**STATE AGENCY ACTION REPORT**

**ON APPLICATION FOR CERTIFICATE OF NEED**

## A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

**The Pavilion at HealthPark, LLC/CON #10034**
2 Riverchase Office Plaza, Suite 214
Birmingham, Alabama 35244

Authorized Representative: James T. (Jim) Harper
(205) 313-0445

2. Service District/Subdistrict

District 8 – Charlotte, Collier, DeSoto, Glades, Hendry, Lee and Sarasota Counties

## B. PUBLIC HEARING

Susan Smith of Smith & Associates, Attorneys and Consultants at Law, on behalf of Punta Gorda HMA, Inc. d/b/a Charlotte Regional Medical Center (CRMC), submitted a public hearing request in opposition to the proposal to establish a new adult inpatient psychiatric hospital of 76 beds in District 8, Lee County, Florida.

The public hearing was facilitated by Pam Speakman, Executive Assistant for the Health Planning Council of Southwest Florida, Inc. (HPCSWF). The public hearing began at approximately 1:05 p.m., running to approximately 2:10 p.m., on Friday, October 24, 2008. The location of the public hearing was at the Lakes Regional Library, 15290 Bass Road, Fort Myers, Florida 33919, with the hearing conducted in the library's Room A (auditorium). According to the sign-in roster and a review of the recorded hearing proceedings, non-speaking attendees at the hearing totaled eight; three were representatives of the applicant, two were HCSWF staff, one represented CRMC, one represented Oglethorpe of Naples and one represented the Agency. Speaking attendees totaled

nine, making a total attendee sum of 17 people. Ms. Speakman called the meeting to order and provided brief instructions as to the purpose of the meeting, that the order of speakers would be called as they had been recorded on the sign-in sheet and that written materials (if any) should be submitted to her prior to the speaker's oral statement, or at the start of the hearing if written material would be presented but no oral statement made. Ms. Speakman stated that all those who had signed-in and had requested to speak would be afforded 10 minutes to do so. Once all written material had been collected and the final speaker had finished, Ms. Speakman concluded the public hearing. The speakers are listed in the order in which they presented their statements, the first seven being in project support and the last two being in opposition, with each speaker's major comments briefly summarized below.

David Harred of The Pavilion at HealthPark (the applicant) stated that during the last 18 months to two years he has worked to determine need for the project in the community, that he has been in the behavioral health care field for about 25 years, worked for profit and not-for-profit corporations and has been the CEO of psychiatric hospitals and community mental health centers. Mr. Harred also stated that the project will be provider-based and client-oriented, and cited his involvement, since November 2007, in the Lee County Mental Health and Addiction Coalition. He stated that the coalition's basic goal is to bring the county and community together to determine need and to establish a plan to meet psychiatric need in the area. Mr. Harred also stated a lack of availability and access to psychiatric beds and practitioners in Lee County has been "a real problem". Partnership between Lee Memorial Health System (LMHS) and the applicant was discussed whereby a 15-bed psychiatric program is in development at Lee Memorial Hospital (LMH), to be operational by February 2009. This program at LMH is stated to be designed for seniors. An agreement with LMHS to enhance mental health practitioners in the community was also mentioned. Mr. Herred mentioned support from many providers and interested parties and organizations in support of the project, including support by Florida House of Representatives members Paige Kreegel and Trudi Williams[1].

Sally Jackson, System Director of Community Projects for LMHS, stated confidence in the applicant. Ms. Jackson mentioned that since approximately the year 2000, with the closure of Charter Glade and G. Pierce Wood hospitals, her facility's CEO, Jim Nathan, has been in communication with groups interested in bringing psychiatric beds and services to the area but found no one interested in a collaborative

[1] A letter of support is included in the application from House member Paige Kreegel but not from House member Trudi Williams.

community-type approach, with the exception of the applicant. Ms. Jackson reiterated conversion of 15 beds at LMH for the purpose described by Mr. Harred (the prior speaker). Ms. Jackson stated that during the last year to 18 months, a community health visioning steering committee project consisting of 38 community leaders/CEOs has been working to determine need in the area. Focus groups, open-mike town hall meetings, an internet survey and telephone inquiries, participation by the local school system (including parents and teachers) and others were stated as participants in and mechanisms utilized in reaching out in the visioning effort. It is stated that in all, 4,000 people were involved in the assessment. Mental health needs starting with beds was stated as a top priority from the assessment. Ms. Jackson advised the visioning steering committee's recommendation to LHMS was to convene a task force to address the continuum of care regarding mental health and addiction services. Ms. Jackson further advised LMHS is confident in the applicant's track record to meet the identified mental health needs addressed by the visioning steering committee.

Elizabeth Givens, Executive Director, National Alliance on Mental Illness (NAMI) Lee County, Inc. spoke in favor of the project, stating particularly that a continuum of care is needed and that there is detriment to recovery when services must be sought out-of-county. Ms. Givens stated that nationally, NAMI supports community and in-county support and services to promote more effective recovery.

Michael McNally, Vice President, Community Relations at Lee Mental Health Center (Fort Myers, Florida), stated that the Lee County Human Services Council also ranked mental health needs as number one in their priorities for the community (no date of when the council reached this determination was stated in the presentation). It was said this is also supported by the county commissioners[2]. Florida ranks 47th in per capita spending on mental health and substance abuse services according to Mr. McNally (neither a source nor time frame of this determination was stated in the presentation). Lee County was stated as being "resource poor" in providing a mental health continuum of care. Mr. McNally stated that depending on the source used, there should be from 30 to 35 mental health beds per 100,000 residents in a community and stated that Lee County has 62 mental health beds but none are hospital beds (with a population of over 600,000 residents). Crisis stabilization units (CSUs) were mentioned as consistently running over census by about 10 percent. Tampa and Tallahassee were stated as occasional transfer locations, due to a stated lack of availability in Lee

[2] A letter of support is included in the application from Commissioner Ray Judah, Chairperson, Lee County Board of County Commissioners.

County and the surrounding area. Mr. McNally stated one reason for high recidivism at the local CSUs is a lack of an adequate mental health continuum of care that he believes the project will help to relieve. Services out-of-county were stated as not supportive of recovery. Mr. McNally likened a lack of an adequate continuum of care for inpatient mental health services to reactions that could be expected if maternity services were available only out-of-county. Mr. McNally stated residents have a right to treatment and a right to treatment within their community.

Ivan Mazzorana, Jr., MD, a private practice local board-certified adult and geriatric psychiatrist, stated that the health care system in Lee County is "broken" and that this should not be news. Dr. Mazzorana stated that he has been practicing in Lee County since 1995. He advised many patients are jailed due to a lack of adequate mental health beds and that, on average, there is a four to six week delay in the area to see a psychiatrist, long after the crisis is over and the patient has done whatever they are going to do. He also advised that Lee Mental Health is overburdened, along with out-of-county locations. Dr. Mazzorana stated that when Charter Glade Hospital closed approximately seven years ago, it was known then that this would be a problem and would spill over into demand on law enforcement[3]. This psychiatrist stated Lee County has a "high" suicide rate and that he had a suicide (singular) due to no psychiatric beds being available when needed (however, he did not state when the suicide occurred). He concluded that out-of-county beds are not conducive to recovery and that it is "inhumane" not to have adequate mental health beds to meet community mental health needs.

Mindi Collier, Director of Business for NAMI of Collier County and a psychiatric social worker, supports the project. Ms. Collier advised the suicide rate in Lee County is "just outrageous". She also advised about three suicides per month in Collier County. She stated the needs of elderly psychiatric patients are more complicated than that of the non-elderly and that the mental health bed situation in the area has worsened since the closing of Charter Glade.

Jim Harper, the authorized representative of the applicant, stated the project is to address an access problem in the area. He said the local CSU is overflowing. The project is to serve all of District 8, with two senior units and two adult units, each of the four units having 19 beds each. He stated that Charlotte Regional Medical Center has operated for the last few years with 26 adult inpatient psychiatric beds and 26 chemical dependency beds, but that of the 26 adult inpatient psychiatric

[3] A letter of support is included in the application from the Lee County Sheriff, Mike Scott.

beds, the average occupancy rate has been in excess of 90 percent. Mr. Harper advised why access is an issue, saying The Willough (a District 8 licensed psychiatric facility) routinely turns patients away that do not meet its (The Willough's) admissions criteria (eating and chemical dependency disorders). He also stated that District 8's existing inpatient psychiatric beds are not within the CON Rule criteria of being within a 45-minute driving time for 90 percent of the residents. Mr. Harper further advised that the district offers 18 days of care per 1,000 residents which is the lowest in the state. Mr. Harper submitted a written transcript of his oral testimony.

The first speaker in opposition to this project, Rafael Perez, Chief Operating Officer at The Willough in Naples (a licensed psychiatric hospital) stated his facility will be impacted if the project is approved, along with an inefficient allocation of resources and staff. He stated 42 beds at the facility are psychiatric beds and that the facility has been approved for 62 additional beds, with 23 of the 62 planned to be available by early 2009. It was also stated that psychiatric beds in the district are running below the 75 percent threshold as well as below the statewide average.

Tim Elliot, attorney for Smith & Associates, representing both Health Management Associates (HMA) and Charlotte Regional, was in opposition to the project. This speaker briefly described written materials being submitted to serve in lieu of oral testimony. One of the written documents was a 34-page report (with a three-page attachment) prepared by National Healthcare Associates, Inc. The second written document was a compilation of 10 letters of opposition that are described in the Letters of Opposition section.

Thirty unduplicated letters of support are submitted as part of the application. The letters of support are described below in the following order: Florida legislator (one letter); county commissioner (one letter); mayors (two letters); sheriff (one letter); Lee Memorial Health System senior executive staff and clinicians (three letters); university academician (one letter); physicians (10 letters) and mental health executives and non-physician clinicians (13 letters)[4]. All 30 letters are dated July 16, 2008 or more recent. Each of these eight groups' support justifications is described briefly below.

[4] One physician (Dr. Paige Kreegle) is counted as both a state legislator and as a physician and one physician (Dr. Michael Raab) is counted as both a Lee Memorial Health System staff and as a physician.

The Honorable Paige Kreegle, MD (Florida House of Representatives, District 72) states that as a practicing physician, he is aware of the tremendous need for psychiatric services in the area. He cites Lee County's population (615,741) and that there are no inpatient psychiatric beds in the county and consequently Lee County's jails and emergency rooms are overburdened trying to provide psychiatric services they are not equipped to handle. Dr. Kreegle also states that his constituents must now travel 40 miles outside of Lee County to the nearest inpatient facility. He concludes that the project is very important for his constituents.

The Honorable Ray Judah, Chairperson, Lee County Board of County Commissioners, also cites Lee County's population of 615,741 residents, and that Lee County residents must travel approximately 40 miles to the nearest inpatient facility. Commissioner Judah indicates that this is a hardship on patients and families. He also states that the local crisis stabilization unit often is full and that the local jail often becomes the facility of choice due to a lack of inpatient resources. Commissioner Judah concludes that the project will provide the piece of the continuum (of care) that is desperately needed in Lee County.

