

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number:

HEALTHSOUTH of Sarasota Limited Partnership/CON #9809

d/b/a HEALTHSOUTH Rehabilitation of Sarasota

c/o Loree Skelton

Vice President Corporate Development

HealthSouth Corporation

One HealthSouth Parkway

Birmingham, Alabama 35243

Authorized Representative: Loree Skelton
(205) 967-7116

2. Service District/Subdistrict

District 8, Sarasota County

B. PUBLIC HEARING

No public hearing was requested. For this application proposing replacement of a 76-bed comprehensive medical rehabilitation facility, 183 letters of support were received, with 166 of these determined to be unduplicated. All are similar in content attesting to poor or inadequate facility conditions, long wait times as a result of high occupancy and praising the care provided by the applicant. These letters were received from patients and members of the medical and business communities in and around Sarasota.

C. PROJECT SUMMARY

HEALTHSOUTH of Sarasota Limited Partnership (CON #9809) d/b/a HealthSouth Rehabilitation Hospital of Sarasota requests a certificate of need (CON) for the replacement of its 76-bed Class III specialty comprehensive medical rehabilitation (CMR) facility in District 8, Sarasota County. The proposed site is not yet selected, but targets include points along Interstate-75, within approximately four to five miles of the existing location.

The project involves 78,373 GSF of construction, \$12,800,000 in construction costs and \$22,655,551 in total project costs.

The applicant requests that the proposed CON be conditioned for the provision of a minimum 1.3 percent of patient days to a combination of Medicaid and charity care. HealthSouth Sarasota was previously conditioned as such on CON #9449 according to Agency records.

D. REVIEW PROCEDURE

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes, rules of the State of Florida, Chapters 59C-1 and 59C-2, Florida Administrative Code, and local health plans. 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 evaluating the responses and data 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, applications are comparatively reviewed to determine which applicant best meets the review criteria.

Rule 59C-1.010(3) (b), Florida Administrative Code, prohibits any amendments once an application has been 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 Karen Weaver analyzed the application with consultation from the financial analyst Ryan Fitch, who

reviewed the financial data and architect Joel Hill, who evaluated the architecturals and the schematic drawings.

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

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

1. Fixed Need Pool

a. Does the project proposed respond to need as published by a fixed need pool? Chapter 59C-1.008 and Rule 59C-1.039, Florida Administrative Code.

In Volume 30, Number 30, dated July 23, 2004, of the Florida Administrative Weekly, a fixed need pool of zero (0) beds was published for comprehensive medical rehabilitation beds in District 7 for the July 2004 batching cycle. The proposed project is not in response to a fixed need pool and no additional beds will be added with this proposal.

In this section, the applicant predicates need for the replacement on high utilization patterns, physical plant constraints and advanced planning around the expiration of the current lease.

HealthSouth Sarasota has the highest licensed CMR bed count and maintained the second highest average occupancy in calendar year 2003:

Summary Statistics for District 8 CMR Facilities

Facility	Licensed Bed Count*	CY 03 Average Occupancy	District 8 Average CY03	State Total Average CY03
Naples Community Hospital	60	83.02%	79.35%	75.45%
Fawcett Memorial Hospital	20	73.77%	79.35%	75.45%
Lee Memorial Hospital – Cleveland	60	60.83%	79.35%	75.45%
Sarasota Memorial Hospital	24	91.67%	79.35%	75.45%
HealthSouth Rehabilitation Hospital of Sarasota	76	88.68%	79.35%	75.45%

Source: Florida Hospital Bed and Service Utilization by District Volume II Published 7/23/2004.

***Licensed Bed Counts are for End of Calendar Year 2003 (EOCY03).**

CON Action Number: 9809

As seen above, occupancy at HealthSouth Sarasota exceeded the averages for both District 8 and the State of Florida. Only one other facility exceeded the subject's utilization in the district, but did so with less than one-third the number of beds as currently licensed at HealthSouth Sarasota. The Florida Hospital Bed and Service Utilization by District guides show HealthSouth Rehab Hospital of Sarasota with 88.68 percent occupancy for calendar year (CY) 2003, 91.09 percent for CY 2002 and 93.78 percent for CY 2001. While this indeed shows high utilization, it also shows a downward trend. The applicant explains this downward trend with reference to 'artificial suppression' of the utilization rate, meaning that a lack of privacy in the undersized patient rooms prohibits gender and/or diagnosis mixing and does not allow for patient isolation as necessary. Because of this, some beds must purposely be left unused. The applicant expects this proposed move to generate higher occupancy for its existing beds, but does not believe that it will negatively impact existing CMR facilities in the service area. An equal amount of referrals are expected with the new facility, and this will continue to keep the beds filled. The privacy of the new patient rooms (28 semi-private and 20 private) will allow the applicant to recapture patients it is currently turning away and/or placing on waiting lists, and utilization would likely increase with the new facility. This said, because HealthSouth Sarasota's utilization has hovered around 90 percent for the last three calendar years, there could not be much capture of other market shares in the area.

Should the proposed project reverse the declining utilization pattern HealthSouth Sarasota has seen in the last three years¹, the resulting increase in the 76-bed facility is not likely to negatively impact existing providers. While occupancy is high, suggesting the possible need for additional beds, recent changes in CMR regulations allow existing providers with high occupancy to increase the number of beds at the facility through a CON exemption. As noted below, the applicant's ability to expand at the existing facility is limited.

