

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Ten Broeck Orlando, Inc./CON #9877

603 Main Street
Windermere, Florida 34786

Authorized Representative: Sherry Hemphill
(407) 876-2200

UHS of Maitland, Inc./CON #9878

1650 Park Ave. North
Maitland, Florida 32751

Authorized Representative: Vickie Lewis
(800) 433-1122

2. Service District/Subdistrict

District 7 (Brevard, Orange, Osceola, and Seminole Counties)

B. PUBLIC HEARING

A public hearing was not held or requested regarding the establishment of an adult psychiatric hospital in District 7. However, the applicants' submitted letters of support for their respective projects as presented below:

Ten Broeck Orlando, Inc. (CON #9877): Sixteen letters of support were submitted as part of the application from area hospitals, residential treatment facilities, emergency room physicians, community and government leaders, and the principle economic development organization in central Florida. The majority of letters discussed the hardship and pressure psychiatric patients place on the emergency room, staff, intensive care beds, medical surgical beds, the lack of

CON Action Numbers: 9877-9878

available treatment options, and the need for enhancements to the area's continuum of care.

David Nissen, VP and Managing Director of Pasadena Villa, expressed his concern that a large number of area residents must be referred outside the district for psychiatric services. He further explained that Ten Broeck's expertise in dually diagnosed individuals, which is a patient population whose needs are largely being unmet in the area, should be considered.

Dr. Jorge Lopez, President of Florida Emergency Physicians, expressed that Orange County's population has exploded in growth, as has its share of psychiatric patients yet, the county's growth in psychiatric facilities has not occurred.

Steve Barlow of Psychcare wrote, "...We have six admissions per month that leave the area for inpatient adult psychiatric services. This is due to the fact that we prefer freestanding adult psych programs for confidentiality and programming purposes. Having to send patients from Orange County is more costly to us, the managed care company, and a hardship on the families."

Richard Irwin, CEO of Health Central, wrote, "...Last year our hospital place over 150 patients in mental health facilities. Due to the lack of providers, especially on the west side of Orange County, referrals were delayed in many cases for more that one week."

The Agency received two letters of opposition from Karl Hodges, Vice President of Business Development for Orlando Regional Health Care and Richard E. Morrison, Florida Hospital. These letters opposed proposals submitted by both co-batched applicants. While not opposed to additional psychiatric beds in the community, both letters indicated a concern over the applicant's proposed level of commitment toward unfunded care. The letters recommended that the Agency, as a condition of approval, stipulate that the applicant be required to take a percentage of indigent referrals from local hospitals or at a minimum, commit to a greater level of unfunded care than what has been committed to in the CON application. Since Mr. Hodges letter was received the day before either co-batching application was received by the Agency and Mr. Morrison's letter was received on the same day as the applications, its is doubtful that either writer was aware of the commitment amount being proposed by the co-batched applicants and the Agency cannot simply condition an applicant. Pursuant to section 408.040 (1), Florida Statutes, the Agency may issue a certificate of need, or an exemption, predicated upon statements of intent expressed by an applicant in the application for a certificate of need or an exemption and the Agency

CON Action Numbers: 9877-9878

cannot simply condition an applicant. Any conditions imposed on a certificate of need or an exemption based on such statements of intent shall be stated on the face of the certificate of need or in the exemption approval.

UHS of Maitland, Inc. (CON #9878): Twenty-five letters of support were submitted as part of the application however, 14 of those letters were duplicates. Letters of support were received from area physicians, mental health personnel, mental health treatment facilities, and community leaders. A majority of the letters discussed the applicant's history of providing quality services and care. Letters from Dr. Dano Leli, Maitland Psychology; Dr Gail Mock, PsyD, Associates Psychology Counseling; and Dr. Barbara Mara, Ph.D., Psychological Wellness for Children and Families, Inc., indicate that beds are needed to serve the geriatric population.

Kay Heimmer's, President/CEO, Prevent of Brevard, Inc., letter stated that, "...In Brevard County, the ever-growing demand for quality mental health services greatly exceeds current capacity. As a result, high-risk clients must often wait to be served. There is a critical need for more beds." Dr. L. Scot Fairchild, Baytree Behavioral Health, writes, "Currently, Brevard County is extremely limited in its adult and child inpatient resources and looks forward to the day when we can refer our inpatient needs to the comprehensive care of La Amistad." Jessica A. Carlson, MA, NCC, LMHC, writes, "I have referred both children and adults to La Amistad...the only draw-back has been the lack of availability (of beds) at times. It seems that there is need for more beds for children/adolescents and for adults." Terry Clowney, LCSW, Melbourne Psychiatry, writes, "Currently, there is no facility available to our population when longer-term services are needed. If a patient requires an inpatient stay that is not a Baker Act situation, then I have to refer them to facilities out of the area."

The Agency received two letters of opposition from Karl Hodges, Vice President of Business Development for Orlando Regional Health Care, and Richard E. Morrison, Florida Hospital. These letters opposed proposals submitted by both co-batched applicants. While not opposed to additional psychiatric beds in the community, both letters indicated a concern over the applicant's proposed level of commitment toward unfunded care. The letters recommended that the Agency, as a condition of approval, stipulate that the applicant be required to take a percentage of indigent referrals from local hospitals or at a minimum, commit to a greater level of unfunded care than what has been committed to in the CON application. Since Mr. Hodges letter was received the day before either co-batching application was received by the Agency and Mr. Morrison's letter was received on the same day as the applications, its is

doubtful that either writer was aware of the commitment amount being proposed by the co-batched applicants and the Agency cannot simply condition an applicant. Pursuant to section 408.040 (1), Florida Statutes, the Agency may issue a certificate of need, or an exemption, predicated upon statements of intent expressed by an applicant in the application for a certificate of need or an exemption and the Agency cannot simply condition an applicant. Any conditions imposed on a certificate of need or an exemption based on such statements of intent shall be stated on the face of the certificate of need or in the exemption approval.

C. PROJECT SUMMARY

Ten Broeck Orlando, Inc. (CON #9877): Ten Broeck Orlando, Inc. is a development stage company that was formed August 11, 2005. The applicant is affiliated with United Medical Corporation, which founded Ten Broeck Healthcare in 1976. Ten Broeck Healthcare owns and operates three facilities in Florida and two in Kentucky. The applicant indicates that Rapha, Inc. is also part of Ten Broeck Healthcare and provides faith-based psychiatric treatment and professional counseling. In addition, Ten Broeck Healthcare operates Premier Care, a specialized program offering intensive outpatient and partial hospitalization services for the elderly. The applicant (Ten Broeck) proposes to establish a 139-bed psychiatric specialty hospital in Orange County, District 7. This application is for the establishment of 49 adult inpatient psychiatric beds. The applicant has contemporaneously filed a CON application (CON #9879) for the establishment of 90 child/adolescent inpatient psychiatric beds. Unlike co-batching applicant, UHS of Maitland, Inc., Ten Broeck does not indicate if it will proceed with the project if only one application is approved.

According to the *Certificate of Need Predicated on Conditions* page, the applicant is proposing a minimum of five percent of its total annual patient days to charity care patients. In addition, the applicant offers the following conditions it is willing to accept upon approval of the proposed project:

- The site will be located in Orange County, Florida
- Baker Act Receiving Facility
- Mechanical restraints and seclusion free environment
- Partial hospitalization and intensive outpatient
- Senior Perspectives, Geriatric Partial Hospitalization
- T.I.M.E. (Ten Broeck Immediate Mobile Evaluation) Team

CON Action Numbers: 9877-9878

The proposed project involves a total cost of \$18,670,931. Construction costs are projected at \$12,024,000 and the project will involve 66,800 gross square feet (GSF) of new construction.

UHS of Maitland, Inc. (CON #9878): (UHS) d/b/a La Amistad Residential Treatment Center, a wholly owned subsidiary of UHS of Delaware, Inc., which is a wholly owned subsidiary of Universal Health Services, Inc., proposes to establish a 120-bed psychiatric specialty hospital in southern Orange County, District 7. According to the applicant, Universal Health Services, Inc. currently operates 95 behavioral health facilities throughout the United States. The proposed facility is referred to as “La Amistad South” and the existing facility is referred to as “La Amistad North”. This application is for the establishment of 49 adult inpatient psychiatric beds. The applicant has contemporaneously filed a CON application (CON #9880) for the establishment of 71 child/adolescent psychiatric beds. From the applicant’s perspective, this is a single project and indicates that it will not proceed with the project if only one application is approved.

According to the *Certificate of Need Predicated on Conditions* page, the applicant is proposing to provide two percent of its gross revenues to charity care patients.

The proposed project involves a total cost of \$17,962,562. Construction costs are projected at \$7,600,000 and the project will involve 69,755 gross square feet (GSF) of renovation.