The Honorable Jim Humphrey, Mayor, City of Fort Myers, lends his support, cites his city's growth to over 60,000 residents, Lee County's population of over 570,000 residents and states that he is unaware of any other city or county our size in Florida without a psychiatric hospital[5]. Mayor Humphrey states that the lack of a psychiatric hospital negatively impacts the quality of life in the community because it places demands on other agencies not established to deal with these types of problems and also places an unnecessary burden directly on families. He further stated that the City of Fort Myers police have more mental health calls because of so few options and that there is local emergency room crowding due to psychiatric emergencies.

The Honorable Eric Feichthaler, Mayor, City of Cape Coral cites his city's growth and the need for specialized behavioral health treatments and adult psychiatric services that the applicant will be able to provide. In addition to inpatient services, he stated that it is expected that the facility would provide daily treatment for up to 28 patients on an outpatient basis.

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[5] AHCA Population Estimates for July 2008 indicate Lee County has a population age 18 and over of 510,462 which is the eighth largest county in Florida. Lee County is the only county in Florida's top 20 population that does not have adult inpatient psychiatric beds. There is only one county with a population over 200,000 (Martin which is the 21st largest County) that does not have adult inpatient psychiatric beds. Only two counties over 100,000 population (Citrus and Santa Rosa) do not have these beds.

The Lee County Sheriff, Mike Scott, states an average daily county jail population of 2,200 residents and states that "some incarcerated with us would be much better served in a different environment".

Three Lee Memorial Health System (LMHS) senior executives and clinicians offer their support. The LMHS President, Jim Nathan, states recognition by LMHS of the applicant's commitment to meet a long-standing lack of mental health needs in the area. Mr. Nathan states support and faith in the applicant's project by contracting with the applicant to manage LMHS's 15-bed geriatric psychiatric wing (now under construction). LMHS plans to further contract with the applicant in mental health collaborative efforts, should the project be approved. Mr. Nathan further states a Summer and Fall 2007 "Community Health Visioning 2017" community assessment in which some 4,000 Lee County residents provided input, with behavioral health needs ranking first among identified needs. Michael Raab, MD, a geriatrician with Older Adult Services at LMHS, states that special needs of older patients will be better served by the project. Mabel Lopez, PhD, Lead Clinician for Psychology at LMHS and a practicing neuropsychologist in the Fort Myers area, states two patients were in need of inpatient services in the last quarter (letter dated August 4, 2008). Dr. Lopez indicates for these two patients, the emergency room was the only available option and that emergency departments and home health agencies are "band-aid" treatments.

Denise Heinemann, DrPH, RN, Dean, College of Health Professions, Florida Gulf Coast University (located in Fort Myers), states project approval would strengthen the programs offered by the College of Health Professions. In addition, the university is willing to assist the applicant in developing a "state of the art" patient care model as well as serving as a practitioner source and providing online continuing education courses as part of a joint effort between the university's School of Nursing and the School of Health and Rehabilitation. Dr. Heinemann states a community assessment by the Lee County Health Department and the visioning process conducted by the LMHS concluded that first among many health care needs of the Lee County population is a need for inpatient psychiatric care.

Eight Fort Myers area medical doctors, five of whom indicate they are practicing psychiatrists, state a generalized recurring theme that without inpatient psychiatric beds in Lee County, many patients in need of such services receive inappropriate or suboptimal care in local acute care hospitals, emergency rooms and jails. These three likely outcomes (hospital, emergency room and/or jail) are considered a strain on the

existing system in the area and lead to poorer recovery rates, diminished quality of care and higher suicide rates than would be likely if inpatient psychiatric beds were available, as proposed in the project. It is also stated it is difficult to attract psychiatrists to the area in the absence of inpatient psychiatric beds. One of these psychiatrists that supports this project is Raymond Johnson, MD who states that among other affiliations, he has been Director of Chemical Dependency at The Willough, Medical Director at the Ruth Cooper Center and Unit Director, Chemical Dependency at the Charter Behavioral Health Center (a time frame for when Dr. Johnson served in these capacities is not stated in the letter). Ivan Mazzorana, MD and practicing local psychiatrist, states that the community mental health clinic and crisis stabilization unit (CSU) is overtaxed and overwhelmed by the shortage of psychiatric beds in the area.

Senior executives of 13 local mental health affiliates also provide support for this project. Stan Applebaum, Chairperson, Florida Local Advocacy Council on Mental Health, Circuit 20, encourages that at least a portion of the proposed beds for this project be a Baker Act receiving site location. Elizabeth Givens, Executive Director, National Alliance on Mental Illness (NAMI) Lee County, Inc. and Julie Sautel (volunteer of the same affiliation) support this project, with Ms. Givens stating that Lee County exceeds a population of 600,000 residents with at least 120,000 residents of the community at-risk for mental health issues and that existing services are not enough to meet the mental health need in the community[6]. Ms. Givens further states only one community mental health provider in the area (name of provider not stated) and less than 25 private psychiatrists who are not currently taking insurance.

Nancy Schultz, President, NAMI of Collier County, states that community mental health centers in the area are at or above capacity and that approval would allow options and alternatives to care that are not currently available. Mary Andrews, MS, CRC, of The Mental Health Association of Southwest Florida (a Collier County association) states that hospital-based inpatient care is limited and that adults and seniors are Baker Acted and often held in emergency rooms.

David Winters, CEO and President, Lee Mental Health/Vista – Ruth Cooper Center, states being in communication with the principals of the project since mid-2004 and that the lack of hospital inpatient beds in the

[6] According to the Department of Health (DOH), Office of Planning, Evaluation and Data Analysis, for fiscal year (FY) 2007-2008, a total of 1,084 physicians were licensed to practice in Lee County. The physician rate was 174.6 per 100,000 residents. This is below the average statewide physician rate of 283.1. DOH reports psychiatrists within its total physician count and does not specifically distinguish them in its Community Health Access Resource Tool Set (CHARTS) data.

community's existing mental health care system places a strain on the existing CSU beds availability but more importantly, "creates undue hardship on patients and their families, and does not allow for an adequate, quality continuum of basic core services". Mr. Winters goes on to state the project's principals and his organization have executed a written affiliation agreement that includes jointly recruiting psychiatrists, transfer of patients and appropriate protection of health information, cooperation on mutual opportunities such as grants or service to specialized populations, and commitment to be a Baker Act receiving facility. Lee Mental Health Center, Inc. operates a 30-bed crisis stabilization unit and a 16-bed residential treatment facility in Fort Myers in addition to providing assessments and outpatient mental health services for adults and children.

Greg Gardner, Vice President for Planning & Allocations, United Way of Lee, Hendry and Glades Counties (headquartered in Lee County), states he is the Chairman of the Mental Health and Substance Abuse Task Force, and that approval of the project would help with two of the task force's major goals: increase access and increase the number of practicing psychiatrists in the community. Mr. Gardner indicates that Lee County has fewer beds available for Baker Act/Marchman Act patients as compared with nearby counties. He also states the project fits "nicely" with the national recovery model, whereby patients have access to acute care, followed by more structured treatment, and leading to community based support models with the oversight of professionals and organizations such as the proposed facility. Mr. Gardner concludes that this proven model leads to higher rates of success, increased independence, and fewer (and shorter) relapses.

Leigh Wade-Schield, Executive Director, Area Agency on Aging for Southwest Florida, Inc. (AAASWF) states due to changing economic conditions, many seniors are experiencing anxiety, depression, isolation and "other issues". It is also stated in this support letter that the AAASWF is not equipped to meet the mental health needs it experiences with its elder consumers and that it (AAASWF) will "work with" the proposer to assist in identifying potential consumers who can benefit from the project. Ms. Wade-Schield states that the seven county area (Charlotte, Sarasota, Lee, Collier, Glades, Hendry and DeSoto) has an age 60+ population exceeding 500,000, which is over 33 percent of the total population and yet available resources are scarce. She states her agency will work with the applicant to identify those who can benefit from the Pavilion's services.

Dotty Amand, MSW, Executive Director, The Alvin A. Dubin Alzheimer's Resource Center, Inc. (Lee County provider) states that caregivers, along with the provider, are faced with "tremendous road blocks" in trying to achieve goals of finding resources and quality care for their clients. Ms. Amand states project approval will help reach those goals.

Barbara Kilbride, MS, RN, Co-Chair, the Southwest Florida Coalition for Optimal Behavioral Health & Aging, states her coalition has been successful in some mental health improvements in the area but not in treatment or placement of adults in need. Ms. Kilbride believes the project will provide the necessary and appropriate behavioral adult and geriatric services for which the coalition strives. Kevin Lewis, MSW, CAP, Chief Executive Officer, the Southwest Florida Addiction Services, Inc. (headquartered in Lee County), states that project disapproval will only assure that jails, hospital emergency rooms and detoxification centers will continue to attempt to meet the needs of the mentally ill in a less than effective or cost-efficient manner.

Michael Spellman, PhD, The Center for Psychology and Neuropsychiatry (Fort Myers), states some patients are discharged prematurely from inpatient care or are left waiting for admission. This practitioner states that suicide rates in Lee County are outpacing that of the rest of the state by a factor of nearly three[7]. Dr. Spellman states he has served on both the Governor's Commission for Mental Health and Substance Abuse and the Lee County Mental Health Task Force. He states that travel to facilities that have available psychiatric beds is not realistic and that the adverse impacts of travel fall unevenly on the poor and blue collar workers. Dr. Spellman also states he is a managing doctor of a mental health group practice and is a past chief of services at three of the counties' hospitals.

Troy Sharrits, RN, Director of Clinical Services at Consulate Health Care of North Ft. Myers[8], states that geriatric psychiatric care is lacking in the area, resulting in multiple emergency room visits with little to no

[7] According to DOH's Office of Planning, Evaluation and Analysis, the nearest counties to Lee in population, from 2005-2007, were Brevard and Polk, which averaged, for the three-year period from 2005-2007, 74 and 95 suicides, respectively, compared to Lee County's 99. Therefore, from 2005-2007, Lee County averaged more suicides per year than the other two counties of nearest comparable population. According to DOH, the rolling three-year age-adjusted suicide rate (2005-2007) statewide was 12.5 per 100,000 residents. The suicide rate in Lee County, for the same period is reported at 15.8. The highest suicide rate in the district was Glades County, at 21.9 (averaging three suicides per year for the three-year period). For the same period, the highest suicide rate in the state is reported in Gilchrist County (District 3), at 24.2 (averaging five suicides for the same period) and the second highest in Putnam County (District 3), at 23.4 (averaging 18 suicides for the same period).

[8] Consulate Health Care of North Ft. Myers is a 120-bed licensed community nursing home in Lee County.

community support follow-up. Nurse Sharrits also states to having been "witness to psychiatric patients being placed in nursing homes for management, which in many cases is not the best for the patient or the existing nursing home residents".