Deteriorating conditions of the existing facility are detailed as evidence of need for the project. Overall, the applicant states that the facility requires major repairs to the roof and infrastructure, ventilation systems are inadequate and parking, storage and workspace are limited. Patient letters complain of frequent plumbing problems in the shared patient bathrooms. The current facility was constructed 18 years ago for the operation of 60 beds, and has since expanded to its current 76-bed count, but much of the facility is still in its original state and requires

¹ The applicant's Schedule 7B projects occupancy in the 76 beds at 91.8% for the second year of operations (year ending June 30, 2008). This is comparable to CY 2002 occupancy.

additional space for these 76 beds, which have been shown by the applicant and the AHCA utilization data to be approaching capacity. Letters of support submitted by patients repeatedly complain that the assigned rooms cannot adequately accommodate a bed, a wheelchair and a visitor. Due to the nature of the services provided at a CMR facility, patients are routinely in wheelchairs and often require a nurse/other medical staff member or visitor to assist with getting in and out of the wheelchair. From the submissions received, this common practice is significantly hindered by insufficient space.

The applicant mentions that a detailed analysis of the physical plant was conducted to determine what upgrades or corrections could be made to improve the current circumstances, but that detailed analysis was not provided in the CON application. A sample from that analysis is provided on page 11 of the submission, and costs for the listed needed repairs are estimated to range between \$4 and \$5 million, but this cannot be adequately evaluated without the supporting documentation from the evaluating agency. These \$4-5 million in costs combined with leasing fees and operating costs are stated to be more than the construction and operation of a new facility. As noted earlier, total project costs for this proposal are estimated at \$22.6 million, which includes \$18.6 million in total land and total building costs to be paid by the Real Estate Investment Trust (REIT) and leased by the applicant after the facility is fully constructed.

As further evidence of space constraints, the applicant reports that therapy patients are often treated in hallways and the day program is so inhibited by the physical plant that referrals and admissions are turned away. New programs cannot be added and existing programs cannot be expanded. The overall facility is reported to be undersized and over-utilized. Additionally, the 20-year lease on the property will expire in less than two years, giving the applicant urgency in securing new accommodations.

Considering the facility's occupancy levels, current physical plant limitations/conditions and the costs associated with correcting the existing physical plant deficiencies versus constructing a new facility with the capacity to expand if needed, the applicant has demonstrated need for the relocation, which will improve access to CMR services without negatively impacting existing programs.

2. Agency Rule Criteria

Please indicate how each applicable preference for the type of service proposed is met. Refer to Chapter 59C-1.039, Florida Administrative Code, for applicable preferences.

(a) General Provisions:

Service Location. The comprehensive medical rehabilitation inpatient services regulated under this rule may be provided in a hospital licensed as a general hospital or licensed as a specialty hospital, and:

Separately Organized Units. Comprehensive medical rehabilitation inpatient services shall be provided in one or more separately organized units within a general hospital or specialty hospital.

The existing facility is designated a Class III Specialty Hospital governed under Chapter 395, Florida Statutes. Because this is a relocation proposal, the new facility will have identical licensure as the existing specialty hospital. All 76 beds in the proposed project would continue to be CMR beds should this project be approved.

(b) **Minimum Number of Beds. A general hospital providing comprehensive medical rehabilitation inpatient services should normally have a minimum of 20 comprehensive medical rehabilitation inpatient beds. A specialty hospital providing CMR inpatient services shall have a minimum of 60 CMR inpatient beds.**

The applicant is currently licensed for 76 CMR beds, which exceeds the minimum as promulgated in rule.

(c) **Conformance with Criteria for Approval. A Certificate of Need for the establishment of new comprehensive medical rehabilitation inpatient services, the construction or addition of new CMR inpatient beds, or the conversion of licensed hospital acute care beds to comprehensive medical rehabilitation inpatient beds shall not normally be approved unless the applicant meets the applicable review criteria in section 408.035, Florida Statutes, and the standards and need determination criteria set forth in this rule.**

The applicant's compliance with s. 408.035 of the Florida Statutes is detailed below under section E.3 of this report.

- (d) **Medicare and Medicaid Participation. An applicant proposing to increase the number of licensed comprehensive medical rehabilitation inpatient beds at its facility shall participate in the Medicare and Medicaid programs.**

The applicant reports that the existing facility is currently a participating provider in the Medicare and Medicaid programs, as is its parent organization. The proposed project will reportedly have no effect on this status. In support of the applicant's commitment to providing services for the underserved and/or underprivileged, a request is made on the Schedule C to condition the proposed CON for the provision of a minimum of 1.3 percent of patient days to a combination of Medicaid/charity care patients.