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 (subdistrict), applications are comparatively reviewed to determine which applicant best meets the review criteria.

Rule 59C-1.010(2) (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, Jennifer Benghuzzi, analyzed the application in its entirety with consultation from the Financial Analyst, Ryan Fitch, who evaluated the financial data, and the Architect, Skip Gregory, who evaluated the architectural and the schematic drawings as part of the application.

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

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

1. Fixed Need Pool

a. Does the project proposed respond to need as published by a fixed need pool? Or does the project proposed seek beds or services in excess of the fixed need pool? ss. 59C-1.008(2), Florida Statutes

On July 29, 2005, AHCA published a fixed need pool (FNP) in Volume 31, Number 30, Florida Administrative Weekly (F.A.W.) for 49 additional adult inpatient psychiatric beds in District 7. Both proposed projects are being submitted in response to the FNP.

2. Agency Rule Criteria/Preferences

a. Chapter 59C-1.040, Florida Administrative Code, contain factors to be considered in the review of Certificate of Need Applications for hospital inpatient general psychiatric services for children and adolescents.

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 Plans, the district Alcohol, Drug Abuse and Mental Health Plan, and the State Health Plan.

CON Action Numbers: 9877-9878

Both co-batching applications are consistent with the needs of the community. Although Florida no longer has a State Health Plan, and preference criteria for CON review is no longer required of Local Health Council Plans, local plans are available and reference issues of concerns in East Central Florida. The Health Council of East Central Florida identified a need to increase access to mental health services and counseling. Based on a Key Stakeholder Survey, the number one most difficult service to obtain in each county, the district, and the state was mental health services. There are many obstacles to accessing care including patients' fears, isolation, and lack of funds. Ten Broeck has agreed to provide a minimum of five percent of its total annual patient days to charity care patients and UHS has agreed to provide the two percent of its gross revenues to charity care patients.

2. **Rule 59C-1.040(4)(e) 2, Florida Administrative Code: Applications from general hospitals for new or expanded hospital inpatient psychiatric beds for adults shall normally be approved only if the applicant converts a number of acute beds, as defined in rule 59C-1.38, Florida Administrative Code, excluding specialty beds, which is equal to the number of hospital inpatient adult psychiatric beds proposed, unless the applicant can reasonably project an annual occupancy rate of 75 percent for the applicable planning horizon, based on historical utilization patterns, for all acute beds, excluding specialty beds. If the conversion of the number of acute care beds, which equals the number of proposed hospital inpatient general psychiatric beds for adults would result in an annual acute care occupancy exceeding 75 percent for the applicable planning horizon, the applicant shall only be required to convert the number of beds necessary to achieve a projected annual 75 percent acute occupancy for the applicable planning horizon, excluding specialty beds.**

This criterion is not applicable to the application under review, as the project does not involve a general hospital or the conversion of acute care beds to specialty beds.

3. **Rule 59C-1.040(4)(e) 3, Florida Administrative Code: In order to ensure access to hospital inpatient general psychiatric services for Medicaid-eligible and charity care adults, 40 percent of the gross bed need allocated to each district for hospital inpatient general psychiatric services for adults should be allocated to general hospitals.**

As of July 29, 2005, District 7 had 230 licensed adult psychiatric beds dispersed among five facilities. Of the five facilities, three are general hospitals and two are freestanding:

District 7 Adult Psychiatric Facilities

Facility	Type	# Adult Beds
Circles of Care	Freestanding	52
Florida Hosp-Orlando	Hospital based	59
Lakeside Alternatives	Freestanding	56
Orlando Reg. South Seminole Hosp.	Hospital based	46
Wuesthoff Medical Center-Rockledge	Hospital based	17
District 7 Total		230

Source: Florida Hospital Bed Need Projections and Service Utilizations by District, July 2005 Batching Cycle.

Florida Hospital-Orlando notified the Agency (CON Notification #N0500011) on August 31, 2005 that it would be adding 16 adult psychiatric beds. Upon implementation of these 16 beds, the district will have 246 total adult psychiatric beds.

Should either applicant implement its proposed 49 beds, there would be a total of 295 (246+49) adult psychiatric beds in the district of which, 157 beds will not be affiliated or allocated to a general hospital. With 63 of the 295 beds being located at hospital based facilities, this represents a 21.4 percent (63/295) allocation to general hospitals. Accordingly, this criterion will not be maintained with the approval of either co-batched CON application.

With recent changes in CON regulation, hospitals can add adult psychiatric beds through a CON exemption.

4. **Regardless of whether bed need is shown under the need formula, no additional hospital inpatient general psychiatric beds for adults shall normally be approved in a district unless the average annual occupancy rate of the licensed hospital inpatient general psychiatric beds for adults in the district equals or exceeds 75 percent for the 12-month period ending six months prior to the beginning date of the quarter of the publication of the fixed bed need pool.**

CON Action Numbers: 9877-9878

The adult psychiatric beds in the district experienced an occupancy rate of 86.74 for the January 2004 through December 2004 reporting period. The following table indicates the facilities in District 7 that have adult psychiatric beds and their respective utilization rates for CY 2004:

**District 7 Adult Inpatient Psychiatric Utilization
January 2004-December 2004**

Facility	County	# Adult Beds	Adult Patient Days	Adult Occupancy
Circles of Care	Brevard	52	17,431	91.59%
Florida Hosp-Orlando	Orange	59	19,045	88.20%
Lakeside Alternatives	Orange	56	8,188	71.18%
Orlando Reg. South Seminole Hosp.	Orange	46	15,591	92.61%
Wuesthoff Medical Center-Rockledge	Brevard	17	4,964	79.78%
District 7 Total		230	65,219	86.74%

Source: *Florida Hospital Bed Need Projections and Service Utilizations by District, July 2005 Batching Cycle.*

- b. Priority Considerations for hospital inpatient general psychiatric services (59C-1.040(i), Florida Administrative Code) (NOTE: All references to child/adolescent psychiatric services are deleted). In weighing and balancing statutory and rule review criteria, preference will be given to both competing and non-competing applicants who:**

- 1. Provide Medicaid and charity care days as a percentage of their total patient days of total patient days provided by other hospitals in the district, as determined for the most recent calendar year prior to the year of the application for which data are available from the Health Care Board**

The table below shows existing adult psychiatric providers amount of charity care, Medicaid, and HMO Medicaid provided to patients' ages 18 and older diagnosed with a mental disease or disorder for fiscal year 2004.

**District 7 Adult Inpatient Psychiatric Facilities
Percentage of Medicaid, Medicaid HMO, and Charity Care
For FY 2004**

Facility	Charity Care %	Medicaid %	HMO Medicaid %
Circles of Care	0.00%	0.31%	0.00%
Florida Hosp-Orlando	5.67%	21.13%	0.93%
Lakeside Alternatives	0.00%	1.19%	0.00%
Orlando Reg. South Seminole Hosp.	5.54%	13.62%	6.58%
Wuesthoff Medical Center-Rockledge	0.00%	11.56%	3.03%

Source: *FY 2004 Actual Data/AHCA and data from AHCA statewide patient level database, DRGs 425-432.*

CON Action Numbers: 9877-9878

Ten Broeck Orlando, Inc. (CON #9877): As a freestanding psychiatric hospital, the proposed Ten Broeck facility cannot receive Medicaid fee for service reimbursement but is not precluded from receiving Medicaid HMO reimbursement. Schedule 7 shows that the applicant will be providing 20 percent of its patient days to Medicaid HMO. The applicant commits to condition five percent of its patient days to charity care patients.

UHS of Maitland, Inc. (CON #9878): As a freestanding psychiatric hospital, the proposed La Amistad South cannot receive Medicaid fee for service reimbursement but is not precluded from receiving Medicaid HMO. Schedule 7 doesn't show that the applicant will be providing any patient days to Medicaid HMO patients. The applicant commits to providing two percent of its gross revenues to charity care patients.

- 2. Propose to serve the most seriously mentally ill patients to the extent that these patients can benefit from a hospital-based organized inpatient treatment program.**

Both applicants state that it will serve the most serious mentally ill patients including suicidal patients, patients with acute schizophrenia, and patients with severe depression.

- 3. Propose to serve Medicaid-eligible persons.**

Refer to 2.b.1, above.

- 4. Propose to serve individuals without regard to their ability to pay.**

Ten Broeck Orlando, Inc. (CON #9877) states that it provides a wide array of psychiatric services to all District 7 residents who meet admission criteria/clinical guidelines, regardless of their ability to pay, race, age, sex, creed, ethnic background, or diagnosis. As previously discussed, the applicant committed to providing five percent of its total annual patient days to charity care patients. Pro formas show the applicant expects that 20 percent of its patient days will be provided to Medicaid HMO patients.