**Letters of Opposition**

The letters of opposition were two documents received by the Agency through the October 24, 2008 public hearing conducted by the HPCSWF. The opposition letters were submitted to the HPCSWF in two parts. The first is a 34-page report (and a two-page Attachment 1) document of opposition, entitled "Analysis of The Pavilion at HealthPark, Proposed Adult Inpatient Psychiatric Hospital for Health Management Associates", prepared by National Healthcare Associates, Inc. of Coral Gables, Florida. The second written opposition document is a set of 10 separate opposition letters from local area practitioners and entities. Below is a brief summary of major comments by the National Healthcare Associates, Inc. report and then the 10 separate letters of opposition.

In the four-page executive summary of the 34-page National Healthcare Associates, Inc. opposition report, need for the project is challenged, in consideration of no published need by the Agency and 77 additional recently approved adult psychiatric beds in the district, 15 being located at Lee Memorial Hospital in Lee County. The executive summary itemizes 21 separate conclusions to refute need for the project. A brief summation of some of the prominent conclusions stated are as follows: there is a surplus of 114 beds in District 8 through the January 2014 planning horizon; for CY 2007, the state's average occupancy rate for inpatient general psychiatric beds is 15.4 percent greater than District 8's rate of 46.2 percent – the lowest occupancy rate in the state; little change in occupancy rates took place when the closure of 144-bed (with 96 being adult psychiatric beds) Charter Glades Hospital occurred, with the closure resulting from psychiatric medical trends leading to reduced inpatient lengths of stay, increased outpatient alternatives and increased residential treatment; the four existing inpatient psychiatric providers in

District 8 are evenly dispersed; if the project is denied, the 15-bed psychiatric unit at LMH would be maintained; further progress at The Willoughs (to add 24 of the 62 psychiatric beds approved by CON exemption) is on-going with Permit #2008040972 already having been issued (to alter 9,000 square feet); an estimated 91.7 percent of the District 8 population is within a 45-minute driving time of at least one existing licensed adult psychiatric facility in the district; the applicant uses outdated historical data, wrong utilization data and erroneous drive time figures to reach its estimated average daily census (ADC) and estimated occupancy rates; the applicant uses state averages and District 6 use rates in making estimates for District 8 instead of actual District 8 data; the project will not enhance access to unfunded patients and will provide charity care at a lower rate than other nearby providers and if beds are transferred/delicensed from LMH, 15 beds available to Medicaid patients would no longer be available to that population.

The 10 separate and unduplicated letters of opposition were submitted during the public hearing. These letters are described below in the following order: senior hospital executives (five letters) and local physicians (five letters). Nine of the 10 letters have an October 21, 2008 (or more recent) date and one is not dated (letter from Dr. Bernardo Arias).

James O'Shea, Executive Director of The Willough at Naples, states strong opposition to the project, indicating adverse impact on his facility if the project is approved, reiterating a current Agency issued determination of zero net need for adult psychiatric beds in District 8 and stating there is no "not normal" or special circumstances that overcome this determination. He indicates additional beds will exacerbate already low utilization and threaten financial viability at existing providers.

Dalton Tininenko, Administrative Director at Riverside Behavioral Center of Charlotte Regional Medical Center, opposes the project, indicating his facility has historically risen to the psychiatric needs of the community, is a highly recognized Baker Act receiving facility and has "whole quarters" where its uninsured/indigent patient admissions has exceeded 13 percent. Mr. Tininenko reiterates many of the points made by Mr. O'Shea but adds that resultant staff shortages would have the counterproductive result of not being able to keep exiting beds open and likely reduce admissions at his facility. He believes that with the applicant proposing just a two percent charity care admission, indigent care demand at existing facilities would go up.

Cheryl Tibbett, Chief Financial Officer at Charlotte Regional Medical Center opposes the project on two major themes – one is due to a published fixed need pool of zero psychiatric beds in District 8 and the other is due to the weighing and balancing of mandatory review criteria that Ms. Tibbett believes the applicant has not met based on seven factors, as follows: need for a new hospital in the district is not demonstrated by the applicant since existing facilities and CSU beds are adequate to meet demand, the district already has the lowest occupancy in the state for psychiatric beds and that 91.7 percent of the district's population (and 94 percent of Lee County residents) are within a 45-minute driving time distance to a psychiatric facility; the proposal will duplicate services already provided at existing district facilities (including the CSUs and the 15-bed conversion at Lee Memorial Hospital) and will likely strain an already existing nursing shortage in the area; the project will not improve geographic access and underestimates the number of indigent patients likely to be impacted, especially with the transfer of 15 psychiatric Medicaid beds to the applicant's non-Medicaid facility[9]; the applicant's financial feasibility is questioned (in particular with what the opposer states is a "ridiculous" forecast model of a projected utilization of 300 percent); detrimental competitive effects are stated to result from duplication of existing facilities; the construction costs of a new facility in an area that already has multiple existing facilities is a waste of limited health care resources and the proposal will be a negative for Medicaid and indigent patients in Lee County.

Jose Morillo, Chief Executive Officer at Lehigh Regional Medical Center opposed the project, estimating that 34 of 84 psychiatric patients at his facility this year have been indigent, questions the applicant's statement of only 13 indigent patients in all of District 8 and that two already CON approved psychiatric bed additions in Lee and Collier Counties have not had an opportunity to perform. Mr. Morillo states that if psychiatric beds are added in the county, such addition should take place in a hospital setting where Medicaid and indigent services would have to be accepted[10].

Geoff Moebius, CEO of Physicians Regional Healthcare System opposes the project, stating the 15-bed psychiatric beds at Lee Memorial Hospital will accept both Medicaid and under-funded or uninsured patients and if the project is approved, the delicensure of psychiatric beds at a facility that accepts Medicaid (Lee Memorial Hospital) to one that does not (the

[9] It should be noted the applicant would be eligible for Medicaid HMO reimbursement and the applicant accounts for this in the submitted financial schedules found in CON# 10034.
[10] Ibid.

applicant) will diminish access for Medicaid and charity patients[11]. Mr. Moebius also states project approval would likely diminish existing psychiatric services at existing facilities due to probable increased costs.

Bernardo Arias, MD and private practice psychiatrist with Seabreeze Behavioral Medicine, P.A., (Port Charlotte, Florida) states opposition due to quality existing facilities, relatively low demand for high intensity psychiatric services and the nursing shortage, particularly psychiatric nursing. This letter is not dated but does reference relevant current events occurring in the area (such as the addition of 15 psychiatric beds at Lee Memorial Hospital) and current psychiatric bed occupancy rates in District 8.

Syed Hassan, MD and internist of Primary Care Associates of S.W. Florida (Port Charlotte, Florida) offers similar opposition as Dr. Arias.

Manuel Gallego, MD and psychiatric physician at the Allied Center for Therapy (Port Charlotte, Florida) states he has patients in Charlotte, Lee, Sarasota and Desoto Counties, operates a private practice in Charlotte County and also a rural psychiatric clinic in Desoto County. He opposes the project for reasons similar to Dr. Arias and Dr Hassan and also restates Mr. Morillo's comment that if psychiatric beds are added, it should occur at a hospital that can cover Medicaid and that will "take more indigent patients" than a freestanding facility.

Jose Gonzalez-Canal, MD and practicing psychiatrist with Psychiatric Associates of Charlotte County (Port Charlotte, Florida) and also Nelson Hernandez, MD and practicing psychiatric physician (Cape Coral, Florida) offer similar opposition letters stating that existing facilities are adequate and of high quality to meet demand considering the very low occupancy.

## C. PROJECT SUMMARY

**The Pavilion at HealthPark, LLC (CON #10034)** (applicant or The Pavilion) proposes to establish a new, private-for-profit, specialty adult inpatient psychiatric hospital with 76 beds, in District 8 (Lee County). The facility location is proposed to be within zip code 33098 in Fort Myers (Lee County) proximate to the existing HealthPark Medical Center. Through June 2014 (the third planned year of operation) the applicant estimates the following: a 30 percent market share; 3,200 cases; 23,274 patient days; an average daily census (ADC) of 64, an average length of

[11] Ibid.

stay (ALOS) of 7.3 and an 84 percent occupancy rate[12]. The applicant states that access emerges as a problem with just 85 percent of the District 8 population living within 45 minutes of an existing provider, not 90 percent as required by applicable CON Rule[13]. The applicant acknowledges that the deregulation of beds, including psychiatric beds, has removed any CON regulatory barriers to expanding existing units[14]. The applicant plans to seek JCAHO accreditation (as of January 2007, this organization is known as 'The Joint Commission') and become a Baker Act receiving facility. It also plans to have four major programs as follows: a senior transitions program (for older adults with anxiety and mood disorders); a seniors intervention program (a safe/secure environment for older adults with behavioral disturbances and psychosis along with co-morbid medical conditions); an adult psychiatric intensive care unit (a safe/secure environment for adults who are actively suicidal, those with severe medication reactions and those with severe agitation) and an adult treatment program (offering intervention to a diverse population).

Outpatient services are also planned for a full continuum of care. As the applicant is not proposing to be a general acute care (Class 1) hospital it cannot receive Medicaid fee for services reimbursement as a freestanding psychiatric hospital. However, it states it plans to contract with Medicaid managed care plans. Recent changes to Medicaid reimbursement indicate that the majority of inpatient psychiatric reimbursement will be by Medicaid HMOs and other managed care organizations. It is noted the applicant does not condition that it will seek Medicaid HMO or other managed care provider reimbursement.

The proposed project involves a total cost of $21,118,201. Construction costs are projected at $12,590,550[15] and the project will involve 64,508 gross square feet (GSF) of new construction. Total project costs include the following: land and building costs; equipment costs; project development, financing and start-up costs.

The applicant proposes the following conditions:

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[12] CON Application #10034, Project Summary, page iv.

[13] Ibid, page iii, referencing Florida Administrative Code 59C-1.040 (6). This rule reads, "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."

[14] The applicant further acknowledges The Willough requested two exemptions in 2004 to add a total of 62 beds but states that nothing has taken place to open any additional beds to date.

[15] CON Application #10034, Project Summary, page #ii states construction costs of $14,578,005; however, Schedule 9 states construction costs of $12,590,550 with a total building cost of $14,578,005. The construction cost reported on page ii is in fact the stated total building cost.

1. A commitment to become a Baker Act receiving facility.
2. A commitment to provide outpatient services.
3. A commitment to provide charity care which is forecasted at two percent of total cases and 1.5 percent of total inpatient days of care delivered at the hospital.

The applicant understands that conformance with any and all conditions require demonstration by submitting an annual report to the Agency for each calendar year. The applicant agrees to provide the required annual report.

## D. REVIEW PROCEDURE

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes. These criteria form the basis for the goals of the review process. The goals represent desirable outcomes to be attained by successful applicants who demonstrate an overall compliance with the criteria. Analysis of an applicant's capability to undertake the proposed project successfully is conducted by 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(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, Steve Love analyzed the application in its entirety with consultation from the Financial Analyst, Derron Hillman, who evaluated the financial data, and the Architect, Scott Waltz, 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.