Previous Medicaid and charity care provision patterns cannot be compared relative to this condition request due to lack of a timely submission of statements to AHCA for inclusion in the 2003 Hospital Financial Data analysis. In lieu of a review of HealthSouth Sarasota's payer mix patterns (only accounts receivable payer mix patterns are included in this CON application), the following table shows Medicaid and charity care percentages at other CMR facilities in the district:

Medicaid and Charity Provisions at CMR Facilities in District 8 for FY 03

Facility	Medicaid	Charity Care
Naples Community Hospital	10.6%	5.0%
Fawcett Memorial Hospital	2.9%	0.5%
Lee Memorial Hospital - Cleveland	19.4%	3.4%
Sarasota Memorial Hospital	10.8%	2.3%
Average	10.925%	2.8%

Source: Florida Hospital Financial Data 2003

As shown in the above table, the average charity care and Medicaid combined provision (excluding the subject hospital) in this district is 13.73 percent. The above are hospital-based CMR facilities, and the payer mixes shown represent all services and patient types available at those facilities, not just comprehensive medical rehabilitation. HealthSouth is the only Specialty CMR facility in the district, and therefore direct comparison of payer mixes to like facilities in the same service area is not possible.

Five other specialty CMR facilities exist in Florida, with the following charity service and Medicaid provisions:

CON Action Number: 9809

Medicaid and Charity Service at CMR Specialty Facilities in Florida for FY 03

CMR Hospital Name	County	District	Medicaid	Charity
Brooks Rehabilitation Hospital	Duval	04	5.0%	1.8%
St. Catherine's Rehab Hospital	Miami-Dade	11	4.2%	0.0%
St. John's Rehab Hospital	Broward	10	2.8%	0.0%
Pinecrest Rehab Hospital	Palm Beach	09	0.4%	0.0%
Meadowbrook Rehab Hospital	Miami-Dade	11	8.4%	0.0%
State Average			8.4%	0.6%

Source: Hospital Financial Data analysis for 2003

The five facilities listed above serve different population areas and thus are not necessarily indicative of the Medicaid and charity service that will be provided at the proposed District 8 facility. These numbers are provided to show that specialty CMR facilities across the state (excluding the subject hospital) averaged 9.0 percent combined Medicaid and charity care service, or 4.73 percent lower than the hospital-based CMR facilities found in the subject district. This may suggest that the Medicaid and charity care service to be provided at the proposed facility will be less than that of the hospital-based facilities, and this lower level is indicated by the applicant's requested condition of 1.3 percent for combined Medicaid and charity care.

- (e) Comparative Review. A certificate of need application submitted for review under this rule will be subject to a comparative review with all other certificate of need applications subject to review under this rule that proposes to serve the same district and which were submitted during the same review cycle.**

No competing applications were submitted for this batching cycle for this service district for comprehensive medical rehabilitative services.

- (f) Excluded Hospitals. Hospitals operated by the State of Florida or the federal government are not regulated under this rule.**

HealthSouth Sarasota is not operated by the State of Florida or the federal government and is therefore not excluded from the provisions of this rule.

(g) Required Staffing and Services.

- 1. Director of Rehabilitation. Comprehensive medical rehabilitation inpatient services must be provided under the medical director of rehabilitation who is a board-certified or board-eligible psychiatrist and has had at least two years of experience in the medical management of inpatients requiring rehabilitation services.**

The applicant reports that the medical director at HealthSouth Sarasota is currently Alexander DeJesus, MD. Dr. DeJesus is reported to be a psychiatrist board-certified by the American Board of Physical Medicine and Rehabilitation, and is said to be available for patient consultation 24 hours every day. A sampling of his expertise is included in the narrative, and his curriculum vitae is included in Tab 21, volume 4. Both of these agree that Dr. DeJesus meets the two-year minimum experience criterion.

- 2. Other Required Services. In addition to the physician services, comprehensive medical rehabilitation inpatient services shall include at least the following services provided by qualified personnel:**

- 1. Rehabilitation nursing**
- 2. Physical therapy**
- 3. Occupational therapy**
- 4. Speech therapy**
- 5. Social services**
- 6. Psychological services**
- 7. Orthotic and prosthetic services**

The applicant is an existing provider of CMR services and provides a range of services that equals or exceeds the minimum requirements. Schedule 6A indicates the applicant maintains qualified personnel to staff the various disciplines required to maintain a CMR program and that 0.00 FTEs will be added as a result of the project.

It should be noted that the medical director was not included on this staffing pattern for years one or two, and that this Schedule 6A spreadsheet contains a reference error (#REF!) uncorrected by the applicant. It is not known what value should be showing in that cell.

The applicant provides brief overviews in the narrative for each of the personnel areas detailed in this rule.

(h) Other Factors to be Considered in the Review of Certificate of Need Applications for Comprehensive Medical Rehabilitation Inpatient Services:

1. Applicants shall provide evidence in their applications that their proposal is consistent with the needs of the community and other criteria contained in Local Health Council District Health Plans

The applicant states that “HealthSouth Sarasota meets or exceeds Local Health Council District Health Plans, Certificate of Need Allocation Factors,” without detailing the extent of the compliance or any specific criteria. The most recent CMR information² available from the District 8 Health Council lists four local review criteria:

1. Existing providers with a 12-month annual occupancy of 80 percent.
2. Upgrading services and expanding care rather than establishing totally new facilities.
3. Demonstrated cost containment by providing comparative costs, charges or historical experience for the immediate service area.
4. Demonstration that new construction is more economical than renovation.

Occupancy at HealthSouth for the most recent calendar year exceeded the required 80 percent to have the second highest CMR bed utilization in the district. The applicant has made a reasonable and convincing case for the need to establish a totally new facility with facts, pictures and excerpts of patient testimony throughout the application narrative. The applicant claims \$4-5 million in renovation costs will be saved with an approval of this project, but substantiating documentation from the evaluating agency is not provided. If conditions at the facility are as poor as presented in this CON application, it is likely that new construction would be a more cost-efficient and lasting solution to plant problems at HealthSouth Sarasota.

