers are sized to accommodate a wheelchair.

The portion of the hospital with 64 patient rooms is a cross-shaped area with four wings and a central nurse station. The other parts of the building are "L"-shaped and connect to the ends of two of the patient wings. For a long-term care facility, the building is quite expansive, with almost all typical hospital functions, including two operating rooms. These operating rooms appear to have the required square footage, but no size was shown. Although a few specialized functions are listed to be contracted out, such as MRI services, the building could easily be described as functional for a typical non-specialty hospital. All the staff and patient ancillary support areas appear to be provided.

The body holding room is now required to be accessible through an exterior entrance which it is not. This will need to be corrected. Also, a location nearer the service dock might be more appropriate than adjacent to the emergency room entry.

From the codes listed, the applicant is aware of the requirements for disaster preparedness and should keep these in mind when selecting a site for the new facility. The estimated project budget and schedule appear to be reasonable based on the scope of the project. The total project cost has increased by $1.5 million since the previous application.

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-Palm Beach, Inc. (CON #9769) is a development stage company with no operating history. As a condition of approval, the applicant agrees to condition award of the certificate of need on the combined provision of 2.8 percent of patient days to Medicaid and charity care patients. Financial Schedule 7A reflects the applicant's expectation to meet the requested condition in both the first and second year of operation by providing 2.0 percent of patient days to Medicaid and 0.8 percent to charity care. The applicant proposes to exceed the state Medicaid average for LTCH patient days but falls short of meeting the state average for charity care.

Kindred Hospitals East, L.L.C. (CON #9770) has a history of providing Medicaid and/or charity care. According to the 2002 Financial Data Report, the applicant's licensed Florida facilities provided a percent of Medicaid patient days to total patient days, ranging from a low of zero percent (Kindred-Fort Lauderdale) to a high of 13.3 percent (Kindred-St. Petersburg). Charity care patient days ranged from a low of zero percent (Kindred-Fort Lauderdale) to a high of 4.1 percent (Kindred-Coral Gables).

As a condition of approval, the applicant agrees to condition award of the certificate of need on the combined provision of 2.8 percent of patient days to Medicaid and charity care patients in the second year of operation. According to Financial Schedule 7A, the applicant intends to provide 1.6 percent of patient days to Medicaid/Medicaid HMO in year two. This is below the state average. The applicant did not specifically indicate any charity care on the schedule. Based on the information provided, it does not appear that the applicant's combined Medicaid and charity care provision will meet or exceed the state average for either payor grouping.

F. SUMMARY

Select Specialty Hospital-Palm Beach, Inc. (CON #9769), a wholly-owned subsidiary of Select Medical Corporation, proposes to establish a 60-bed freestanding long-term care hospital to be located in Palm Beach County, Florida.

The proposed hospital will consist of 53,420 gross square feet of new construction and construction costs of $9,348,500. Total project cost is estimated to be $16,251,882. 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 a combined provision of 2.8 percent of its total patient days to Medicaid and charity care patients and upon Joint Commission Accreditation of Healthcare Organizations (JCAHO) accreditation.

Kindred Hospitals East, L.L.C. (CON #9770) proposes to construct a freestanding 70-bed long-term care hospital to be located in Palm Beach County.

The proposed project involves 45,896 gross square feet (GSF) of new construction. The total construction cost is estimated to be $8,128,000 with total project costs of $14,430,808.

As a condition of approval, the applicant agrees to condition award of the certificate of need on a combined provision of 2.8 percent of its total patient days to Medicaid and charity care patients beginning with the second year of operation.

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-Palm Beach, Inc. (CON #9769)

- The applicant contends that Palm Beach County is an appropriate service area for LTCH services due to the lack of LTCHs within the county; the limited number of patients accessing LTCH services outside the county; and the number of long-stay acute care patients remaining in hospital beds in the county. The support letters in total express belief that there are many patients who would have benefited for LTCH services. However, discharge data would indicate that Palm Beach County residents are using the Kindred-Fort Lauderdale LTCH and account for approximately 26 percent of that facility's total admissions. The applicant did not demonstrate that bed capacity and access is constrained for Palm Beach County residents utilizing the District 10 LTCH(s) or that care currently being provided was inappropriate.