**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. 408.035 (1) (a), Florida Statutes, Rules 59C-1.008(2) and 59C-1.040(4) Florida Administrative Code.**

In Volume 34, Number 30, dated July 25, 2008 of the Florida Administrative Weekly, a fixed need pool of zero beds was published for adult inpatient psychiatric beds in District 8 for the January 2014 planning horizon.

District 8 has 140 licensed and 77 CON approved (by exemption) but not yet licensed adult psychiatric beds. The 77 CON approved but not yet licensed are broken down by 62 beds at The Willough at Naples (Collier County and also referenced as The Willough) and 15 beds at Lee Memorial Hospital [LMH] (Lee County). The District 8 licensed bed count of 140 experienced an occupancy rate of 46.22 percent during the 12-month period ending December 31, 2007. The applicant is applying outside of the fixed need pool.

Of the four facilities in District 8 with licensed adult psychiatric beds, three are general hospitals (Class 1) and one is freestanding (Class 3), as follows:

**District 8 Adult Inpatient Psychiatric Facilities**

| Facility | Service Classification | # Adult Beds | Adult Occupancy |
|---|---|---|---|
| Charlotte Regional Medical Center | Class 1 | 26 | 93.00% |
| Naples Community Hospital | Class 1 | 23 | 32.12% |
| The Willough at Naples | Class 3 | 42 | 20.18% |
| Sarasota Memorial Hospital | Class 1 | 49 | 50.33% |
| **District 8 Total** | | **140** | **46.22%** |

**Source:** ***Florida Hospital Bed Need Projections and Service Utilizations by District, July 2008 Batching Cycle.***

The following is a map of District 8 adult psychiatric facilities including the proposed Pavilion at HealthPark site.

**District 8 Inpatient Psychiatric Facilities and the Proposed Pavilion at HealthPark Specialty Hospital Site**


**Source: Microsoft MapPoint 2006**

This application is filed in the absence of a District 8 need for adult psychiatric beds, as promulgated in the Agency's published need. The applicant states that a lack availability and access work to the detriment of bed need but are not accounted for the Agency's published need determination; therefore the applicant justifies its proposal in the absence of published need by showing "Not Normal" or special circumstances. The Pavilion provides a recent (May 25, 2008) three page local news article[16] that states there is a lack of psychiatric beds in the area, that Baker Act patients in the area are lingering in acute care hospitals that are ill-equipped to care for them and that Lee Memorial Hospital (LHM) is working with the Department of Children and Families (DCF) to document how often mentally ill patients cannot get into psychiatric beds within legal time frames[17].

Factors that Define Special Circumstances

The applicant states Lee County is the most populated county in District 8 and has no inpatient psychiatric beds[18]. AHCA Population Estimates for January 1, 2009 indicate Lee County is the most populated county in District 8, with a total population of 650,465 residents and a population age 18 years and older at 519,104 [19]. The second most populated county in District 8 is Sarasota County, with a total population of 402,004 residents and a population age 18 years and older at 338,299. All remaining counties in the district have lesser total and age 18 and older populations than Sarasota County. The applicant summarizes comments made in support letters (previous discussed in section B) that account for a community perspective of a lack of needed psychiatric beds in the area. The applicant indicates there is a discrepancy between the community's experience and the Agency's data.

The Pavilion believes that applicable beds are not located where they are available to larger segments of the adult population and that access problems exist. The applicant offers a map[20] of adult psychiatric providers in District 8 and the proposed project site that is similar to the map provided in this report (section E.1.a. above). The applicant also states that the shortest distance from the nearest operational psychiatric facilities in District 8 is seven miles (from The Willough to Naples Community Hospital) and the most distant is 128 miles (from Sarasota

[16] CON Application #10034, Exhibit 1-1/News Story About Access to Psychiatric Care
[17] It is noted that a support letter from DCF is not included in the application nor was one received directly by the Agency to document a crisis stabilization unit (CSU) overflow.
[18] A 15-bed inpatient psychiatric unit at LMH is part of the 77 CON approved but not yet licensed inpatient psychiatric bed compliment in District 8. These 15 beds are to be located in Lee County, as stated in a support letter from Jim Nathan, President, Lee Memorial Health System (LMHS).
[19] AHCA Population Estimates published September 2007.
[20] CON Application #10034, E.1. Need Analysis, page #11, Figure-2.

Memorial to The Willough)[21]. The distance from Lee Memorial HealthPark campus (proposed site) to Charlotte Regional Medical Center [CRMC] (the nearest licensed facility with adult psychiatric beds to Lee County/Fort Myers) is 27.01 miles and an estimated 33 minutes driving time[22]. In CY 2007, CRMC's adult psychiatric beds were the most occupied adult psychiatric beds in the entire district, at 93 percent occupancy. The next nearest facility licensed to operate adult psychiatric beds (Naples Community Hospital) is greater than a 45-minute drive from Lee County/Fort Myers[23]. The applicant also explains that District 8 has the lowest adult psychiatric bed use rate and the fewest beds per 1,000 residents of any district in the state[24], with an 18.25 percent use rate and a 0.11 percent beds per 1,000 residents. The Pavilion indicates this means availability emerges as a problem that is not captured by Agency district data. Further, the applicant states that, using Claritas data, some 1,337,271 residents of District 8 (or 85 percent of the 2008 District 8 total population) are located within a 45-minute time contour of the existing licensed adult psychiatric facilities in the district but not the required 90 percent[25]. This would not comply with Florida Administrative Code 59C-1.040 (6). Based on this data, any additions of beds at existing licensed facilities would not accommodate the applicable CON rule. However, the applicant's analysis does not take into account the 15 beds approved at Lee Memorial Hospital (Exemption #0700006), which when licensed will result in the district meeting this criteria. It is noted that Lee Memorial indicates the 15-bed unit will be delicensed once this project is licensed.

The applicant believes there is insufficient size of the existing units to have a critical mass to offer comprehensive services for the variety of psychiatric disorders found in Major Diagnostic Category (MDC) 19. The Pavilion proceeds to reflect nine DRGs (424 through 432) within MDC 19: "Mental Diseases and Disorders"[26]. The applicant then indicates that hospitals in District 8 (other than licensed psychiatric facilities) realized 461 MDC 19 cases, which is approximately 12 percent of all MDC 19 cases in the district from July 2006 to June 2007. Further, 88 percent of MDC 19 cases at CRMC and 84 percent of MDC 19 cases in the same

[21] Ibid, page #12, Table 1-1/ Distance Among Adult Psychiatric Inpatient Facilities in District 8 Under Normal Driving Conditions.
[22] Mapquest.
[23] Ibid.
[24] CON Application #10034, E.1 Need Analysis, page# 13, Table 1-2/Comparison of the Adult Psychiatric Patient Days and Beds per 1,000 Adults Across the 11 Health Planning Districts.
[25] Ibid, E.1 Need Analysis, page #15, Table 1-3/Popuation by County within District 8 and Numbers of Persons within Each 45-minute Drive Time Contour and Count of Unduplicated Persons.
[26] CON Application #10034, E.1 Need Analysis, page #16, Table 1-4/Adult Cases and Days by DRG and Hospital in District 8, July 2006 to June 2007.

period were identified as DRG 430 – Psychoses[27]. Conversely, at The Willough, only two percent of cases are shown to be DRG 430 (Psychoses) with a majority of cases DRG 432 (Other Mental Disorders) at 74 percent and DRG 428 (Disorders of Personality and Impulse Control) at 23 percent. The applicant contends that existing providers are tending to treat a more narrow range of MDC 19 cases with no hospital treating cases in all nine of the stated DRGs. Based on the data as presented, 2,764 of the total 3,786 cases (or about 73 percent) in the entire district for the period were DRG 430 (Psychoses) cases.

**Comparison of District 8 and State Psychiatric Discharges**

| DRG | District 8 Discharges | Percent District Total | State Discharges | Percent State Total |
|---|---|---|---|---|
| 424 | 10 | 0.27% | 173 | 0.20% |
| 425 | 205 | 5.46% | 2,160 | 2.52% |
| 426 | 198 | 5.27% | 8,183 | 9.54% |
| 427 | 148 | 3.94% | 3,118 | 3.64% |
| 428 | 63 | 1.68% | 508 | 0.59% |
| 429 | 219 | 5.83% | 2,506 | 2.92% |
| 430 | 2,764 | 73.61% | 68,904 | 80.33% |
| 432 | 148 | 3.94% | 222 | 0.26% |
| TOTALS | 3,755 | 100.00% | 85,774 | 100.00% |

**Source: District 8 CON Application #10034 July 06 – June 07. State data is from TREO data for January – September 2007.**
**Note: DRG 431 Childhood Mental Disorders not included as TREO data did not differentiate by age. District yellow hi-lighted are less than state percent.**

District 8 exceeds the state average in terms of percent of the patients treated in six of the eight mental health DRGs (MDC 19) listed above. The data does show that District 8 is lower in the two main DRGs (430 – Psychoses and 426 – Depressive Neuroses) that consist of approximately 90 percent of all of the state's psychiatric discharges. That is consistent with less mental health inpatient days being provided in the district compared to the state. However, this does not support the argument that District 8 facilities treat a narrower range of MDC 19 cases, although it is noted that The Willoughs treated a narrower range of DRGs than the other hospitals with DRG 432 (Other Mental Disorders) at 74 percent and DRG 428 (Disorders of Personality and Impulse Control) at 23 percent. Treatment of eating disorders at The Willoughs is obviously a substantial amount of the state's overall discharges in DRG 432. The Willoughs was restricted to essentially treating only these types of mental health patients during the reference reporting periods. That has been lifted with The Willoughs notification effective July 7, 2008.

The Pavilion contends that there is a lack of promotion, outreach and referral from medical centers that may impede availability and access, since the applicant's stated search for data regarding each provider

[27] Ibid.

indicates varying specializations. In support of this contention, the applicant provides a discussion of each hospitals website and the limitations of each. While giving good marks to Charlotte Regional and Sarasota Memorial, the applicant indicates that the Naples Community Hospital site provides access to only two psychiatrists and The Willoughs website specifies that the facility is for the treatment of eating disorders and chemical dependency. The applicant concludes that availability and access to existing programs are impeded, creating need for additional services.

Quantifying the Demand

The applicant utilizes a seven-step plan to quantify demand. First, the applicant calculates the statewide use rate of cases per 1,000 adults, aged 18 and older, by MDC 19 DRG's during July 2006 to June 2007. The Pavilion finds a total of 102,989 MDC 19 cases statewide resulting in 735,168 patient days, generating a total statewide use rate of 7.13 percent per 1,000 residents. Second, the applicant obtains the District 8 patient discharges in MDC 19 resulting in a total of 3,371 total MDC 19 cases and 23,836 total patient days for the period.