² 2000-2001 District 8 Health Plan, applicable pages are 106-108.

2. **The Agency has priority considerations for comprehensive medical rehabilitation inpatient services applicants listed in Chapter 59C-1.039(g).**
 - a. **An applicant that is a disproportionate share hospital as determined consistent with the provisions of section 409.911, Florida Statutes.**
 - b. **An applicant proposing to serve Medicaid-eligible persons.**
 - c. **An applicant that is a designated trauma center, as defined in section 10D-66.108, Florida Administrative Code.**

The subject facility is not a disproportionate share provider as consistent with s.409.911, Florida Statutes, nor is the applicant a designated trauma center as defined in s. 10D-66.108, Florida Administrative Code. HealthSouth Sarasota was previously conditioned for 1.3 percent combined Medicaid and charity care service, and no record of non-compliance can be found in agency records. The applicant is requesting a continuance of this 1.3 percent condition for the proposed replacement facility.

- (i) **Access Standard. Comprehensive medical rehabilitation inpatient services should be available within a maximum ground travel time of two hours under average travel conditions for at least 90 percent of the district's total population.**

There are currently five comprehensive medical rehabilitation facilities in District 8, with all but the applicant being hospital-based providers. The proposed relocation will be within an estimated four to five miles of the existing site, and will be situated proximate to Interstate 75; this infers that travel time to the new facility will not increase due to inferior roadways or city traffic.

This said, the applicant mentions only that the replacement facility will allow easier access to residents of Sarasota and outlying communities, and does not specifically address the 90 percent total district population as requested in the rule.

(j) **Quality of Care:**

Compliance with Agency Standards. Comprehensive medical rehabilitation inpatient services shall comply with the agency standards for program licensure described in Section 59A-3, Florida Administrative Code. Applicants who submit an application that is consistent with the agency licensure standards are deemed to be in compliance with this provision.

The applicant states it is in compliance with agency standards for program licensure and is JCAHO and CARF accredited.

Additional quality measurement systems are described by the applicant in this section in excess of what is required by Chapter 59C-1.039.

(k) **Services Description. An applicant for comprehensive medical rehabilitation inpatient services shall provide a detailed program description in its certificate of need application including:**

1. Age groups to be served.

The applicant states that the average age of patients at HealthSouth Sarasota is 73, with most patients aged 65 and over. Reportedly, this is in proportion to local demography³ and typical for this facility. The applicant provides its calendar year 2003 percentage mix for each of four age groups: under 65, 65-74, 75-84 and over 85.

The proposed project is not expected to impact this mix of patient age groups.

2. Specialty inpatient rehabilitation services to be provided:

The applicant provides a brief overview of each of the following services provided at HealthSouth Sarasota: brain injury, spinal cord injury, pulmonary rehabilitation, lymphedema management, amputee rehabilitation, aquatic therapy, arthritis care, orthopedic rehabilitation, stroke rehabilitation, balance and vestibular care, cardiac rehabilitation, oncology rehabilitation, a day hospital program, enhanced external counter pulsation (EECP), sleep disorders care, neurological rehabilitation, wound care and hand rehabilitation.

³ The AHCA Population Estimates Guide as published October 2004 does not provide information specific to the age groupings as defined by the applicant.

The applicant states that all of its programs will be expanded “consistent with the current and increasing demand” for its services, and that expansion and creation of additional ancillary programs will occur should the proposed project be approved. The possible impact of this on surrounding facilities is discussed under section E.3.e.

3. Proposed staffing, including qualifications of the medical director, a description of staffing appropriate for any specialty program, and a discussion of the training and experience requirements for all staff who will provide comprehensive medical rehabilitation inpatient services.

Current staffing at the existing facility will merely change location with the proposed project; no additional FTEs will be added. Curricula vitae are included in Tab 21, Volume 4 of the application, but, as some of these were not updated to reflect the individual’s current employment before submission of this application, it is not clear which names belong to which job titles. Pages 76 – 78 of the submission provide better detail on key management personnel in the applicant’s response to E.3.c. The applicant directs the reader to both of the above-mentioned areas.

Schedule 6A provides a generalized staffing profile, but as previously mentioned, this profile excludes the medical director.

4. A plan for recruiting staff, showing sources of staff.

Zero FTEs will be added as a result of the proposed project, and as such, staff recruitment specific to the construction/relocation of the facility is not expected. Typical ongoing recruitment and retention procedures are discussed in sufficient detail on pages 58 – 60 of the submission. Job fairs, incentive programs and educational affiliations are examples of the evidence provided by the applicant in this section.

5. Expected sources of patient referrals.

No change is expected in the existing referral base, which has contributed to the applicant’s exceptionally high utilization of patient beds.

The applicant states that HealthSouth Sarasota currently receives referrals from other facilities throughout the area, and gives a 34-name sampling of referring facilities in the last three years.

6. Projected number of comprehensive medical rehabilitation inpatient services patient days by payer type, including Medicare, Medicaid, private insurance, self-pay and charity care patient days for the first two years of operation after completion of the proposed project.