UHS of Maitland, Inc. (CON #9878) states that services will be offered without regard to race, age, sex, or national origin. As previously discussed, the applicant committed to providing two percent of its gross revenues to charity care. This care will be provided through the process of caring for patients admitted under

CON Action Numbers: 9877-9878

the Baker Act and patients admitted electively through medical staff and through referrals from hospitals and community agencies. Some charity care will be delivered to patients who have limited insurance coverage and whose need for treatment exceeds benefit limits in their insurance plans.

5. Agree to be a designated public or private receiving facility.

Both applicants indicated that their proposed facilities would be designated as a Baker Act receiving facility.

6. Provide a continuum of psychiatric services for children and adolescents, including services following discharge.

Both applicants have submitted CON applications under review in this batching cycle to provide a continuum of psychiatric services for children and adolescents, including services following discharge.

- b. Minimum Size of Specialty Hospitals (59C-1.040(3)(e) Florida Administrative Code). A specialty hospital providing hospital inpatient general psychiatric services shall have a minimum total capacity of 40 beds. The minimum capacity of a specialty hospital providing hospital inpatient general psychiatric services may include beds used for hospital inpatient substance abuse services regulated under Rule 59C-1.041, Florida Administrative Code. The separately organized units for hospital inpatient general psychiatric services for adults in specialty hospitals shall have a minimum of 15 beds (59C-1.040(5), Florida Administrative Code).**

Both applicants propose 49 adult inpatient psychiatric beds for their respective projects, exceeding the minimum size of 40 beds established by rule.

- c. Access Standard. Hospital inpatient general psychiatric services should be available within a maximum ground travel time of 45 minutes under average travel conditions for at least 90 percent of the district's total population (59C-1.040(6), Florida Administrative Code).**

The travel time standard is met as it applies to District 7.

d. **Quality of Care.**

1. **Compliance with Agency Standards. Hospital inpatient general psychiatric services for adults shall comply with the agency standards for program licensure. Applicants who include a statement in their certificate of need application that they will meet applicable agency licensure standards are deemed to be in compliance with this provision (59C-1.040(a), Florida Administrative Code).**

Both applicants state their intention to comply with all licensure standards described in Chapter 59A-3 Florida Administrative Code.

2. **Continuity. Providers of hospital inpatient general psychiatric services shall also provide outpatient services, either directly or through written agreements with community outpatient mental health programs, such as local psychiatrists, local psychologists, community mental health programs, or other local mental health outpatient programs (59C-1.040(7)(d), Florida Administrative Code).**

Ten Broeck Orlando, Inc. (CON #9877) states that as a company, Ten Broeck ensures continuity of care is available to patients discharged from an inpatient setting. Adult outpatient services typically include partial hospitalization and intensive outpatient therapies. Additionally, Ten Broeck has a geriatric outpatient program which caters specifically to elderly patients. It is the applicant's intent to continue this mode of treatment within its proposed facility.

UHS of Maitland, Inc. (CON #9878) states that it will provide patients partial hospitalization and outpatient services following discharge from the inpatient setting. There are five psychiatrists and one board-eligible psychiatrist on active staff at La Amistad North. In addition, there are five therapists on staff.

3. **Screening Program. All facilities providing hospital inpatient general psychiatric services shall have a screening program to assess the most appropriate treatment for the patient. Patients with a dual diagnosis of a psychiatric disorder shall be evaluated to determine the types of treatment needed, the appropriate treatment setting, and, if necessary, the appropriate sequence of treatment for the psychiatric and substance abuse disorders (59C-1.040(7)(e), Florida Administrative Code).**

Both applicants state that a screening program would be implemented to assess the most appropriate treatment for each patient.

e. Services Description (59C-1.040(8), Florida Administrative Code). An applicant for hospital inpatient general psychiatric services shall provide a detailed program description in its certificate of need application including:

1. Age groups to be served.

Ten Broeck Orlando, Inc. (CON #9877): The 49-bed adult psychiatric program will serve adults age 18 and over. The applicant estimates that 70-75 percent of its patients will be between the ages of 18-64 and the remainder will be age 65 and older. The applicant has also filed a CON application to establish a 90-bed child/adolescent psychiatric program within this proposed facility.

UHS of Maitland, Inc. (CON #9878) states that La Amistad South will serve all adults age 18 and older, adolescents age 12-17 years, and children ages 4-11 years. The applicant has also filed a CON application to establish a 71-bed child/adolescent psychiatric program within this proposed facility.

2. Specialty programs to be provided.

Ten Broeck Orlando, Inc. (CON #9877) will offer the following specialized adult programs:

- Emergency stabilization services
- Depression/trauma
- Specialized programs for first responders including police officers and paramedics
- Pain management
- Specialized geriatric/psychiatric services
- Dual diagnosis services where psychiatric diagnosis is primary
- Eating disorders

UHS of Maitland, Inc. (CON #9878) states that it will provide special programs for mature adults and for adults and adolescents with a dual diagnosis of substance abuse and psychiatric disorders. However, it did not list those specialty programs.

3. Proposed staffing, including the qualifications of the clinical director and a description of staffing appropriate for any specialty program.

Ten Broeck Orlando, Inc. (CON #9877): Schedule 6 included the staffing patterns for the combined 139-bed facility and for the 49-bed adult psychiatric unit. The staffing for the combined 139-bed facility will consist of 87.2 FTEs for the first year of operation and 143.8 FTEs for the second year. The 49-bed adult psychiatric unit will consist of 37.0 FTEs for the first year of operation and 60.3 FTEs for the second year.

The application does not indicate who will be serving as the medical director for the proposed facility.

UHS of Maitland, Inc. (CON #9878): Schedule 6 shows the staffing for the combined 120-bed facility. The applicant projects 104.59 FTEs the first year of operation and 166.85 FTEs for the second year. Notes to Schedule 6 indicate that all units will require 24-hour nursing care, with the acute programs having a 4:1 ratio of patients to staff and the residential program having a 6:1 ratio. The applicant states that its adult acute patient to nursing staff ratio is lower due to the implementation of a geriatric unit and its associated high acuity. The partial hospitalization programs and outpatient programs have a patient to staff ratio of 5:1.

Vickie Lewis, CEO of La Amistad North, will also be the CEO of La Amistad South. The application does not indicate who will be serving as the medical director for La Amistad South. The applicant does indicate that some staff members will be transferred to La Amistad South from other UHS Behavioral Health facilities. The curricula vitae of key staff were included in Attachment 21 of the application.

4. Patient groups by primary diagnosis ICD-9 code that will be excluded from treatment.

Ten Broeck Orlando, Inc. (CON #9877) identified excluded diagnoses as 299-infantile autism, 315-hyperkinetic syndrome of childhood, and organic and dementia diagnoses which indicate that such clinical interventions would not produce results. The applicant states that the following criteria apply:

CON Action Numbers: 9877-9878

1. Persons who are mentally retarded without corresponding affective disturbance or thought disorder, or OBS;
2. Persons who require custodial care rather than active psychiatric treatment;
3. Involuntary admission involving charges for capital offenses (i.e. murder), and felony cases; or
4. Patients whose organic brain disorder will, in the judgment of the psychiatrist, not progress with a course of inpatient psychiatric care.

UHS of Maitland, Inc. (CON #9878) identified the following persons who will not be admitted to La Amistad South regardless of whether or not they meet the general admission criteria:

1. Persons who have organic brain syndrome (OBS) of a severity that they are unable to perform basic tasks of daily life, or residents who meet the admission criteria only because of symptoms caused by OBS rather than concomitant psychiatric problems.
2. Persons who require medically supervised detoxification from alcohol or drugs.
3. Persons with acute medical problems, requiring interventions that would require admissions to a medical-surgery facility or that cannot be provided in the facility without impairing psychiatric care for the unit as a whole.
4. Persons diagnosed as mentally retarded (IQ below 70).
5. Persons who are court ordered to La Amistad South for residential services only.

5. Therapeutic approaches to be used.

Ten Broeck Orlando, Inc. (CON #9877) offers a full-range of services in an intensive treatment milieu. The admission screening will determine the initial plan of care and the goals for the patient. Individualize and group therapy will be provided with the overall goal of returning the patient to the community in a state that allows functional and responsible action.

UHS of Maitland, Inc. (CON #9878): Attachment 33 of the application contains a description of the therapeutic approaches to be used for each age group.

6. Expected sources of patient referrals.

Ten Broeck Orlando, Inc. (CON #9877) states that it expects to draw referrals from area hospitals and the following types of influencers:

- Central Receiving Facilities
- Attending Physicians
- Hospitals
- Community Mental Health Center
- Employee Assistance Programs
- Military
- Hospital Alumni
- Insurance
- Emergency Rooms
- Residential Treatment Programs
- Psychiatrist
- Professional Counselors
- Nursing Homes/ALFs
- Schools/Universities
- Legal/Judicial
- Word-of-mouth/Reputation
- Family/Friends

One area hospital, Health Central, submitted a letter of support for the project. The Agency also received letters of opposition from Karl Hodges, Vice President of Business Development for Orlando Regional Health Care and Richard E. Morrison, Florida Hospital. While not opposed to additional psychiatric beds in the community, both letters indicated concern over the applicant's proposed level of commitment toward unfunded care.