Third, the applicant uses District 8's age 18 and over population projection for January 2012 of 1,476,749 and the statewide use rate per DRG to forecast demand for 10,036 total MDC 19 cases in the district and 71,221 total patient days by January 2012. In step four the applicant projects the gross bed need using the 75 percent occupancy standard in CON rule for the 2012 time horizon, applicable to nine DRGs found in the MDC 19 category. This leads to a 195.1 average daily census (ADC), a gross 260.2-bed need calculation and then a subtraction of the currently licensed 140 beds to reach an unmet need of 120 beds. The applicant believes this to be a conservative estimate, since the use rate is already the lowest in District 8 of any district statewide. However, numeric bed need arguments based on District 8 projections are problematic in that existing providers can add adult inpatient beds by agreeing to meet the district average Medicaid or charity care. The need for the project is best demonstrated by the lack of adult inpatient beds in Lee County, the missing link in the continuum of care with patients being treated in Lee County acute care beds, crisis stabilization units and migrating to other areas for treatment.

Fifth, the applicant calculates the distribution of MDC 19 cases in District 8 for adults age 18 and over from July 2006 through June 2007 and finds 3,371 such cases, with the majority (76.1 percent or 2,564 cases) being DRG 430 (Psychoses) and the next largest (5.9 percent or 198 cases) being DRG 426 (Depressive Neuroses), with DRGs 429 and

425 trailing closely to DRG 426. The applicant indicates that its data reveals that Lee County has a higher percentage of population in DRG 426 than does District 8. As stated earlier, data does show that District 8 providers have lower percentage of discharges as part of the District total in the two main DRGs (430 – Psychoses and 426 – Depressive Neuroses). These DRGs consist of approximately 90 percent of all of the State's psychiatric discharges.

The sixth step is to determine market share for the first three years of operation, applying the market share to the forecasted number of cases in the district to arrive at the number of cases for the new hospital. The third year is stated to end July 1, 2014 and the applicant projects a 30 percent market share; 3,200 cases; 23,274 total patient days; an average daily census (ADC) of 64; an average length of stay (ALOS) of 7.3 and an occupancy rate of 84 percent.

In the seventh calculation, the applicant estimates the distributions of services and the corresponding payers for the new hospital. In this calculation, The Pavilion uses statewide MDC 19 cases and those payer mixes at facilities with licensed adult psychiatric beds statewide. By year three, The Pavilion expects to provide 23,274 total patient days, with the following payer mix: 585 days to Medicare; 1,085 days to Medicaid HMO, 1,179 days to commercial insurance; 3,422 days to HMO and PPO providers; 1,054 days to "other payers"; 1,516 days to self-pay and 347 days to charity. This results in Medicaid HMO of 4.66 percent and charity care at 1.49 percent of the facility's total year three patient days.

Analysis of Adverse Impact

The applicant indicates that the current 140 licensed adult psychiatric beds in District 8 yields a maximum 51,500 patient bed days. However, this calculates to 51,100 patient bed days (140 beds x 365 days). Using the 51,500 max bed days with projected 77,221 patient days, the applicant estimates 25,721 patient days unmet and results in an average daily census (ADC) of an additional 70 patients (25,721/365 = 70.46) is projected. With the correction, the result is an additional 72 patients (26,121/365 = 71.56). The applicant concludes that using a 75 percent occupancy threshold, the 70 beds result in the need for 94 beds. With the correction, the result is 96 beds.

The applicant uses District 6 patient day estimates to support its contention that the project will not have an adverse impact on existing providers. District 6's use rate per thousand of 34.80 allows the applicant to calculate an unmet ADC bed need of 32. This is using the next lowest bed use rate in the state (District 6) for comparison purposes.

The applicant states that "existing providers' occupancy rates reflect that they lack a critical mass of beds within service lines to adequately staff and operate various psychiatric programs covering the range of psychiatric disorders"[28]. The applicant concludes that adverse impact is unlikely because those in the district diagnosed with DRG 430 (Psychosis) account for the vast majority of hospitalization (with the exception of The Willough) but that another 160 persons with psychosis are admitted to District 8 facilities that lack psychiatric beds. Also the applicant contends that the majority of charity care psychiatric patients are served at hospitals without licensed psychiatric beds. For these reasons, the applicant believes there will be no adverse impact.

As stated previously, District 8 has 140 licensed and 77 CON approved (by exemption) but not yet licensed adult psychiatric beds. District 8 experienced an occupancy rate of 46.22 percent during the 12-month period ending December 31, 2007. None of the 140 licensed adult psychiatric beds are located in Lee County.

Below is a table to account for the licensed and approved (by exemption) but not yet licensed adult psychiatric beds in District 8.

**District 8**
**Adult Inpatient Psychiatric**
**Licensed & Approved Beds**

| Facility | County | Service Classification | Licensed Beds | CON Approved |
|---|---|---|---|---|
| Charlotte Regional Medical Center | Charlotte | Class 1 | 26 | 0 |
| Naples Community Hospital | Collier | Class 1 | 23 | 0 |
| The Willough at Naples | Collier | Class 3 | 42 | 62 |
| Sarasota Memorial Hospital | Sarasota | Class 1 | 49 | 0 |
| Lee Memorial Hospital | Lee | Class 1 | 0 | 15 |
| **District 8 Total** | | | **140** | **77** |

***Source: Florida Hospital Bed Need Projections & Service Utilization by District published 7/25/08.***

According to AHCA Population Estimates published September 2007, Lee County is projected to realize a 16.44 percent increase in the population age 18 years and older, from 519,104 in January 2009 to 604,464 in January 2014. The growth rate for District 8 is forecast to be 14.99 percent (1,351,503/1,554,047) with the State of Florida's growth rate at 11.04 percent (15,114,451 in January 2009/16,783,420 in January 2014) for the population age 18 years and older. This indicates that Lee County is projected to grow at a faster rate (16.44 percent) than the district (14.99 percent) and that the district will grow at a faster rate than the state (11.04 percent). AHCA Population Estimates for January 2009 indicate Lee County is the most populated county in District 8, with a total population of 650,465 residents and a population age 18

[28] CON Application #10034, E.1 Need Analysis, page #31.

years and older at 519,104. The second most populated county in District 8 is Sarasota County, with a total population of 402,004 residents and a population age 18 years and older at 338,299.

Below is a chart that accounts for all applicable psychiatric discharges (CY 2007) in District 8 inpatient adult psychiatric facilities from two perspectives – the total adult psychiatric discharges of Lee County residents at these facilities compared to the facility's total adult psychiatric discharges.

**Lee County Resident Adult Psychiatric Patient Discharges**
**Compared to All Adult Psychiatric Discharges**
**District 8 Facility Ranking**
**CY 2007**

| Facility | County | Total Adult Psychiatric Discharges of Lee County Residents | Facility's Total Adult Psychiatric Discharges | Lee County Residents as Percent of Facility's Total Psychiatric Discharges |
|---|---|---|---|---|
| Charlotte Regional Medical Center | Charlotte | 494 | 1,285 | 38.44% |
| Naples Community Hospital | Collier | 97 | 658 | 14.74% |
| The Willough at Naples | Collier | 25 | 168 | 14.88% |
| Sarasota Memorial Hospital | Sarasota | 19 | 1,207 | 1.57% |
| **District 8 Total Comparison** | | **635** | **3,318** | **19.14%** |

**Source: Florida Center for Health Information and Policy Analysis database**

The above chart indicates that in CY 2007, 38.44 percent of Charlotte Regional Medical Center's adult psychiatric discharges were Lee County residents; 14.74 percent of Naples Community Hospital's adult psychiatric discharges were Lee County residents; 14.88 percent of The Willough at Naples' and 1.57 percent of Sarasota Memorial Hospital's adult psychiatric discharges were Lee County residents. Lee County residents accounted for 19.14 percent of the total adult psychiatric discharges from District 8 hospitals that had licensed adult inpatient psychiatric beds.

The chart below provides the total volume of Lee County resident MDC 19 discharges and the location of treatment.

**Lee County Resident Adult Psychiatric Patient Discharges by Facility - CY 2007**

| Facility | County | Total Discharges of Lee County Residents | Percent of Total Lee County Resident Discharges |
|---|---|---|---|
| Charlotte Regional Medical Center. | Charlotte | 494 | 46.96% |
| Naples Community Hospital | Collier | 97 | 9.22% |
| The Willough at Naples | Collier | 25 | 2.38% |
| Sarasota Memorial Hospital | Sarasota | 19 | 1.81% |
| Lee County Acute Care Hospitals | Lee | 321 | 30.51% |
| Non-Lee County District 8 Acute Care Hospitals | Multiple Counties | 20 | 1.90% |
| Non-District 8 Hospitals | Multiple Counties | 76 | 7.22% |
| **District 8 (Lee County) Total** | | **1,052** | **100.00%** |

**Source: Florida Center for Health Information and Policy Analysis database**

As shown in the table above, Lee County residents accounted for 1,052 adult inpatient psychiatric discharges during CY 2007. Six hundred thirty-five of these discharges took place in the four inpatient licensed adult psychiatric facilities shown. A total of 321 discharges took place in Lee County acute care facilities, 20 from other District 8 acute care hospitals and 76 discharges occurred outside District 8. Therefore, while 30.51 percent of Lee County adult psychiatric resident discharges were from Lee County acute care facilities, the majority (69.49 percent) of Lee County residents are leaving the county to access inpatient psychiatric services because there are no licensed adult inpatient psychiatric beds in the county.

The applicant indicates that its data reveals that Lee County has a higher percentage of population in DRG 426 than does District 8. As stated earlier, data shows that District 8 providers have a lower percentage of discharges as part of the district total in comparison to the state average in the two largest volume mental health DRGs (430 – Psychoses and 426 – Depressive Neuroses). These DRGs consist of approximately 90 percent of all of the state's psychiatric discharges.

Lee County is the largest county in the district with approximately 38.40 percent (519,104/1,351,503 as of January 1, 2009) of the district's total population. The application has the important local support for the project including Lee Memorial Health System, Lee Mental Health, Florida Gulf Coast University, approximately 10 of the local mental health affiliates, all of whom indicate a willingness to work with the applicant to provide high quality care to Lee County citizens in need of inpatient psychiatric services. Assuming the applicant's projections are correct, the project would fill a void in the District 8 and particularly Lee County's health care continuum.

**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 adults.**

**1. Rule 59C-1.041(4)(e) 1, Florida Administrative Code: 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.**

The application is 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, the appropriate plan for mental health services in Lee County is maintained by the Department of Children and Families (DCF). Correspondingly, DCF monitors compliance with this plan through an annual survey of facilities in Lee County.

**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 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.**

District 8 has 140 licensed and 77 CON approved (by exemption) adult psychiatric beds. The 140 licensed beds are dispersed among four facilities - three are general hospitals (Class 1) and one is freestanding (Class 3), as follows:

**District 8 Adult Psychiatric Facilities (Licensed)**

| Facility | Service Classification | # Adult Beds | Adult Occupancy |
|---|---|---|---|
| Charlotte Regional Medical Center | Class 1 | 26 | 93.00% |
| Naples Community Hospital | Class 1 | 23 | 32.12% |
| The Willough at Naples | Class 3 | 42 | 20.18% |
| Sarasota Memorial Hospital | Class 1 | 49 | 50.33% |
| **District 8 Total** | | **140** | **46.22%** |

**Source:** ***Florida Hospital Bed Need Projections and Service Utilizations by District, July 2008 Batching Cycle.***

With 98 of the 140 beds being located in general hospitals this represents a 70.00 percent (98/140) allocation to general hospitals. Below is a description of CON approved (by exemption) but not yet licensed like beds.