The applicant provides an illustration of the projected patient days by payer for the first two years of operations wherein the same patient days projections are quoted for each of the two years following completion of the proposed project. While no explanation is given for this repetition, it is assumed that this is an illustration that existing services will not be expanded with this proposal. Please see section E.3.e for discussion on the applicant’s plans to expand ancillary services.

The applicant refers the reader to Schedule 7A in Section III of the CON application for expected payer mix percentages⁴. These mixes are listed as illustrated in the following table:

Applicant Projections of Payer Mixes for First Two Years of Operation

Payer	Inpatient	Outpatient
Medicare	82.0%	61.8%
Medicaid	1.8%	2.1%
Managed Care	10.3%	18.6%
Worker’s Compensation	1.7%	11.4%
Other	0.2%	0.2%
Charity Care	4.0%	5.9%
Total	100.0%	100.0%

Source: Applicant’s report, CON proposal #9809, Volume I, Section III.

Comparing the above table provided by the applicant to the table below provided by the agency, projected charity care provisions for the first two years of operations (2007 and 2008) at the proposed replacement facility will exceed District 8 performance for FY 03. Medicaid provisions for 2007 and 2008 are projected to be significantly below the 2003 district average of 10.93 percent. Medicare is expected to greatly exceed the district average, with an estimated 82.0 percent provision at the subject facility compared to 67.58 percent for the district in FY 03. Private insurance or managed care levels are expected at similar levels to the 2003 district average.

⁴ As there is no Schedule 7A submitted with this application, it is suspected that the applicant intended instead to refer to Schedule 7.

Patient Mixes at CMR Facilities in District 8 for Fiscal Year 2003

Facility	Medicaid	Charity Care	Medicare	Private Insurance
Naples Community Hospital	10.6%	5.0%	62.1%	18.2%
Fawcett Memorial Hospital	2.9%	0.5%	78.5%	20.4%
Lee Memorial Hospital – Cleveland	19.4%	3.4%	46.1%	18.3%
Sarasota Memorial Hospital	10.8%	2.3%	83.6%	0.9%
Average	10.925%	2.8%	67.575%	14.45%

Source: Florida Hospital Financial Data 2003

As mentioned previously in section E.2.d., the above percentages reflect hospital-based CMR facilities, and therefore include services in addition to those offered at HealthSouth Sarasota. These figures are not intended to approximate likely payer mixes at the proposed facility, but are used as a guide in the absence of HealthSouth’s inclusion in the most recent AHCA analysis of hospital financial data.

7. Admission policies of the facility with regard to charity care patients.

In combination with the applicant’s request for a condition of 1.3 percent for Medicaid/charity care patients, the applicant pledges continued non-discriminatory practices including admission of patients regardless of the ability to pay.

(l) Applications from Licensed Providers of Comprehensive Medical Rehabilitation Inpatients Services.

The applicant facility is not seeking certificate of need approval for additional CMR inpatient beds and is therefore not required in rule to provide the information requested in Ch. 59C-1.039(9).

(m) Utilization Reports. Facilities providing licensed CMR inpatient services shall provide utilization reports to the agency or its designee.

The applicant currently participates in the data collection activities of AHCA and the local health council and also participates in the data collection activities in accordance with Chapter 408 of the Florida Statutes. The applicant commits to continue participation in data collection activities at the new 76-bed replacement facility.

The applicant continues to address its commitment to treatment of all District 8 residents who meet admission criteria/clinical guidelines regardless of factors relating to the ability to pay, race, age, sex, creed, ethnic background or diagnosis.

3. 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), 408.035(7), Florida Statutes.**

The applicant addresses availability and efficacy with Functional Independence Measures (FIM) for comparison of HealthSouth Sarasota's services with nation-wide providers. In section E.2. above, the applicant discussed the services available at the existing facility, which currently experiences the second highest utilization in the district. Services would not change with this proposed project.

For accessibility, the only barriers to care mentioned in the application are the deteriorating facility and the high occupancy rates; the physical conditions would be cured with an approval of this project. It is important to note the applicant's argument on page 68 of the submission that in calendar year 2003, there were 190 patients not admitted due to the lack of an available bed. The first two quarters of calendar year 2004 show 164 patients not admitted due to lack of an available bed. The applicant believes that actual occupancy is artificially suppressed due to the room configurations not allowing for patient isolation, and beds are left unused when genders or diagnoses cannot be mixed; in other words, the actual demand for services exceeds the occupancy percentage. Because bed utilization at HealthSouth Sarasota has remained near or above 90 percent in the last three years, utilization cannot increase much until expansion must be considered. Expansion cannot be considered at the current facility due to the poor conditions detailed by the applicant and previously discussed.

The applicant states that the proposed move to a site closer to the Interstate and Doctors Hospital would allow easier accessibility to the facility for patients and medical staff.

The applicant's discussion of cost-efficiency directs the reader to the financial proformas and audited statements in Tab 4 of the CON application. These are further discussed in the financial review area.

Utilization of services has been shown to be high and will likely increase should this project be approved, since beds will be more readily available to those seeking services at HealthSouth. However, the applicant has not discussed where these patients have been going for treatment after being turned away by HealthSouth, and whichever facility has been accepting these patients may be impacted by an approval of this project. Recent bed utilization at HealthSouth Sarasota has remained near or above 90 percent for the last three calendar years, and because no beds will be added with this proposal, a significant increase in occupancy is not possible; impact in the service area, though likely, would be minimal.