UHS of Maitland, Inc. (CON #9878): The new facility is expected to draw on referrals currently experienced by La Amistad North and provided the following list of referral sources:

- General Hospitals
- Schools
- Local Mental Health Professionals
- Community Mental Health Agencies
- Former Patients and their Families

CON Action Numbers: 9877-9878

In addition to these existing referral sources, the applicant states that any professional therapist, physician, hospital, teacher, or social service agency may request admission for their patient or client to La Amistad South.

The Agency received letters of opposition from Karl Hodges, Vice President of Business Development for Orlando Regional Health Care and Richard E. Morrison, Florida Hospital. While not opposed to additional psychiatric beds in the community, both letters indicated concern over the applicant's proposed level of commitment toward unfunded care.

7. Expected average length of stay for the hospital inpatient general psychiatric services discharges by age group.

Ten Broeck Orlando, Inc. (CON #9877) anticipates that its adult psychiatric admissions will be eight days of which the Medicare component will be 7.5 days. The applicant did not break down the length of stay by age group for the adult beds.

UHS of Maitland, Inc. (CON #9878) projects that La Amistad South's adult inpatient admissions will experience an overall length of stay of eight days. The applicant did not break down the length of stay by age group for the adult beds.

8. Projected number of hospital inpatient general psychiatric services patient days by payer type, including Medicare, Medicaid, Baker Act, private insurance, self-pay and charity care patient days for the first two years of operation after completion of the proposed project.

Ten Broeck Orlando, Inc. (CON #9877): The following table relates to the applicant's projected number of patient days by payer type for the first two years of operation of the 49 adult psychiatric beds:

**Ten Broeck's Adult Inpatient Psychiatric
Projected Patient Days by Payor Type**

Payer Source	Year 1	Year 2
Medicare	1,834	3,960
Medicaid	Not Applicable	Not Applicable
Medicaid HMO	1,223	2,640
Insurance/HMO/PPO	2,751	5,940
Self-Pay	306	660
TOTAL	6,114	13,201

Source: CON #9877, pg 61; and Schedule 7B.

CON Action Numbers: 9877-9878

The table shows that in the second year of operation, the applicant expects that Medicare will comprise 3,960 patient days (30 percent), 8,580 patient days (65 percent) for insurance/managed care, and 660 patient days (five percent) for self-pay. As previously discussed, Ten Broeck will not be eligible to receive Medicaid fee for service reimbursement.

UHS of Maitland, Inc. (CON #9878): The following table was obtained from data provided by the applicant in Figure 37-8 of the application.

**La Amistad South's Adult Inpatient Psychiatric
Projected Patient Days by Payor Type**

	Year 1	Year 2
Medicare	2,382	4,731
Commercial Insurance	113	224
Other Managed Care	1,537	3,051
Self-Pay	310	615
	423	840
TOTAL	4,764	9,461

Source: CON #9878, Figure 37-8.

The table shows that in the second year of operation, the applicant expects that Medicare will comprise 4,731 patient days (50 percent), 224 patient days (2.4 percent) for commercial insurance, 3,051 patient days (32.25 percent) for other managed care, 615 patient days (6.5 percent) for self-pay, and 840 patient days (8.8 percent) is expected for other payers. As previously discussed, La Amistad South will not be eligible to receive Medicaid fee for service reimbursement.

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

Ten Broeck Orlando, Inc. (CON #9877) states that the new facility will have a charity care policy and included a copy of the charity care policy in its application. Furthermore, the applicant has committed to providing five percent of its total patient days to charity care patients.

UHS of Maitland, Inc. (CON #9878): As previously discussed, the applicant has agreed to provide two percent of its gross revenues to charity care. It included a copy of La Amistad North's admissions policy in Attachment 23 of the application and stated that the policy should be interpreted to comply with EMTALA.

**f. Quarterly Reports (59C-1.040(10), Florida Administrative Code).
Facilities providing licensed hospital inpatient general psychiatric**

CON Action Numbers: 9877-9878

services shall report to the agency or its designee, within 45 days after the end of each calendar quarter, the number of hospital inpatient general psychiatric services admissions and patient days by age and primary diagnosis ICD 9 code.

Both applicants stated its intention to comply with this provision.

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

As previously discussed in Section E.1.a., both applicants are responding to a published need for 49 adult psychiatric beds in District 7. District 7 had 230 licensed adult psychiatric beds and 16 approved adult psychiatric beds. The adult psychiatric beds in the district experienced an occupancy rate of 86.74 for the January 2004 through December 2004 reporting period. The following table indicates the facilities in District 7 that have adult psychiatric beds and their respective utilization rates for CY 2004:

**District 7 Adult Inpatient Psychiatric Utilization
January 2004-December 2004**

Facility	County	# Adult Beds	Adult Patient Days	Adult Occupancy
Circles of Care	Brevard	52	17,431	91.59%
Florida Hosp-Orlando	Orange	59	19,045	88.20%
Lakeside Alternatives	Orange	56	8,188	71.18%
Orlando Reg. South Seminole Hosp.	Orange	46	15,591	92.61%
Wuesthoff Medical Center-Rockledge	Brevard	17	4,964	79.78%
District 7 Total		230	65,219	86.74%

Source: Florida Hospital Bed Need Projections and Service Utilizations by District, July 2005 Batching Cycle.

Section 408.036(5)(c) of the Florida Statutes requires a facility to notify to the agency when it seeks to add and/or delicense beds to its count. The Agency received notification from Florida Hospital-Orlando (CON Notification #N0500011) on August 31, 2005 that it would be delicensing 16 child/adolescent psychiatric beds and adding 16 adult psychiatric beds.

CON Action Numbers: 9877-9878

Ten Broeck Orlando, Inc. (CON #9877): Ten Broeck proposes the establishment of a 49-bed adult psychiatric program to be located in Orange County. The applicant has contemporaneously filed a CON application (CON #9879) for the establishment of a 90-bed child/adolescent inpatient psychiatric program, creating a 139-bed psychiatric specialty hospital. The applicant maintains that the 49 adult inpatient beds will serve as an integral part of the continuum of care for each designated age group. The adult beds will include both adult (ages 18-64) and geriatric (ages 65+) programming and services.

The applicant indicates that it will collaborate with medical surgical hospitals, community mental health facilities, educational institutions, managed care organizations, and local health professionals and agencies to develop an integrated delivery system. Specifically, Ten Broeck will develop an affiliation with the University of Central Florida (UCF) in Orange County and the University's proposed medical school. According to the applicant, it is in preliminary discussions with UCF to explore the possibilities of an affiliation that would provide education, training, and research for medical and clinical psychology students. The proposed medical school campus has designated land in Lake Nona (southern Orange County) and while the applicant has not secured a site for its proposed facility at the time of filing its CON applications, it did submit a letter from International Corporate Park indicating that it is in discussion regarding this area as a potential site for its proposed hospital.

The applicant states that it has engaged in discussions with Florida Hospital and Orlando Regional Healthcare System regarding potential opportunities for partnering or affiliating, and the development of solutions for reducing the burden of psychiatric patients on their emergency departments. The applicant submitted a letter of support from Dr. Jorge Lopez, the President of Florida Emergency Physicians. According to the applicant, this group operates all of Florida Hospital's emergency rooms. Dr. Lopez expressed his group's desire for this project in order to decompress the behavioral health problems prevalent in the group's emergency rooms. However, the Agency also received letters of opposition from Karl Hodges, Vice President of Business Development for Orlando Regional Health Care and Richard E. Morrison, Florida Hospital. While not opposed to additional psychiatric beds in the community, both letters indicated concern over the applicant's proposed level of commitment toward unfunded care. The letters recommended that the Agency, as a condition of approval, stipulate that the applicant be required to take a percentage of indigent referrals from local hospitals or at a minimum, commit to a greater level of unfunded care than what has been committed to in the CON application. However, pursuant to section 408.040 (1), Florida Statutes, the agency may issue a certificate of need, or an exemption, predicated upon statements of intent expressed by an

CON Action Numbers: 9877-9878

applicant in the application for a certificate of need or an exemption. The Agency cannot simply condition an applicant. Any conditions imposed on a certificate of need or an exemption based on such statements of intent shall be stated on the face of the certificate of need or in the exemption approval. However, in addition to the indigent care commitments, both applicants' willingness to become Baker Act receiving facilities somewhat address these concerns.