**District 8 Adult Psychiatric Facilities (CON Approved through Exemption)**

| Facility | Service Classification | # Adult Beds | Adult Occupancy |
|---|---|---|---|
| The Willough at Naples | Class 3 | 62 | N/A |
| Lee Memorial Hospital | Class 1 | 15 | N/A |
| **District 8 Total** | | **77** | **N/A** |

**Source:** ***Florida Hospital Bed Need Projections and Service Utilizations by District, July 2008 Batching Cycle.***

Provided that the CON approved beds are ultimately licensed and the existing beds remain licensed for adult psychiatric patients, then, with 113 of 217 beds being located in general hospitals, this represents a 52.07 percent (113/217) allocation to general hospitals. Approval of this project would change the ratio to 38.56 percent (113/293). This ratio would further drop to 35.25 percent (98/278) when Lee Memorial closes the 15 bed unit upon the opening of the project's facility.

Regardless, recent changes in Medicaid reimbursement indicate that the majority of reimbursement for Medicaid patients will be by Medicaid HMO providers.

**4. Rule 59C-1.040 (4) (e) 4, Florida Administrative Code: 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.**

The adult psychiatric beds in the district experienced an occupancy rate of 46.22 percent for the January 2007 through December 2007 reporting period. The following table indicates the facilities in District 8 that have licensed adult psychiatric beds and their respective utilization rates:

**District 8 Adult Inpatient Psychiatric Utilization**
**January 2007 – December 2007**

| Facility | County | # Adult Beds | Adult Patient Days | Adult Occupancy |
|---|---|---|---|---|
| Charlotte Regional Medical Center | Charlotte | 26 | 8,826 | 93.00% |
| Naples Community Hospital | Collier | 23 | 2,698 | 32.12% |
| The Willough at Naples | Collier | 42 | 3,093 | 20.18% |
| Sarasota Memorial Hospital | Sarasota | 49 | 9,002 | 50.33% |
| **District 8 Total** | | **140** | **23,619** | **46.22%** |

**Source:** ***Florida Hospital Bed Need Projections and Service Utilizations by District, July 2008 Batching Cycle.***

**b. Priority Considerations for hospital inpatient general psychiatric services (Rule 59C-1.040 (4) (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 combined charity care and Medicaid.

**District 8 Adult Inpatient Psychiatric Facilities**
**Percentage of Combined Medicaid and Charity Care**
**For FY 2006**

| Facility | Combined Medicaid/Charity |
|---|---|
| Charlotte Regional Medical Center | 6.67% |
| Naples Community Hospital | 15.13% |
| The Willough at Naples | 4.23% |
| Sarasota Memorial Hospital | 14.83% |

**Source: 2006 AHCA Hospital Financial Data.**

As a freestanding psychiatric hospital, the Willough at Naples facility cannot receive Medicaid fee for service reimbursement. Neither could the applicant. However, the applicant does state that it is able to contract with Medicaid Managed Care. Schedule 7A shows that the applicant will be providing 4.7 percent of its patient days to Medicaid HMO and 8.0 percent to self-pay patients. According to the notes to the schedule, charity care is estimated at two percent of admission and 1.5 percent of patient days. The charity care estimates are conditioned by the applicant in Schedule C.

**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.**

The applicant states intentions to serve all MDC 19 patients; none of the nine DRGs listed in MCD 19 are listed as excluded from service in this project.

**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.**

The applicant is unable to accept Medicaid fee for service reimbursement but is able to accept Medicaid HMO and projects 4.7 percent of the facility's total annual patient days will be provided to Medicaid HMO patients in years one through three. The applicant conditions project approval to provide charity care of two percent of total cases and 1.5 percent of total inpatient days. The applicant also predicates on conditions (Schedule C) a commitment that the hospital becomes a Baker Act receiving facility.

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

The applicant predicates on conditions (Schedule C) that it commits that its hospital becomes a Baker Act receiving facility.

**b. Minimum Size of Specialty Hospitals (Rule 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 (Rule 59C-1.040(5), Florida Administrative Code).**

The applicant proposes a 76-bed adult psychiatric facility and therefore complies with this criterion.

**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 (Rule 59C-1.040(6), Florida Administrative Code).**

A lack of such access was demonstrated by the applicant, using Claritas data, as a measure of special circumstances to justify the project. However, the applicant's analysis does not take into account the 15 beds approved at Lee Memorial Hospital (Exemption #0700006), which when licensed will result in the district meeting this criteria. It is noted that Lee Memorial indicates the 15-bed unit will be delicensed once this project is licensed.

**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 (Rule 59C-1.040(7)(a), Florida Administrative Code).**

The applicant states intentions 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 (Rule 59C-1.040(7)(d), Florida Administrative Code).**

The applicant indicates it will offer both inpatient and outpatient psychiatric services and that both will be accredited. The hospital forecasts an outpatient program with 28 slots. The Pavilion discusses continuity further by referencing continuity agreements as stated in support letters by David Winter, CEO and President, Lee Mental Health/Vista – Ruth Cooper Center, along with Jim Nathan, President, Lee Memorial Health System (LMHS). These letters are described briefly in section B of this report.

**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 (Rule 59C-1.040(7)(e), Florida Administrative Code).**

The applicant anticipates assessing all patients, establishing an initial care plan and arranging for basic discharge plans. This is provided the admission is planned. However, the applicant expects many admissions to be unscheduled. In the latter case, a triage team will make a preliminary assessment to identify immediate/acute nature of the presenting condition. The Pavilion states an admission coordinator will be directly involved in the intake procedure and the applicant offers a summary of 13 assessments to be conducted[29]. These assessments include the following: nursing bio-psychological assessment; physical, psychiatric, psychological and psychosocial assessments; adjunctive therapy; family, educational, nutritional and vocations (if applicable); legal assessment (when applicable); substance abuse and special medication assessments.

[29] Ibid, E.1 Need Analysis, page #'s 36 and 37.

Screening may call for other services, such as occupational/ recreational therapies, along with music, art and/or pet therapy, as regimens may call for these.

**e. Services Description (Rule 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.**

The target population to be served is adults, ages 18 years and over. The elderly (aged 65 years and over) are especially targeted.

**2. Specialty programs to be provided.**

The applicant states that based on the community assessment process, community feedback and the applicant's own review, the following programs are needed and will be offered:

- Seniors Transition Program
- Seniors Intervention Program
- Adult Psychiatric Intensive Care Unit
- Adult Treatment Program

The Seniors Transitions Program is designed for older adults with anxiety and mood disorders. The Seniors Intervention Program is planned as a safe/secure environment for older adults with behavioral disturbances and psychosis along with co-morbid medical conditions. The adult psychiatric intensive care unit is envisioned as a safe/secure environment for adults who are actively suicidal, those with severe medication reactions and those with severe agitation. The Adult Treatment Program offers intervention to a diverse population.

The applicant expects patients to be involved in treatment interventions, small group regimens and special therapeutic and recreational techniques[30].

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

[30] Ibid, E.1 Need Analysis, page #38.

Schedule 6 provides for 96.29 FTEs budgeted for year one of operations, 134.81 FTEs for year two and 204.70 FTEs for year three. According the notes to Schedule 6, some ancillary services such as pharmacy will be provided by contract, as will laundry services. FTEs for each of the three years are summarized below.

For year one (ending June 30, 2012) FTEs are as follows: administration 9.7 FTEs, physicians 2.5 FTEs, nursing 51.88 FTEs, ancillary 3.5 FTEs, dietary 4.8 FTEs, social services 14.91[31] FTEs; housekeeping 3.8 FTEs and plant maintenance 5.2 FTEs. For year two (ending June 30, 2013), FTEs are as follows: administration 13.0 FTEs, physicians 4.0 FTEs, nursing 64.73 FTEs, ancillary 9.9 FTEs, dietary 9.8 FTEs, social services 20.58 FTEs; housekeeping 6.6 FTEs and plant maintenance 6.2 FTEs. For year three (ending June 30, 2014) FTEs are as follows: administration 17.0 FTEs, physicians 5.5 FTEs, nursing 98.42 FTEs, ancillary 15.4 FTEs, dietary 14.0 FTEs, social services 30.58 FTEs; housekeeping 12.4 FTEs and plant maintenance 11.4 FTEs. For each of the three years, each category (administration, physicians, nursing, ancillary, dietary, social services; housekeeping and plant maintenance) grows in FTEs.

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

The applicant states that no specific ICD-9 diagnoses will be excluded until an assessment is performed and a determination is made by the admitting physician in concert with the intake team that the hospital's programs are not suitable for the patient or the patient is unlikely to benefit from them.

**5. Therapeutic approaches to be used.**

The applicant highlights 15 separate therapeutic approaches and identifies a treatment program with an expectation of an ALOS of 7.3 days. There are two specific programs for the elderly based on severity or intensity of treatment and two programs for adults, aged 18 to 64, based on severity. Therapeutic community meetings will be planned daily, to last from 30 to 60 minutes, in which patients and clinical staff will meet to discuss daily issues of living together. Group therapy sessions are designed to serve as

[31] Ibid, Schedule 6 indicates 14.92 FTEs for social services but recalculation results in a total of 14.91 FTEs for social services.

positive recovery mechanism and the applicant states that Medicare patients will be "carefully screened to ensure that they possess sufficient cognitive awareness to benefit from therapy"[32].

Individual psychotherapy will be available with frequency, duration and specific goals on a case-by-case basis. Psychopharmacological management will be designed and individualized by the attending physician. Family support services will be available to include both group and individualized family counseling, with particular interest for elderly patients. Activity and occupational therapies will be provided to integrate the patient into an effective recovery regimen; this will include music and art therapies as well. Didactic group therapy will include a variety of skill training groups. As stated in the case of group therapy mentioned earlier, didactic group therapy patients on Medicare will be carefully screened to ensure that they possess sufficient cognitive awareness to benefit from therapy. The applicant identifies 14 separate didactic group therapy modules[33].

Patient governance is a method to allow patience to develop improved methods of self-maintenance and successful independence. Family and marital therapy will vary in duration and frequency (similar to individual psychotherapy) depending on the psychiatrist's and treatment team's assessments; it is designed to resolve relationship difficulties. Social services includes an individual meeting between a patient and a case manager for a full psycho-social evaluation, so that the possible need for other therapies may be determined. Patient education, for patients and families, is to be continuously provided. Nursing services are to be provided by professional nurses trained in psychiatric and mental health nursing as well as by mental health technicians. Special precautions are to be provided through 15-minute observation protocols.

**6. Expected sources of patient referrals.**

The applicant states that it expects to draw referrals from the following sources:

- Psychiatrists
- Mental health centers
- Acute care hospitals

[32] Ibid, E.1 Need Analysis, page #41.
[33] Ibid, E.1 Need Analysis, page #43.