Need is evidenced by the availability, quality of care, efficiency, accessibility of health care services at the applicant's facility. Access to CMR services will be improved at HealthSouth without negatively impacting existing providers.

- 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), 408.035(12), Florida Statutes.**

EMTALA reports provided by the Hospital and Outpatient Services Unit show three confirmed patient complaints for HealthSouth Rehab Hospital of Sarasota for the last three years: one confirmed for billing and refund issues, one for pressure sores and one for patient care. All other allegations were not confirmed.

The applicant has a history of providing quality care as demonstrated by the award of accreditation from both JCAHO and CARF, and demonstrates commitment to maintaining this quality of care with its quality council and an employee performance improvement plan (PIP).

More than adequate evidence is provided that the applicant has a history of providing a high quality of care.

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

CON Action Number: 9809

	<u>12/31/2003</u>	<u>12/31/2002</u>
Current Assets	\$ 3,317,210	\$ 3,400,674
Cash and Current Investment	\$ 1,500	\$ 1,500
Assets Restricted for Capital Projects	\$ -	\$ -
Total Assets	\$ 23,065,343	\$ 20,898,255
Current Liabilities	\$ 1,281,157	\$ 1,227,094
Total Liabilities	\$ 1,281,157	\$ 1,227,094
Net Assets	\$ 21,784,186	\$ 19,671,161
Total Revenues	\$ 24,550,719	\$ 27,193,087
Interest Expense	\$ -	\$ -
Excess of Revenues over Expenses	\$ 2,113,025	\$ 3,788,101
Cash Flow from Operations	\$ 3,105,565	\$ 4,225,942
Working Capital	\$ 2,036,053	\$ 2,173,580
Current Ratio (CA/CL)	2.6	2.8
Cash Flow to Current Liabilities (CFO/CL)	2.4	3.4
Long-Term Debt to Net Assets (TL-CL/NA)	0.0	0.0
Net Assets to Total Assets (TE/TA)	94.4%	94.1%
Total Margin (ER/TR)	8.6%	13.9%
Return on Assets (ER/TA)	9.2%	18.1%
Operating Cash Flow to Assets (CFO/TA)	13.5%	20.2%

It should be noted in this analysis that the applicant is a limited partnership with two members, a general partner HealthSouth Real Property Holding Corporation (General Partner) and a limited partner HealthSouth Corporation (Limited Partner or HealthSouth). The partnership interest is divided one percent to the general partner and 99 percent to the limited partner. According to the audit, HealthSouth will from time to time “sweep” cash from the applicant’s bank accounts to a corporate account to pay for the expenses of the partnership. Any excess funds may be distributed to the partnership. The balance of these excess funds due to the applicant was \$13.8 million in 2003 and \$11 million in 2002. These amounts were recorded as a non-current receivable on the balance sheet of the applicant.

According to the audit, HealthSouth is under investigation by the SEC, DOJ, and other governmental authorities involving HealthSouth’s accounting practices, Medicare cost reporting practices, billing practices for federal health care programs, and other related matters. Although the audit indicated that the outcome of these lawsuits and investigations

could not be determined, the results of these items could have a material adverse effect on HealthSouth's business, results of operations, financial condition, and cash flows. This could also have a material adverse effect on the applicant.

Short-term position:

The applicant's current ratio of 2.6 indicates current assets are approximately two and a half times short-term liabilities, a good position. The working capital (current assets less current liabilities) of \$2 million is a measure of excess liquidity that could be used to fund capital projects. The most recent year had an operating profit of \$2.1 million resulting in a margin of 8.6 percent. The ratio of cash flow to current liabilities of 2.4 is good. The applicant has a good short-term position.

Long-term position:

The long-term debt to equity ratio of a 0.0 means the applicant does not have any long-term debt obligations, a good position. The cash flow to assets ratio of 13.5 percent is above average. The applicant has total partnership capital (net assets) of \$21.8 million. Overall, the applicant has a good long-term position.

Capital requirements:

Schedule 2 indicates capital projects of \$23.8 million.

Available capital:

According to the narrative attached to Schedule 3, funding for this project will come from two sources: Dasco Companies (a real estate investment trust) and HealthSouth. Dasco Companies will purchase the land and construct the facility and lease back the facility to the applicant. The applicant provided a copy of a lease term sheet, which indicates Dasco's commitment to fund \$18.6 million of the land and construction related costs. The applicant has indicated that the remaining funding needed will come from HealthSouth. HealthSouth provided a letter indicating its willingness to fund the project and indicated it had cash on hand of \$600.9 million. Because of the investigations discussed above, HealthSouth has been unable to submit audited financial statements to the SEC. Therefore, the reviewer was unable to confirm the cash balance or evaluate any other potential liabilities that may impair the cash balance purported by HealthSouth.

Conclusion:

Without audited financial statements of HealthSouth, the reviewer was unable to determine if the funding pledged will be available. Further, the ongoing investigations discussed above could have a material impact on the operations of HealthSouth and the applicant. Therefore, funding for this project is in question.