Based on the occupancy levels and published need, there is sufficient demand for adult psychiatric services such that the addition of the beds proposed in this project will not likely not have a negative financial impact on existing providers. Approval of this project would increase access and availability of adult psychiatric services to patients within the district. There are several financial concerns related to this project as discussed below in Section E.4.d.

UHS of Maitland, Inc. (CON #9878) proposes to establish a 120-bed psychiatric specialty hospital in southern Orange County. This facility will consist of 71 child/adolescent psychiatric beds and 49 adult inpatient psychiatric beds.

The applicant maintains that existing beds in District 7 are being fully utilized and are inadequate to meet the needs of the district's current and projected adult population for behavioral health services. As previously stated, District 7 had 230 licensed adult psychiatric beds, which experienced an occupancy rate of 86.74 percent for the most recent reporting period and need has been published by the Agency of 49 adult beds.

The applicant contends that there is a maldistribution of psychiatric and IRTF beds in the district because there are no hospital-licensed acute or residential psychiatric beds in Orange County south of State Road 408 or located in Osceola County, creating geographic and financial accessibility problems.

The proposed facility will be located at 6601 Central Florida Parkway in Orlando, approximately five miles from the Osceola County line. The applicant provided a report on the proposed location prepared by the Metro Orlando Economic Development Center. According to the report, the 2005 total population within five miles of the facility site is 85,236 and the total population within 10 miles of the facility is 428,586. By 2010, the 2005 total population within five miles of the facility site is projected to be 93,384, a 10 percent growth, and the total population within 10 miles of the facility is projected to be 479,045, an 11.8 percent growth. The applicant maintains that the proposed location of the facility will improve access for District 7 residents since it will be the only

CON Action Numbers: 9877-9878

facility within a 10-mile radius of a highly populated area. In addition, it will be the hospital-licensed facility closest to Osceola County and the only one in Orange County south of State Highway 408 and therefore, will improve geographic access to residents in southern Orange and Osceola Counties. As shown in the chart above, there is no facility in Osceola County. This project will improve geographic access to child/adolescent psychiatric services within the district.

The following table provides data on existing adult inpatient psychiatric area providers and their driving distances and times from the applicants proposed location:

**District 7 Adult Inpatient Psychiatric Hospital Data
(Location, Beds, Occupancy, Travel in Distance and Miles)**

Facility	Location	Adult Beds	% Occup. 01/1/04 to 12/31/04	Travel Distance In Miles	Travel Distance In Time
Circles of Care	Melbourne	52	91.59%	70.80	1hr/14 min.
Florida Hosp-Orlando	Orlando	59*	88.20%	16.34	22 min.
Lakeside Alternatives	Orlando	56	71.18%	15.10	23 min.
Orlando Reg. S. Seminole Hosp.	Longwood	46	92.61%	26.70	35 min.
Wuesthoff Med. Ctr.-Rockledge	Rockledge	17	79.78%	51.35	55 min.

Source: AHCA Utilization/Mapquest

***Florida Hospital-Orlando added 16 adult psychiatric beds via CON Notification #N0500011.**

As shown above, Florida Hospital-Orlando and Lakeside Alternatives are the closest adult psychiatric providers to the proposed site. Florida Hospital-Orlando's 59-bed adult unit was utilized at an average of 88.20 percent occupancy for the reporting period and the Agency received notification in August 2005 that the facility was adding 16 adult psychiatric beds. Lakeside Alternatives 56-bed adult unit was utilized at an average of 71.18 percent occupancy for the reporting period.

The applicant states that this project will improve financial accessibility. There is one residential treatment facility, Park Place Behavioral Health, located south of State Road 408 in Orange and Osceola Counties, but it is not licensed as a hospital. The financial access problem this creates is that many commercial insurance plans provide psychiatric benefits for programs in facilities licensed as hospitals. While heavily utilized, the lack of hospital licensure makes this facility financially inaccessible to many residents whose care is funded through commercial insurance plans, according to the applicant. The applicant has committed to providing two percent of its gross revenues to charity care. This care will be provided through the process of caring for patients admitted under the Baker Act and patients admitted electively through medical staff and through referrals from hospitals and community agencies. Some charity care will be delivered to patients who have limited insurance coverage and whose need for treatment exceeds benefit limits in their insurance plans. As previously discussed in Section B, two letters of opposition

CON Action Numbers: 9877-9878

were received and indicated a concern over the applicant's proposed level of commitment toward unfunded care. Both letters recommended that the Agency, as a condition of approval, stipulate that the applicant be required to take a percentage of indigent referrals from local hospitals or at a minimum, commit to a greater level of unfunded care than what has been committed to the CON application. As noted earlier, pursuant to section 408.040 (1), Florida Statutes, the Agency may issue a certificate of need, or an exemption, predicated upon statements of intent expressed by an applicant in the application for a certificate of need or an exemption. The Agency cannot simply condition an applicant. Any conditions imposed on a certificate of need or an exemption based on such statements of intent shall be stated on the face of the certificate of need or in the exemption approval.

Based on the occupancy levels and published need, there is sufficient demand for adult psychiatric services such that the addition of the beds proposed in this project will not likely not have a negative financial impact on existing providers. Approval of this project would increase access and availability of adult psychiatric services to patients within the district. There are several architectural concerns regarding this project, which are discussed below in Section E.4.f.

- b. Does the applicant have a history of providing quality of care and has the applicant demonstrated the ability of providing quality care? ss. 408.035(1)(c), Florida Statutes and Rule 59C-1.031-044, Florida Administrative Code.**

Ten Broeck Orlando, Inc. (CON #9877): As a new entity, the applicant does not have a history of providing care. However, it is affiliated with Ten Broeck Hospital in Jacksonville. According to AHCA data, Ten Broeck Hospital in Jacksonville had four confirmed complaints over the past three years. The complaints were related to sanitation, Chapter 394/Baker Act, medicine problem/error/formulary, and patient care.

An affiliate facility, Ten Broeck Wekiva Springs, received its hospital licensure in October 2005 for its 20-bed psychiatric hospital program and therefore, does not have a history of providing care. Affiliate facility, Ten Broeck Ocala is a residential treatment facility licensed by the Department of Children and Families. It received approval in December 2004 to add five substance abuse beds to its facility. The applicant's affiliates are fully accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

The applicant has demonstrated its ability to provide quality care.

UHS of Maitland, Inc. (CON #9878) is JCAHO accredited and has operated La Amistad North for the past 17 years. According to AHCA data, the applicant had no confirmed complaints over the past three years. The applicant has a history of providing quality care.

- c. What resources, including health manpower, management personnel, and funds for capital and operating expenditures, are available for project accomplishment and operation? ss. 408.037(6), Florida Statutes.**

Ten Broeck Orlando, Inc. (CON #9877) is a development stage company that was formed August 11, 2005. The company was organized for the purpose of acquiring assets and/or businesses that will provide mental health care services to the residents of the Central Florida area. As of September 20, 2005, the applicant had assets of \$1,000, liabilities of \$30,079, resulting in a net deficit of \$29,079. Operating cash was provided by a related party loan from Ten Broeck Hospitals, Inc. Audited financial statements of Ten Broeck Hospitals, Inc. were not provided.

Capital Requirements:

Schedule 2 indicates the applicant has \$18.8 million in capital projects and expenditures. In addition, the applicant is projecting a year one operating loss of \$2.6 million for this project (CON #9877 - \$0.7 million and CON #9879 - \$1.9 million). The applicant would have to fund this operating loss in addition to the capital projects listed on Schedule 2.

Available Capital:

Funding for this project will come from two non-related parties. The applicant provided a letter dated October 17, 2005, from Wachovia Bank (Bank). The letter outlines that the bank has had a long and successful relationship with the Ten Broeck entities. The letter indicates that the Ten Broeck entities have additional borrowing capacity with the Bank in excess of \$2 million. The applicant also provided a letter from Windrose Medical Properties Trust a Real Estate Investment Trust (REIT). The letter indicates the REIT's intend to fund construction of (\$17.4 million) and lease back the 139-bed facility to the applicant. The letter laid out general terms for the transaction but indicated that the letter was not binding on either the applicant or the REIT. The applicant provided the December 31, 2004 audited financial statements of the REIT, which showed cash and current investments of \$9 million, cash flow from operations of \$9.8 million and operating income of \$3.5 million. The audit also indicated that the REIT has a \$70 million secured line of credit of which \$23.4 million was outstanding as of December 31, 2004. Borrowing on the line of credit is dependent on the REIT meeting certain financial ratios and is set to expire September 30, 2005. The June 30, 2005, 10-Q of the REIT was also provided and indicated that the REIT

CON Action Numbers: 9877-9878

received a waiver of the ratio requirements on the credit facility when it did not meet the financial ratios and that it intends to renew the credit facility after the September 30, 2005 expiration.