The applicant states it worked with Lee Mental Health and the Ruth Cooper Center to become a Baker Act receiving center[34].

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

The applicant anticipates that its average length of stay (ALOS) for psychiatric patients to be 7.3 days[35].

**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.**

The following table shows psychiatric patient days by payer for the first three years of operation.

**The Pavilion at HealthPark Payer Mix by Patient Days**

| Payment Source | Total Patient Days | | |
|---|---|---|---|
| | **Year 1** | **Year 2** | **Year 3** |
| Medicare | 6,625 | 9,107 | 14,086 |
| Medicare Managed Care | 275 | 378 | 585 |
| Medicaid HMO | 510 | 702 | 1,085 |
| Commercial Insurance | 544 | 762 | 1,179 |
| HMO & PPO | 1,609 | 2,212 | 3,422 |
| Other | 496 | 682 | 1,054 |
| Self-Pay | 713 | 980 | 1,516 |
| Charity | 163 | 224 | 347 |
| **TOTAL** | 10,946 | 15,048 | 23,274 |

**Source: CON Application #10034, pages 47 and 48.**

As a freestanding psychiatric hospital, the proposed Pavilion at HealthPark cannot receive Medicaid fee for service reimbursement. The applicant anticipates that some Baker Act admissions will have insurance, some may be charity patients and some may be self-pay.

[34] Ibid, E.1 Need Analysis, page #46
[35] Ibid, Table 1-18/Expected Average Length of Stay by DRG and Age Group: The Pavilion at HealthPark (Excluding Direct Medicaid).

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

The applicant does not provide a charity care policy for Agency review but predicates on conditions (Schedule C) to become a Baker Act receiving facility and to provide a minimum of at least two percent of cases and 1.5 percent of total patient days to charity. Notes to Schedule 7B indicates the applicant will provide charity care at approximately two percent of admissions and 1.5 percent of total inpatient days at the proposed hospital.

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

The applicant does not respond to this criterion directly. However, The Pavilion predicates on conditions (Schedule C) that it understands that conformance with any and all conditions require demonstration by submitting an annual report to the Agency for each calendar year. The applicant agrees to provide the required annual report.

NOTE: The Agency would not place conditions on a project that are legally mandated reporting requirements.

**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(1)(a), (b) and (e), Florida Statutes.**

In Volume 34, Number 30, dated July 25, 2008 of the Florida Administrative Weekly, a fixed need pool of zero beds was published for adult inpatient psychiatric beds in District 8 for the January 2014 planning horizon.

District 8 has 140 licensed and 77 CON approved (by exemption) adult psychiatric beds. District 8 experienced an occupancy rate of 46.22 percent during the 12-month period ending December 31, 2007. The applicant is applying outside of the fixed need pool.

The following table indicates the facilities in District 8 that have adult psychiatric beds and their respective utilization rates for January 2007 – December 2007:

**District 8 Adult Inpatient Psychiatric Utilization**
**January 2007 – December 2007**

| Facility | County | # Adult Beds | Adult Patient Days | Adult Occupancy |
|---|---|---|---|---|
| Charlotte Regional Medical Center | Charlotte | 26 | 8,826 | 93.00% |
| Naples Community Hospital | Collier | 23 | 2,698 | 32.12% |
| The Willough at Naples | Collier | 42 | 3,093 | 20.18% |
| Sarasota Memorial Hospital | Sarasota | 49 | 9,002 | 50.33% |
| **District 8 Total** | | **140** | **23,619** | **46.22%** |

**Source:** ***Florida Hospital Bed Need Projections and Service Utilizations by District, July 2008 Batching Cycle.***

Below is a table to account for the 77 CON approved (by exemption) but not yet licensed adult psychiatric beds in District 8.

**District 8 Adult Psychiatric Facilities (CON Approved through Exemption)**

| Facility | Service Classification | # Adult Beds | Adult Occupancy |
|---|---|---|---|
| The Willough at Naples | Class 3 | 62 | N/A |
| Lee Memorial Hospital | Class 1 | 15 | N/A |
| **District 8 Total** | | **77** | **N/A** |

**Source:** ***Florida Hospital Bed Need Projections and Service Utilizations by District, July 2008 Batching Cycle.***

The applicant proposes the establishment of a 76-bed adult psychiatric program to be located in Lee County.

**Availability and Access**

The Pavilion documents that District 8 has the lowest psychiatric bed use rate per 1,000 residents of any district in the state[36]. The applicant states beds are not located in areas where they are needed, where they would be available to larger segments of the adult population. It also states that there is insufficient size of the existing units to have a critical mass to offer comprehensive services for the variety of psychiatric disorders in MDC 19. The applicant finds that these two factors reduce both availability and access. The Pavilion further states an interest in not over-bedding the district, with 77 beds in inventory (very near the applicant's planned 76-bed facility). The applicant indicates that the 15 beds under site development at Lee Memorial Hospital will be converted to acute care beds once the project is operational. Exhibit 3-1 contained a letter from James R. Nathan, President of Lee Memorial Health System which confirms the 15-bed unit "will be closed once the specialty hospital is opened and operational". The applicant also indicates that the

[36] CON Application #10034, E. 3. a, Planning Factors, page# 1, Table 3-1/Comparison of Availability and Utilization of Adult Psychiatric Beds by District CY 2007.

remaining 62 beds (with Agency exemption approval for The Willough) were approved in 2004 and there has been little effort to license them. The applicant documents delays in progress in licensure[37].

**Quality of Care**

The applicant does not take a position regarding quality of care at the existing licensed psychiatric facilities in District 8. Rather, the applicant focuses on its own planned quality of care to provide what it calls a full service psychiatric hospital, capturing the full range of mental diseases and disorders under MDC 19. The applicant plans to seek Joint Commission accreditation. The applicant highlights The Joint Commission's Core Measures for Hospital-Based Inpatient Psychiatric Services (HBIPS)[38] and states it (The Pavilion) will implement these measures. The applicant states that there are seven core measure components. Exhibit 3-2 contained an example of the Joint Commission Core Measure for Hospital-Based Inpatient Psychiatric Services which discussed admission screening and an introduction and background of Joint Commission Quality Initiatives.

**Accessibility and Extent of Utilization**

The applicant indicates that from CY 2002 through CY 2007, occupancy rates in the existing District 8 psychiatric facilities rose from 43.1 percent to 46.2 percent[39]. The applicant indicates that patients are being treated in the acute care hospital setting and many support letters indicate the Lee County continuum of care is missing inpatient adult psychiatric beds, which is taxing the existing infrastructure (acute care emergency rooms and the crisis stabilization unit among others). The applicant shows an out-migration rate of approximately 10 percent[40] to non-District 8 facilities. The out-migration of residents 18-64 years of age is shown to be three times that of the elderly, ages 65 and over. This indicates the elderly are not obtaining applicable care outside the district and some are receiving care in acute care beds, not at licensed psychiatric facilities. The applicant concludes that when too few beds exist, a critical mass does not exist to treat a complex array of persons with very different psychiatric needs. The applicant believes its program is sufficient to capture the full range of services to all DRGs within MDC 19.

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[37] Ibid, page #5.
[38] Ibid, Exhibit 3-2/Example of Joint Commission Core Measure for Hospital-Based Inpatient Psychiatric Services.
[39] Ibid, E. 3. a. Planning Factors, page #7, Table 3-4/District 8 Psychiatric Facilities' Occupancy Rates for CY 2002 and 2007.
[40] Ibid, page #9, Table 3-7, Districts Providing Inpatient Psychiatric Services to Adults Residing in District 8: July 2006 to June 2007.

**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.**

The applicant is a new entity, created to sponsor and develop the project – a District 8, Lee County, 76-bed adult psychiatric hospital. As a new entity, the applicant does not have a history of providing care. However, the applicant is managed by Healthcare Services Management Company of Southwest Florida, LLC (HCSMC). The applicant states HCSMC and its principals have over 50 years of both freestanding and hospital-based psychiatric facilities. The applicant and HCSMC are the managers of the 15-bed inpatient psychiatric unit at Lee Memorial Hospital (LMH) in Fort Myers (now in development). It also states that Continuous Quality Improvement (CQI) is a tenet of the facility's management policy. However, no CQI policies or procedures materials are provided for Agency review.

The applicant states it plans to monitor practices within the hospital through Performance Improvement (PI) and Quality Management (QM). The PI committee will meet a minimum of once a month on a scheduled basis. Minutes are to be documented and maintained. The applicant provides a sample PI/QM committee agenda for Agency review, but no PI or QM policies or procedures (other than the agenda). The hospital will seek Joint Commission accreditation and states commitment to the National Patient Safety Goals. The Pavilion also attests to commitment to what it describes as seven major quality Joint Commission measures in the Hospital-Based Inpatient Psychiatric Services Core Measures Set; these measures are as follows: admission screening; hours of physical restraint use; hours of seclusion use; patients discharged on multiple antipsychotic medications; patients discharged on multiple antipsychotic medications with justification; post discharge continuing care plan creation and post discharge continuing care plan transmission to next level of care provider upon discharge. The applicant also commits to six separate occurrence screens, patient rights and satisfaction surveys.

The applicant has demonstrated a commitment to provide 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. 408.035(1)(d), Florida Statutes**.

The financial impact of the project will include the project cost of $21,118,201 and year two operating costs of $13,103,099.

**Analysis:**
The Pavilion at HealthPark, LLC, is a development stage company formed on May 28, 2008. An audit of the applicant for the period of inception to August 31, 2008, indicated $4,316,370 in assets, $384,227 in liabilities, and $3,932,143 in equity.

**Capital Requirements:**
Schedule 2 indicates the only capital project that the applicant is involved with is the subject of this application totaling $21.1 million and $150,000 in routine capital. In addition to funding the construction of the project, the applicant is projecting an operating loss in year one of $636,629, which will require additional funding.

**Available Capital:**
The applicant indicates that financing for the construction and initial operation of the proposed project will be provided through a combination of debt and equity. The debt financing is supported by a letter from First American Bank, which expresses the bank's interest in proving funding for 80 percent of the project's capitalized costs, including working capital to operate the facility. A letter of interest is not considered a firm commitment to lend. Since the applicant is a start-up entity, the Agency cannot evaluate the financial position of the applicant. Therefore, the Agency cannot reach a conclusion on the likelihood of the loan being executed. The equity portion of the project is supported by the audited financial statements of the applicant. The audits show the applicant was capitalized by a $4.2 million contribution from the applicant's members. These funds are set aside specifically to develop and operate the proposed psychiatric hospital. Cash on hand of $3.9 million is shown which represents the members' equity.

**Staffing:**
Schedule 6 provides for 96.29 FTEs budgeted for year one of operations, 134.81 FTEs for year two and 204.70 FTEs for year three. According the notes to Schedule 6, some ancillary services such as pharmacy will be provided by contract, as will laundry services. FTEs for each of the three years are summarized below.