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

A comparison of the applicant's estimates to the control group values provides for an objective evaluation of financial feasibility (the likelihood that the services can be provided under the parameters and conditions contained in Schedules 7 and 8), and efficiency (the degree of economies achievable through the 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.

Comparative data were derived from hospitals in peer groups that reported data in 2003; the applicant will be compared to the hospitals in peer group 18. Per diem rates are projected to increase by an average of 3.5 percent per year. Inflation adjustments were based on the new CMS Market Basket, 2nd Quarter, 2004.

CON Action Number: 9809

Projected net revenue per adjusted patient day (NRAPD) of \$849 in year one and \$875 in year two is between the control group median and lowest values of \$1,060 and \$789 in year one and \$1,094 and \$814 in year two. With net revenues falling between the median and lowest level, the facility is expected to consume health care resources in proportion to the services provided (See Comparative Table).

Projected cost per adjusted patient day (CAPD) of \$762 in year one and \$782 in year two is between the control group median and lowest values of \$811 and \$672 in year one and \$837 and \$693 in year two (see Comparative Table). Compared to the control group these costs are efficient.

The year two operating profit for the hospital of \$2.96 million computes to an operating margin per adjusted patient day of \$94, which falls below the peer group lowest value of \$103. The operating margin of 10.7 percent indicates that projected revenues are sufficient to cover projected costs. The fact that the NRAPD and CAPD fall within the control group values and the operating margin falls below the control group lowest value would suggest that either expenses are overstated and/or revenues are understated. In either case, the profitability of the project would be understated, and would be considered a conservative approach to projecting operations.

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

CON Action Number: 9809

COMPARATIVE TABLE

HEALTH SOUTH OF SARASOTA LIMITED PARTNERSHIP

CON # 9809

2003 DATA Peer Group 18

	JUNE 2008	YEAR 2	VALUES ADJUSTED		
	YEAR 2	ACTIVITY	FOR INFLATION		
	<u>ACTIVITY</u>	<u>PER DAY</u>	<u>Highest</u>	<u>Median</u>	<u>Lowest</u>
ROUTINE SERVICES	34,608,495	1,093	1,485	648	335
INPATIENT AMBULATORY	0	0	0	0	0
INPATIENT SURGERY	0	0	0	0	0
INPATIENT ANCILLARY SERVICES	0	0	2,998	783	732
OUTPATIENT SERVICES	8,369,722	264	784	199	54
TOTAL PATIENT SERVICES REV.	42,978,217	1,357	5,267	1,586	1,266
OTHER OPERATING REVENUE	77,570	2	27	4	0
TOTAL REVENUE	43,055,787	1,360	5,267	1,613	1,266
DEDUCTIONS FROM REVENUE	15,337,861	484	0	0	0
NET REVENUES	27,717,926	875	1,636	1,094	814
EXPENSES					
ROUTINE	5,682,576	179	253	208	130
ANCILLARY	5,123,233	162	262	234	167
AMBULATORY	2,040,659	64	0	0	0
TOTAL PATIENT CARE COST	12,846,468	406	0	0	0
ADMIN. AND OVERHEAD	5,875,012	186	0	0	0
PROPERTY	5,389,133	170	0	0	0
TOTAL HOSPITAL EXPENSE	11,264,145	356	617	400	323
OTHER OPERATING EXPENSE	644,473	20	0	0	0
TOTAL EXPENSES	24,755,086	782	1,291	837	693
OPERATING INCOME	2,962,840	94	300	233	103
		10.7%			
PATIENT DAYS	25,456				
ADJUSTED PATIENT DAYS	31,669				
TOTAL BED DAYS AVAILABLE	27,740		VALUES NOT ADJUSTED		
ADJ. FACTOR	0.8038		FOR INFLATION		
TOTAL NUMBER OF BEDS	76		<u>Highest</u>	<u>Median</u>	<u>Lowest</u>
PERCENT OCCUPANCY	91.77%		93.2%	75.1%	43.3%
PAYER TYPE	<u>PATIENT</u>	<u>% TOTAL</u>			
	<u>DAYS</u>				
SELF-PAY	51	0.2%			
MEDICAID	458	1.8%	8.4%	4.2%	0.2%
MEDICAID HMO	0	0.0%			
MEDICARE	20,874	82.0%	83.4%	68.5%	63.5%
MEDICARE HMO	0	0.0%			
INSURANCE	0	0.0%			
HMO/PPO	2,622	10.3%	31.4%	19.0%	11.9%
OTHER	1,451	5.7%			
TOTAL	25,456	100%			

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

The applicant projects managed care to represent 10.3 percent of its patient days, which is below the control group lowest value of 11.9 percent. With managed care days below the peer group lowest value, this project is not likely to have a positive impact on competition to promote quality assurance and cost-effectiveness.

The applicant states on page 57 that all of its programs will be expanded “consistent with the current and increasing demand” for its services. The applicant further states that expansion and creation of additional ancillary programs will occur should the proposed project be approved. If this is correct, this would impact surrounding facilities; however, because bed count will not increase with this proposal, impact would not be significant and would not seemingly be detrimental to operations at neighboring facilities. It is likely that an approval of this project would merely somewhat increase the competition for CMR patients in District 8, therefore prompting the competing facilities to improve quality and cost-effectiveness.

f. 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.