Conclusion:

It is not clear from the information provided if the REIT would still be interested in funding this project if only one of the CON applications (#9877 or #9879) were approved. Therefore, in the case of only one of the applications being approved, funding for either CON #9877 or CON #9879 without approval of the companion CON is in question. There are also concerns associated with the REIT's ability to fund construction of the project. The 10-Q report did indicate an increase in the financial position of the REIT including a cash balance of \$23.4 million; however, this information is unaudited. Although the audit of the REIT shows \$119.5 million in shareholder equity, a large majority of the REIT's assets are fixed. It is not clear that the REIT has the liquidity to fund this project. Access to the \$70 million credit facility discussed above would give the REIT access to capital to fund the project; however, it is unknown whether the credit facility will be renewed or if the REIT will be able to maintain the financial ratios necessary to draw on the credit line. Even if we assume that the \$17.4 million would be available for this project in addition to the \$2 million provided by Wachovia Bank, these funds are not sufficient to fund both the capital budget and the working capital necessary to fund the projected \$2.6 million operating loss in year one. The applicant did not identify the source of funds for working capital. Based on the questions and concerns raised above, funding for this project and associated working capital cannot be determined.

UHS of Maitland, Inc. (CON #9878): The audited financial statements for the periods ending December 31, 2003 and 2004 were analyzed for the purpose of evaluating the applicant's ability to provide the capital and operational funding necessary to implement the project. Schedule 2 of the application indicates that Universal Health Systems, Inc. (Parent) will provide funding for the project. Therefore, the audited financial statements of the parent for the periods ending December 31, 2003 and 2004 were also analyzed.

CON Action Numbers: 9877-9878

	Applicant	UHS, Inc.
	<u>12/31/2004</u>	<u>12/31/2004</u>
Current Assets	\$ 873,000	\$ 808,925,000
Cash and Current Investment	\$ 38,000	\$ 33,125,000
Assets Restricted for Capital Projects	\$ -	\$ -
Total Assets	\$ 2,868,000	\$ 3,022,843,000
Current Liabilities	\$ 1,627,000	\$ 469,656,000
Total Liabilities	\$ 4,184,000	\$ 1,802,257,000
Net Assets	\$ (1,316,000)	\$ 1,220,586,000
Total Revenues	\$ 8,028,000	\$ 3,938,320,000
Interest Expense	\$ -	\$ 43,405,000
Operating Income	\$ 1,725,000	\$ 271,143,000
Cash Flow from Operations	\$ 1,439,000	\$ 392,880,000
Working Capital	\$ (754,000)	\$ 339,269,000
Current Ratio (CA/CL)	0.5	1.7
Cash Flow to Current Liabilities (CFO/CL)	0.9	0.8
Long-Term Debt to Net Assets (TL-CL/NA)	-1.9	1.1
Times Interest Earned (NPO+Int/Int)	-	7.2
Net Assets to Total Assets (TE/TA)	-45.9%	40.4%
Operating Margin (ER/TR)	21.5%	6.9%
Return on Assets (ER/TA)	60.1%	9.0%
Operating Cash Flow to Assets (CFO/TA)	50.2%	13.0%

The applicant's cash receipts are routinely transferred into a management account of the parent; as a result, a minimal cash balance is shown on the applicant's books for the year ending December 31, 2004. This transfer of cash from the applicant to the parent understates current assets.

According to the audit, the parent company is party to several lawsuits regarding its operations. Although the audit indicated that the outcome of these lawsuits and investigations could not be determined, the range of possible resolutions could have a material adverse effect on the parent's business, results of operations, financial condition, and cash flows.

Short-Term Position:

Applicant - The applicant's current ratio of 0.5 indicates current assets are approximately half of current liabilities, a weak position. The ratio of cash flows to current liabilities of 0.9 is above average, a good position.

CON Action Numbers: 9877-9878

The working capital (current assets less current liabilities) of a negative \$754,000 indicates a lack of excess liquidity that could be used to fund capital projects. Overall, the applicant has a weak short-term position. (Note: the transfer of cash to the parent company reduces the current ratio and working capital amounts).

Parent - The parent's current ratio of 1.7 is below average and indicates current assets are over one and one-half times current liabilities, an adequate position. The ratio of cash flows to current liabilities of 0.8 is slightly above average and an adequate position. The working capital (current assets less current liabilities) of \$339.3 million is a measure of excess liquidity that could be used to fund capital projects. Overall, the parent has an adequate short-term position.

Long-Term Position:

Applicant - The ratio of long-term debt to net assets of a negative 1.9 indicates total liabilities exceed net assets, a weak position. The ratio of cash flow to assets of 50.2 percent is well above average and a strong position. The most recent year had \$1.7 million of income from operations, which resulted in an operating margin of 21.5 percent. Although the applicant has negative equity, the negative equity balance has been reduced from each of the prior three years. Overall, the applicant has an adequate and increasingly positive long-term position.

Parent - The ratio of long-term debt to net assets of 1.1 is above average and a moderately weak position. The ratio of cash flow to assets of 13 percent is above average and an adequate position. The most recent year had \$271 million of income from operations, which resulted in an operating margin of 6.9 percent. Overall, the parent has an adequate long-term position.

Capital Requirements:

Schedule 2 indicates the applicant has capital projects totaling \$20.9 million. In addition, the applicant is projecting a year one operating loss of \$1.5 million for this project. The applicant would have to fund this operating loss in addition to the capital projects and maturities of long-term debt listed on Schedule 2.

Available Capital:

As discussed above, funding for this project will come from the parent. The ratio analysis of the parent discussed above indicates that operating cash flows for the most recent year was \$392.9 million with \$339.3 million in working capital.

Conclusion:

It appears that the parent has sufficient liquid financial resources to fund this project and the entire capital budget. Therefore, with the financial strength of the parent, funding for this project and all capital projects should be available as needed.

d. What is the immediate and long-term financial feasibility of the proposal? ss. 408.037(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.

Ten Broeck Orlando, Inc. (CON #9877): Comparative data were derived from hospitals in peer groups that reported data in 2004; the applicant will be compared to the hospitals in peer group 15 (Short-Term Psychiatric Hospital Group). Per diem rates are projected to increase by an average of 4.1 percent per year. Inflation adjustments were based on the new CMS Market Basket, 3rd Quarter, 2005.

Gross revenues, net revenues, and costs were obtained from Schedules 7 and 8 in the financial portion of the application. These were compared to the control group as a calculated amount per adjusted patient day. Projected net revenue per adjusted patient day (NRAPD) is as follows:

NRAPD	Combined	9877	9879
Year 1	\$477	\$499	\$462
Year 2	\$477	\$500	\$463

CON Action Numbers: 9877-9878

The year one and year two NRAPD is between the control group median and highest values of \$451 and \$970 in year one and \$467 and \$1,005 in year two. The highest level is generally viewed as the practical upper limit on economies of operation. With net revenues falling between the median and highest level, the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table).

Anticipated costs per adjusted patient day (CAPD) are as follows:

CAPD	Combined	9877	9879
Year 1	\$617	\$592	\$633
Year 2	\$433	\$433	\$434

The year one CAPD is between the control group median and highest values of \$540 and \$746. The highest level is generally viewed as the practical upper limit on efficiency. Anticipated CAPD in year two is between the control group median and lowest values of \$559 and \$385. With projected cost between the median and lowest value in the peer group, projected cost are considered efficient. (See Comparative Table). The applicant is projecting a decrease in CAPD between year one and year two of approximately 29.8 percent. It should be noted that this application is for a new psychiatric hospital. The first year of operation has a below average occupancy rate. The low occupancy rate decreases economies of scale and as the occupancy rate increases, CAPD would be expected to decrease.