Kindred Hospitals East, L.L.C. (CON #9770)

- The applicant intends to focus on the provision of complex LTCH services (many requiring ventilator/pulmonary services) and contends that patients are leaving District 9 for services or remaining in less appropriate settings within the district. Although support letters from area health care workers identify several hundred patients who could have benefited from a LTCH in the district, the disposition of these patients is not known and access problems were not shown. It was also not demonstrated that access to LTCH services in other districts and specifically in District 10 is constrained or denied to District 9 residents. The applicant failed to demonstrate that area residents were unable to access needed care or that care currently being provided was inappropriate.

Quality of Care:

Select Specialty Hospital-Palm Beach, Inc. (CON #9769)

- 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 quality improvement programs already in place at other Select locations nationwide will be implemented in the proposed facility. The applicant provided a reasonable description of its performance improvement plan. It appears that the applicant has the ability to provide quality of care at the proposed LTCH.

Kindred Hospitals East, L.L.C. (CON #9770)

- The applicant appears to have a history of providing quality of care and its current LTCHs are JCAHO accredited. The applicant provided a description of quality management functions to be incorporated at the proposed facility as currently used at other Kindred hospitals.

Cost/Financial Analysis:

Select Specialty Hospital-Palm Beach, Inc. (CON #9769)

- The applicant is a start-up company with limited assets. However, the parent, Select Medical, Inc. is a financially strong company. The funding for the proposed project, with the support of the parent company, should be available as needed.

- 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. With no further explanations of how the applicant will achieve LTCH-PPS status, the overall revenue projections are subject to question. With the attainment of Medicare certification and with the financial resources of the parent sustaining working capital, 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.

Kindred Hospitals East, L.L.C. (CON #9770)

- The applicant is a wholly-owned subsidiary of Kindred Healthcare, Inc. Based on the financial statements, cash on hand and cash flows, (assuming the current level continues), funding for the proposed project and all capital projects is likely to be available as needed.

- With net revenues per adjusted patient day falling between the lowest and median level, the facility is expected to consume health care resources in proportion to the services provided. The applicant did not provide supporting data to substantiate revenue estimates that show a large profit margin. Without further explanations of how the applicant will achieve LTCH PPS status and how the year two level of occupancy will generate sufficient revenues to attain the projected margin, the overall revenue projections appear questionable. However, the project is considered to be financially feasible, with the parent sustaining working capital during the first two years of operation.

- The applicant projects managed care, including Medicare and Medicaid managed care days, to represent 31.8 percent of its patient days. This is above the control group highest level of activity. The projected levels, if realized, are likely to increase competition to promote quality assurance and cost-effectiveness.

Architectural Analysis:

Select Specialty Hospital-Palm Beach, Inc. (CON #9769)

- The project involves new construction of a 60-bed freestanding LTCH. There are code issues in the surgical suite with regard to spaces for both genders. 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. Additionally, the area labeled PAT HOLDING does not specify whether it is for pre or post op. Although of no major concern, there is no way for the nurse station to monitor a patient who might be in this holding space.

- The applicable codes appear to be essentially correct. The estimated project budget and schedule appear to be adequate based on the scope of the project.

Kindred Hospitals East, L.L.C. (CON #9770)

- The project involves new construction of a 70-bed freestanding LTCH. The facility is quite expansive, with almost all typical hospital functions shown. All staff and patient ancillary support areas appear to be provided. The applicant is aware of the Florida Building Code, disaster preparedness requirements.

- The estimated project budget and schedule appear to be reasonable based on the scope of the project.

G. RECOMMENDATION

Deny CON #9769 and CON #9770.

CON Action Numbers: 9769 & 9770

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: ______________________

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Karen Rivera
Health Services and Facilities Consultant Supervisor
Certificate of Need

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Jeffrey N. Gregg
Chief, Bureau of Health Facility Regulation