The applicant proposes to build a freestanding two-story CMR replacement facility. The narrative states that several sites are “under evaluation and analysis,” but the building footprint is obviously designed for a specific site with an angled wall in one place matching the shape of the site.

There will be 28 semi-private patient rooms and 20 private rooms. All exceed the minimum size requirements and all patient rooms and toilet rooms are handicapped accessible, as required. Some of the private rooms appear to have been designed so that an additional bed could be added later.

The facility will have spaces for occupational therapy, physical and aquatic therapy. There are other therapy functions in addition to these, and the facility will also serve outpatients.

There were two lists of major applicable building codes, but only the one on the drawings is essentially correct. There are references in the narrative to the requirements for disaster preparedness, which is always a key issue with new facilities. The costs and schedule appear to be reasonable for a project of this scope.

Overall, the building is well designed and should be functional. The patient room areas on both floors have the rather typical “racetrack” layout with the sleeping rooms on the exterior walls, a double corridor system with support spaces in the center.

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

It should be noted that as reported on the Schedule 9 architectural criteria form, total gross square footage (GSF) of the project will be 78,373 (this is different from the 78,353 GSF quoted in the architectural narrative) at a total cost of \$22,655,551. In the project summary narrative, total project costs are projected to “not exceed \$23,027,551,” a difference of \$372,000.

- g. 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.**

HealthSouth Sarasota is requesting that the proposed certificate of need be conditioned for a minimum of 1.3 percent of service provision for combined Medicaid and charity care. The applicant has previously been conditioned for this amount on CON #9449, and no records of non-compliance can be found in Agency records.

The applicant states a continued commitment to providing care to those meeting admission criteria regardless of ability to pay.

F. SUMMARY

HEALTHSOUTH of Sarasota Limited Partnership (CON #9809) d/b/a HealthSouth Rehabilitation Hospital of Sarasota requests a certificate of need (CON) for the replacement of its 76-bed Class III specialty comprehensive medical rehabilitation (CMR) facility in District 8, Sarasota County. No site is selected, but targets are reportedly within four to five miles of the existing location.

This CON application has innumerable typographical errors, pages are missing and/or out of sequential order in the reviewer's copy, Agency-published figures are misquoted and some non-pivotal discrepancies exist in construction figures quoted in three separate areas of the application. No documentation was provided to support the figures for renovation costs. A draft version of Schedule 6A is repeated after Schedule 8A. The table of contents directs the reader to audited financial statements in Tab 2 (Volume II), but Tab 2 contains no such statements and only further refers back to Tab 3 of Volume I. A letter of support is placed in the middle of the financial schedules. At least 17 of the bound and submitted letters of support are duplications and a two-page letter from one patient has page #2 several pages before page #1. Many of the included letters make no reference to the proposed project.

Conflicting information is presented regarding total project cost and gross square footage. Fees were paid on the following amount, which is considered the project cost in this review: \$22,655,551. Additionally, the project involves 78,373 GSF of construction and \$12,800,000 in construction costs.

After weighing and balancing all relevant criteria, the following issues are presented:

Need

- This application is not submitted in response to published need. This is a replacement application where the applicant provides written and pictorial evidence of the existing facility's constraints, and makes a reasonable case for replacement.
- No site has been selected for the proposed project, but a targeted site is interstate-adjacent and neighbors a referring hospital within four to five miles of the existing site.
- The applicant expects that the proposed project will not impact surrounding facilities, but conversely projects that utilization and

services will increase. Because there is no addition of beds with this proposal, impact, though likely, should be minimal.

Quality of Care

- The applicant reasonably demonstrates that it has a history of providing quality of care, as indicated by its JCAHO and CARF accreditations.
- Evidence is adequately provided that internal quality assessment measures are in place.
- Multiple letters of support attest to quality care despite facility conditions.

Cost/Financial Analysis

- Overall, the applicant has good short-term and long-term positions.
- It is undetermined if the funding pledged by corporate HealthSouth will be available for this proposed project. However, revenue projections appear conservative and financial feasibility of this project appears likely.
- This project, if approved, may also positively impact competition to promote quality and cost-effectiveness in the service area.

Medicaid/Indigent Charity Care Commitment

- The applicant is requesting that the CON be conditioned for the provision of a minimum of 1.3 percent of total discharges to Medicaid and charity care patients.
- The applicant has previously been conditioned for this amount on CON #9449, and no records of non-compliance can be found in Agency records.
- The applicant states a continued commitment to providing care to those meeting admission criteria regardless of ability to pay.

Architectural Analysis

- The costs and schedule appear to be reasonable for a project of this scope.

- The building is well designed and should be functional.

G. RECOMMENDATION

Approve CON #9809 to construct a 76-bed replacement comprehensive medical rehabilitation (CMR) hospital. Project cost total \$22,655,551 and include 78,373 GSF of construction and \$12,800,000 in construction costs.

CONDITION: A minimum of 1.3 percent of total discharges in the 76-bed CMR hospital shall be provided to Medicaid and charity care patients on a combined basis.

AUTHORIZATION FOR AGENCY ACTION

Authorized representatives of the Agency for Health Care Administration adopted the recommendation contained herein and released the State Agency Action Report.

DATE: _____

Karen Rivera
**Health Services and Facilities Consultant Supervisor
Certificate of Need**

Jeffrey N. Gregg
Chief, Bureau of Health Facility Regulation