CON Action Numbers: 9877-9878

COMPARATIVE TABLE

Ten Broeck Orlando, Inc.
CON # 9877 & 9879
2004 DATA Peer Group 15

	40148	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	45,314,750	1,087	2,193	995	579
INPATIENT AMBULATORY	0	0	5	0	0
INPATIENT SURGERY	0	0	0	0	0
INPATIENT ANCILLARY SERVICES	0	0	587	93	0
OUTPATIENT SERVICES	8,854,718	212	208	1	0
TOTAL PATIENT SERVICES REV.	54,169,468	1,300	2,473	1,135	755
OTHER OPERATING REVENUE	0	0	12	0	0
TOTAL REVENUE	54,169,468	1,300	2,474	1,135	755
DEDUCTIONS FROM REVENUE	34,302,461	823	0	0	0
NET REVENUES	19,867,007	477	1,005	467	326
EXPENSES					
ROUTINE	5,970,207	143	474	217	89
ANCILLARY	3,456,696	83	98	28	0
AMBULATORY	0	0	0	0	0
TOTAL PATIENT CARE COST	9,426,903	226	0	0	0
ADMIN. AND OVERHEAD	3,583,160	86	0	0	0
PROPERTY	3,110,337	75	0	0	0
TOTAL OVERHEAD EXPENSE	6,693,497	161	443	268	116
OTHER OPERATING EXPENSE	1,936,351	46	0	0	0
TOTAL EXPENSES	18,056,751	433	773	559	385
OPERATING INCOME	1,810,256	43	462	-60	-143
		9.1%			
PATIENT DAYS	34,858				
ADJUSTED PATIENT DAYS	41,669				
TOTAL BED DAYS AVAILABLE	50,735		VALUES NOT ADJUSTED		
ADJ. FACTOR	0.8365		FOR INFLATION		
TOTAL NUMBER OF BEDS	139		<u>Highest</u>	<u>Median</u>	<u>Lowest</u>
PERCENT OCCUPANCY	68.71%		105.5%	58.8%	35.8%
PAYER TYPE	<u>PATIENT DAYS</u>	<u>% TOTAL</u>			
SELF PAY	1,743	5.0%			
MEDICAID	0	0.0%	0.0%	0.0%	0.0%
MEDICAID HMO	9,137	26.2%			
MEDICARE	3,960	11.4%	85.6%	62.6%	23.6%
MEDICARE HMO	0	0.0%			
INSURANCE	5,229	15.0%			
HMO/PPO	14,789	42.4%	43.4%	22.1%	0.0%
OTHER	0	0.0%			
TOTAL	34,858	100%			

CON Action Numbers: 9877-9878

The year two projected operating profit for the hospital of \$1.8 million computes to an operating margin per adjusted patient day of:

Year 2	Combined	9877	9879
Operating Margin APD	\$ 43	\$ 67	\$ 29
Operating Margin %	9.10%	13.50%	6.20%

The year two operating margin per adjusted patient day is between the control group median and highest values of a negative \$60 and a positive \$462. Only one of the 13 hospitals in peer group 15 reported operating margins greater than the applicant's projected operating margin. This level of profit appears to be ambitious when compared to the control group and may be overstated.

As discussed above, the projected operating margin may be overstated; however, both the year two projected NRAPD and CAPD are within a reasonable range. Although there is a projected profit in year two, the questions regarding the applicant's financial ability to fund the year one operating loss, and therefore remain viable until a profit can be reached in year two, is in question.

UHS of Maitland, Inc. (CON #9878): Comparative data were derived from hospitals in peer groups that reported data in 2004; the applicant will be compared to the hospitals in peer group 15 (Short-Term Psychiatric Hospital Group). Per diem rates are projected to increase by an average of 4.1 percent per year. Inflation adjustments were based on the new CMS Market Basket, 3rd Quarter, 2005.

Gross revenues, net revenues, and costs were obtained from Schedules 7 and 8 in the financial portion of the application. These were compared to the control group as a calculated amount per adjusted patient day.

Projected net revenue per adjusted patient day (NRAPD) of \$487 in year one and \$491 in year two is between the control group median and highest values of \$435 and \$937 in year one and \$451 and \$970 in year two. The highest level is generally viewed as the practical upper limit on economies of operation. With net revenues falling between the median and highest level, the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table).

CON Action Numbers: 9877-9878

COMPARATIVE TABLE

UHS of Maitland, Inc.
CON # 9878 & 9880
2004 DATA Peer Group 15

	39813	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	24,882,520	785	2,116	960	558
INPATIENT AMBULATORY	0	0	5	0	0
INPATIENT SURGERY	0	0	0	0	0
INPATIENT ANCILLARY SERVICES	4,730,500	149	566	89	0
OUTPATIENT SERVICES	1,469,664	46	201	1	0
TOTAL PATIENT SERVICES REV.	31,082,684	981	2,387	1,095	729
OTHER OPERATING REVENUE	241,929	8	12	0	0
TOTAL REVENUE	31,324,613	988	2,388	1,095	729
DEDUCTIONS FROM REVENUE	15,762,309	497	0	0	0
NET REVENUES	15,562,304	491	970	451	315
EXPENSES					
ROUTINE	5,217,386	165	458	209	86
ANCILLARY	2,578,462	81	94	27	0
AMBULATORY	0	0	0	0	0
TOTAL PATIENT CARE COST	7,795,848	246	0	0	0
ADMIN. AND OVERHEAD	4,532,271	143	0	0	0
PROPERTY	1,236,413	39	0	0	0
TOTAL OVERHEAD EXPENSE	5,768,684	182	428	258	112
OTHER OPERATING EXPENSE	0	0	0	0	0
TOTAL EXPENSES	13,564,532	428	746	540	371
OPERATING INCOME	1,997,772	63 12.8%	462	-60	-143
PATIENT DAYS	29,961				
ADJUSTED PATIENT DAYS	31,693				
TOTAL BED DAYS AVAILABLE	43,800				
ADJ. FACTOR	0.9454				
TOTAL NUMBER OF BEDS	120				
PERCENT OCCUPANCY	68.40%				
			VALUES NOT ADJUSTED		
			FOR INFLATION		
			<u>Highest</u>	<u>Median</u>	<u>Lowest</u>
			105.5%	58.8%	35.8%
PAYER TYPE	<u>PATIENT DAYS</u>	<u>% TOTAL</u>			
SELF PAY	3,639	12.1%			
MEDICAID	0	0.0%	0.0%	0.0%	0.0%
MEDICAID HMO	0	0.0%			
MEDICARE	4,731	15.8%	85.6%	62.6%	23.6%
MEDICARE HMO	0	0.0%			
INSURANCE	3,130	10.4%			
HMO/PPO	17,018	56.8%	43.4%	22.1%	0.0%
OTHER	1,443	4.8%			
TOTAL	29,961	100%			

CON Action Numbers: 9877-9878

Anticipated costs per adjusted patient day (CAPD) of \$578 in year one is between the control group median and highest values of \$521 and \$720. The highest level is generally viewed as the practical upper limit on efficiency. Anticipated CAPD in of \$428 in year two is between the control group median and lowest values of \$540 and \$371. With projected cost between the median and lowest value in the peer group, projected cost are considered efficient. (See Comparative Table). The applicant is projecting a decrease in CAPD between year one and year two of approximately 26 percent. It should be noted that this application is for a new psychiatric hospital. The first year of operation has a below average occupancy rate. The low occupancy rate decreases economies of scale and as the occupancy rate increases, CAPD would be expected to decrease.

The year two projected operating profit for the hospital of \$2 million computes to an operating margin per adjusted patient day of \$63 and is between the control group median and highest values of a negative \$60 and a positive \$462. Only one of the 13 hospitals in peer group 15 reported an operating margin greater than the applicant's projected operating margin. The projected level of profit appears to be ambitious when compared to the control group. Therefore, the projected operating margin may be overstated.

As discussed above, the projected operating margin may be overstated; however, both the year two projected NRAPD and CAPD are within a reasonable range. Based on the above, financial feasibility of this project appears likely.

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

Competition to promote quality and cost-effectiveness is driven primarily by the best combination of high quality and fair price. Competition forces hospitals to increase quality and reduce charges/cost in order to remain viable in the market.

Based on letters received and the fact that need has been published for these beds, there currently are and will likely continue to be access problems. Therefore a new provider should be expected to improve quality by expanding areas. Expanded choice is the first step to improved competition. New services at the new provider could redirect patients resulting in increased competition and quality.

- 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.**

Ten Broeck Orlando, Inc. (CON #9877) proposes to establish a new 139-bed psychiatric hospital located in Orange County, Florida. Although there are two separate CON applications, there is just one building on the site and the applicant has combined construction and project cost. For that reason, it is impossible to complete an analysis of the two separate applications. Therefore, this architectural review combines the analysis of this building into one report.

This new hospital is single-story, protected, non-combustible, and fully sprinklered and will contain both 49 adult psychiatric beds and 90 child/adolescent beds. These two programs are clearly divided into different parts of the building so there are no overlapping programs or spaces.

The child/adolescent area of the building is divided into five wings or areas of 18 beds each. These beds are supported by two centralized nursing stations with all required supporting elements. The 49-bed adult area is located on the opposite side of the building and is a self-contained unit with its own nursing station and supporting spaces. It appears that both of these areas have been provided with all of the required program support spaces such as noisy and quiet rooms, consultation rooms, seclusion rooms, therapy rooms, nursing offices, etc.

It appears that all handicapped accessibility requirements have been met in both the public areas and the patient rooms. The entire building will meet all of the hurricane standards and all current codes and standards of the Florida Building Code, and the National Fire Protection Codes.

The only areas that appear to be shared are the large central public dining room and the large recreational gym. The secured outdoor areas are separated from each other both physically and visually.

There are supporting service areas such as administration, dietary, maintenance, storage, class rooms, therapy, examination treatment rooms and other spaces in this building that appear to meet the minimum design requirements.

The explanatory material indicates compliance with all codes, such as the Florida Building Code and Life Safety Code.

The cost and construction schedule from the time of building permit to final inspection appear to be reasonable.

CON Action Numbers: 9877-9878

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.

UHS of Maitland, Inc. (CON #9878) proposes to establish a new 120-bed psychiatric hospital in Orange County, Florida. Although there are two separate CON applications and two separate buildings on the site, the applicant has combined the two CON applications including over all construction and project cost. For that reason, it is impossible to complete an analysis of the two separate applications. Therefore, this architectural review combines the analysis of these two buildings into one report.

This new hospital will utilize two existing buildings on one site. One building is 48,567 square feet and will contain 49 adult psychiatric beds. The other building is 21,188 square feet and will contain 40 of the child/adolescent beds. The remaining 31 child/adolescent beds will be located inside the larger facility that contains the 49 adult psychiatric beds. This facility is divided into three basic wings or areas of bedrooms one wing with 42 beds, one wing with 24 beds, and a connecting area located between the two wings with 14 beds. It is difficult to imagine how the 31 child/adolescent beds are to be separated from the 49 adult psychiatric beds because the requested CON bed numbers do not match these already developed divisions in the building.

The applicant specifies these existing buildings will be renovated to health care institutional requirements to meet all new codes and standards. This will include the mechanical, electrical utilities as well as all new handicap accessibility standards and all hurricane construction improvements. Since these building were built in the 1980s, supporting explanatory material detailing the proposed renovations to meet current codes and standards was submitted. It was indicated that the building will be brought into compliance with the current accessibility requirements including 10 percent of patient bedrooms.

The smaller of the two buildings, which contains 40 of the child/adolescent beds, does not have a kitchen to serve its dining area so it is assumed the kitchen in the other building will prepare all meals and

CON Action Numbers: 9877-9878

transport them to this building. There appear to be no public male and female toilets at the lobby area of this building so toilets may have to be added to the project. Since there are 21 bedrooms in this building containing 40 beds, there will have to be two additional handicapped accessible rooms added.

The rooms are supported by one central nursing station that appears to have all required supporting functions. The required therapy and group activity spaces appear to be provided. There are two seclusion rooms. There is no laundry in this building.

The larger building containing 49 adult psychiatric beds and 31 child/adolescent beds will also have to conform to all current handicapped accessibility standards. This means that all public toilets must be made accessible and 10 percent of the patient bedrooms must be made accessible. Currently there appears to be no accessibility in these spaces. There are supporting service areas such as administration, dietary, maintenance, storage, class rooms, therapy, examination treatment rooms and other spaces in this building that appear to meet the minimum design requirements.

The plans indicate compliance with all codes, such as the Florida Building Code and Life Safety Code.

The construction cost and time schedule for construction from the time of building permit to final inspection appear to be reasonable.

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.

- 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.**

Ten Broeck Orlando, Inc. (CON #9877): As a specialty hospital, the applicant will not be eligible for Medicaid fee for service reimbursement. The applicant states as a company, Ten Broeck provides charity care and that company wide, it averages 3.3 percent across its total mix of services and ages, with greater than this value at Ten Broeck Jacksonville.

CON Action Numbers: 9877-9878

However, Agency financial data shows that Ten Broeck Jacksonville provided 1.1 percent of its total patient days to charity care in 2004. The applicant is proposing a minimum of five percent of its total annual patient days to charity care patients. Pro formas for year 2 show that five percent of the 139-bed inpatient psychiatric facility's total annual patient days will be for charity care patients and 26.2 percent will be for Medicaid HMO patients.

UHS of Maitland, Inc. (CON #9878): As a specialty hospital, the applicant is not eligible for Medicaid reimbursement. Agency financial data shows that La Amistad North provided 0.7 percent of its total patient days to charity care in 2004. The applicant is proposing to provide two percent of its gross revenues to charity care patients. Pro formas for year 2 show that two percent of the 120-bed inpatient psychiatric facility's gross revenues will be for charity care patients.

F. SUMMARY

Ten Broeck Orlando, Inc. (CON #9877) proposes to establish a 139-bed psychiatric specialty hospital in Orange County, District 7. This application is for the establishment of 49 adult inpatient psychiatric beds. The applicant has contemporaneously filed a CON application (CON #9879) for the establishment of 90 child/adolescent inpatient psychiatric beds. The applicant does not indicate if it will proceed with the project if only one application is approved.

The proposed project involves a total cost of \$18,670,931. Construction costs are projected at \$12,024,000 and the project will involve 66,800 gross square feet (GSF) of new construction.

Need

This project was submitted in response to published need for 49 additional adult inpatient psychiatric beds in District 7.

Quality of Care

As a new entity, the applicant does not have a history of providing care. However, it is affiliated with Ten Broeck Hospital in Jacksonville, which does have a history of providing quality care. The applicant's affiliates are fully accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). The applicant has demonstrated its ability to provide quality care.

Cost/Financial Analysis

Funding for this project will come from two non-related parties: Wachovia Bank and Windrose Medical Properties Trust a Real Estate Investment Trust (REIT). It is not clear from the information provided if the REIT would still be interested in funding this project if only one of the CON applications (#9877 or #9879) were approved. Therefore, funding for either CON #9877 or CON #9879 without approval of the companion CON is in question. There are also concerns associated with the REIT's ability to fund construction of the project. The applicant did not identify the source of funds for working capital. It is questionable whether funding for this project and associated working capital will be available as needed. The applicant's ability to fund year one operating losses and remain viable until a profit can be reached in year two is also in question.

Medicaid/Indigent Care

The applicant will be a specialty hospital and therefore, not eligible for Medicaid participation. It is proposing to provide a minimum of five percent of its total annual patient days to charity care patients.

Architectural Analysis

The applicant proposes to establish a new 139-bed psychiatric hospital in Orange County, Florida. This new hospital will contain both 49 adult psychiatric beds and 90 child/adolescent beds. These two programs are clearly divided into different parts of the building so there are no overlapping programs or spaces. Both have been provided with all of the required program support spaces. The entire building will meet all of the hurricane standards and all current codes and standards of the Florida Building Code, and the National Fire Protection Codes. The cost and construction schedule appear to be reasonable.

UHS of Maitland, Inc. (CON #9878) proposes to establish a 120-bed psychiatric specialty hospital in southern Orange County, District 7. This application is for the establishment of 49 adult inpatient psychiatric beds. The applicant has contemporaneously filed a CON application (CON #9880) for the establishment of 71 child/adolescent psychiatric beds. From the applicant's perspective, this is a single project and indicates that it will not proceed with the project if only one application is approved.

CON Action Numbers: 9877-9878

The proposed project involves a total cost of \$17,962,562. Construction costs are projected at \$7,600,000 and the project will involve 69,755 gross square feet (GSF) of renovation.

Need

This project was submitted in response to published need for 49 additional adult inpatient psychiatric beds in District 7.

Quality of Care

The applicant is JCAHO accredited and has a history of providing quality care.

Cost/Financial Analysis

Universal Health Systems, Inc. (Parent) will provide funding for the project. The parent company is party to several lawsuits regarding its operations, which could have a material adverse effect on the parent's business, results of operations, financial condition, and cash flows. Overall, the applicant has a weak short-term position, and an adequate and an increasingly positive long-term position. Overall, the parent has an adequate short-term and long-term position. It appears that with the financial strength of the parent, funding for this project and all capital projects should be available as needed. The financial feasibility of this project appears likely.

Medicaid/Indigent Care

The applicant will be a specialty hospital and therefore, not eligible for Medicaid participation. It is proposing to provide two percent of its gross revenues to charity care patients.

Architectural Analysis

The applicant proposes to establish a new 120-bed psychiatric hospital, which will utilize two existing buildings on one site. One building will contain 49 adult psychiatric beds and the other building will contain 40 of the child/adolescent beds. The remaining 31 child/adolescent beds will be located inside the larger facility that contains the adult psychiatric beds. It is not clear how the 31 child/adolescent beds are to be separated from the 49 adult psychiatric beds. The applicant specifies

CON Action Numbers: 9877-9878

that the existing buildings will be renovated to health care institutional requirements to meet all new codes and standards. The plans indicate compliance with all codes, such as the Florida Building Code and Life Safety Code. The construction cost and time schedule appear to be reasonable.

G. RECOMMENDATION

Approve CON #9878 to establish a 49-bed adult psychiatric hospital at 6601 Central Florida Parkway, Orlando. The project involves \$7,600,000 in construction costs and 69,755 GSF of construction. Project costs total \$17,962,562.

CONDITIONS:

- (1) Two percent of gross revenues shall be provided to charity patients.
- (2) Participation as a Baker Act facility.

Deny CON #9877.

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