For year one (ending June 30, 2012) FTEs are as follows: administration 9.7 FTEs, physicians 2.5 FTEs, nursing 51.88 FTEs, ancillary 3.5 FTEs, dietary 4.8 FTEs, social services 14.91[41] FTEs; housekeeping 3.8 FTEs and plant maintenance 5.2 FTEs. For year two (ending June 30, 2013), FTEs are as follows: administration 13.0 FTEs, physicians 4.0 FTEs, nursing 64.73 FTEs, ancillary 9.9 FTEs, dietary 9.8 FTEs, social services

[41] Ibid, Schedule 6 indicates 14.92 FTEs for social services but recalculation results in a total of 14.91 FTEs for social services.

20.58 FTEs; housekeeping 6.6 FTEs and plant maintenance 6.2 FTEs. For year three (ending June 30, 2014) FTEs are as follows: administration 17.0 FTEs, physicians 5.5 FTEs, nursing 98.42 FTEs, ancillary 15.4 FTEs, dietary 14.0 FTEs, social services 30.58 FTEs; housekeeping 12.4 FTEs and plant maintenance 11.4 FTEs. For each of the three years, each category (administration, physicians, nursing, ancillary, dietary, social services; housekeeping and plant maintenance) grows in FTEs.

**Conclusion:**
The applicant has sufficient resources to fund the equity portion of the project. However, funding for this project is dependent on the applicant's ability to acquire the debt portion of the project.

**d. What is the immediate and long-term financial feasibility of the proposal? ss. 408.035(1)(f), 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.

The applicant will be compared to hospitals in the short-term psychiatric hospital group (Group 15). A case mix of 0.6643 was calculated for the psychiatric discharges (MDC 19, adult 18 and over) in District 8 in 2006. Per diem rates are projected to increase by an average of 3.6 percent per year. Inflation adjustments were based on the new CMS Market Basket, 1st Quarter, 2008.

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

Projected net revenue per adjusted patient day (NRAPD) of $849 in year one and $887 in year two is between the control group median and highest values of $528 and $927 in year one and $543 and $952 in year two. 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 Table below).

Anticipated costs per adjusted patient day (CAPD) of $907 in year one exceeds the highest value in the peer group of $838. The highest level is generally viewed as the practical upper limit on efficiency. Anticipated CAPD in year two of $858 is between the control group median and highest values of $690 and $862 in year two. With projected cost between the median and highest value in the control group, the year two cost appear reasonable. (See Table below).

The applicant is projecting a decrease in CAPD between year one and year two from $907 to $858, or 5.7 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 applicant is projecting an increase in occupancy from 39.5 to 54.2 percent between year one and year two. This represents a projected 37.2 percent increase in patient days to total bed days available in the second year.

The year two projected operating income for the project of $430,579 computes to an operating margin per adjusted patient day of $28 which is between the control group median and highest values of negative $70 and a positive $58.

**Conclusion:** Assuming the applicant will be able to obtain funding for the project, the 76-bed adult psychiatric hospital appears to be financially feasible.

| **The Pavilion at HealthPark, LLC**<br>**CON #10034**<br>**2006 Data Peer Group 18** | Jan-11<br>YEAR 2<br>ACTIVITY | YEAR 2<br>ACTIVITY<br>PER DAY | VALUES ADJUSTED FOR INFLATION<br>Highest | <br>Median | <br>Lowest |
|---|---|---|---|---|---|
| ROUTINE SERVICES | 39,972,769 | 2,619 | 2,095 | 1,271 | 565 |
| INPATIENT AMBULATORY | 0 | 0 | 2 | 0 | 0 |
| INPATIENT SURGERY | 0 | 0 | 0 | 0 | 0 |
| INPATIENT ANCILLARY SERVICES | 698,772 | 46 | 336 | 63 | 0 |
| OUTPATIENT SERVICES | 583,733 | 38 | 215 | 0 | 0 |
| TOTAL PATIENT SERVICES REV. | 41,255,274 | 2,703 | 2,324 | 1,442 | 565 |
| OTHER OPERATING REVENUE | 0 | 0 | 60 | 0 | 0 |
| TOTAL REVENUE | 41,255,274 | 2,703 | 2,325 | 1,442 | 566 |
| DEDUCTIONS FROM REVENUE | 27,721,596 | 1,816 | 0 | 0 | 0 |
| NET REVENUES | 13,533,678 | 887 | 952 | 543 | 323 |
| EXPENSES | | | | | |
| ROUTINE | 6,317,567 | 414 | 512 | 258 | 130 |
| ANCILLARY | 722,727 | 47 | 133 | 31 | 0 |
| AMBULATORY | 0 | 0 | 0 | 0 | 0 |
| TOTAL PATIENT CARE COST | 7,040,294 | 461 | 0 | 0 | 0 |
| ADMIN. AND OVERHEAD | 3,764,052 | 247 | 0 | 0 | 0 |
| PROPERTY | 2,298,753 | 151 | 0 | 0 | 0 |
| TOTAL OVERHEAD EXPENSE | 6,062,805 | 397 | 547 | 379 | 229 |
| OTHER OPERATING EXPENSE | 0 | 0 | 0 | 0 | 0 |
| TOTAL EXPENSES | 13,103,099 | 858 | 862 | 690 | 497 |
| OPERATING INCOME | 430,579 | 28 | 58 | -70 | -249 |
| | | 3.2% | | | |
| PATIENT DAYS | 15,047 | | | | |
| ADJUSTED PATIENT DAYS | 15,263 | | | | |
| TOTAL BED DAYS AVAILABLE | 27,740 | | VALUES NOT ADJUSTED FOR INFLATION | | |
| ADJ. FACTOR | 0.9859 | | | | |
| TOTAL NUMBER OF BEDS | 76 | | Highest | Median | Lowest |
| PERCENT OCCUPANCY | 54.24% | | 94.0% | 60.8% | 25.3% |
| PAYER TYPE | PATIENT DAYS | % TOTAL | | | |
| SELF PAY | 1,204 | 8.0% | | | |
| MEDICAID | 0 | 0.0% | 93.1% | 0.0% | 0.0% |
| MEDICAID HMO | 701 | 4.7% | | | |
| MEDICARE | 9,108 | 60.5% | 85.6% | 54.5% | 0.0% |
| MEDICARE HMO | 378 | 2.5% | | | |
| INSURANCE | 762 | 5.1% | | | |
| HMO/PPO | 2,212 | 14.7% | 76.6% | 25.2% | 0.0% |
| OTHER | 682 | 4.5% | | | |
| TOTAL | 15,047 | 100% | | | |

**e. Will the proposed project foster competition to promote quality and cost-effectiveness? ss. 408.035(1)(g), Florida Statutes.**

General economic theory indicates that competition ultimately leads to lower costs and better quality. However; in the health care industry there are several significant barriers to competition:

Price-Based Competition is Limited - Medicare and Medicaid account for almost 50 percent of short-term psychiatric hospital charges in Florida, while HMO/PPOs account for approximately 30 percent of charges. While HMO/PPOs negotiate prices, fixed price government payers like Medicare and Medicaid do not. Therefore price-based competition is limited to non-government fixed price payers. Price-based competition is further restricted as Medicare reimbursement in many cases is seen as the starting point for price negation among non-government payers. In this case 60 percent of patient days are expected to come from Medicare with 21.9 percent from HMOs.

The User and Purchaser of Healthcare are Often Different – Roughly 90 percent of hospital charges in Florida are from Medicare, Medicaid, and HMO/PPOs. The individuals covered by these payers pay little to none of the costs for the services received. Since the user is not paying the full cost directly for service, there is no incentive to shop around for the best deal. This further makes price based competition irrelevant.

Information Gap for Consumers – Price is not the only way to compete for patients, quality of care is another area in which hospitals can compete. However, there is a lack of information for consumers and a lack of consensus when it comes to quality measures. In recent years there have been new tools made available to consumers to close this gap. However, transparency alone will not be sufficient to shrink the information gap. The consumer information must be presented in a manor that the consumer can easily interpret and understand. The beneficial effects of economic competition are the result of informed choices by consumers.

In addition to the above barriers to competition, a recent study presented in The Dartmouth Atlas of Health Care 2008 suggests that the primary cost driver in Medicare payments is availability of medical resources. The study found that excess supply of medical resources (beds, doctors, equipment, specialist, etc.) was highly correlated with higher cost per patient. Despite the higher costs, the study also found slightly lower quality outcomes. This is contrary to the economic theory of supply and demand in which excess supply leads to lower price in a competitive market. The study illustrates the weakness in the link between supply

and demand and suggests that more choices lead to higher utilization in the health care industry as consumers explore all alternatives without regard to the overall cost per treatment or the quality of outcomes.

**Conclusion:** Due to the health care industry's existing barriers in consumer-based competition, this project will not likely foster the type competition generally expected to promote 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(1)(h), Florida Statutes; Ch. 59A-3, Florida Administrative Code.**

The applicant proposes to construct a new 76-bed adult psychiatric hospital on a 3.85-acre lot in Lee County. The facility will be a three-story building housing four nursing units on the upper two floors. The plans and project narrative indicate the building will be fully sprinklered and of Florida Building Code (FBC) Type I-B construction.

The room complement will be made up of all private rooms. Toilet/ shower rooms are provided within each patient room. At least 10 percent of the patient bedroom and attached toilet/shower rooms have been designed meet accessibility standards as required by the FBC.

The first floor of the facility contains public spaces and periphery support spaces including administrative offices, storage, and maintenance offices. This floor also contains intake areas for both forensic and other patients. Public toilet facilities for both male and female visitors have been included and are conveniently located near the public waiting space.

All required support spaces have been provided and appear to be adequately sized. It should be noted that house keeping rooms have not been included in the design of the upper floors, but it appears there is room to add a small janitor's closet on each floor. Seclusion rooms are provided as required for each unit and all meet the size and dimensional requirements. Some modifications will be needed to provide the required direct supervision of these rooms by the nursing staff.

The applicant states the construction will conform to all current applicable building codes, including the National Fire Protection Association (NFPA) codes and the requirements of the FBC. The upper two floors have been sub-divided into two smoke compartments as required, but the first floor is currently designed as a single

compartment. This floor will also be required to sub-divided into smoke compartments to comply with NFPA 101. The layout of the first floor should easily accommodate compartmentalization.

Overall, the proposed project, as submitted, is designed to be functional and efficient. The cost and schedule for the construction of the project appears to be appropriate.

The plans submitted with this application were schematic in detail 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.

**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(1)(i), Florida Statutes.**

As a freestanding psychiatric hospital, the proposed facility cannot receive Medicaid fee for service reimbursement. However, the applicant does state that it is able to contract with Medicaid Managed Care. Schedule 7A shows that the applicant will be providing 4.7 percent of its patient days to Medicaid HMO patients and 8.0 percent to self-pay patients. State Center for Health Policy and Analysis data for the first six months of 2008 indicates that Medicaid HMO accounted for 64 District 8 adult psychiatric discharges and 316 patient days. This is 3.3 percent of the district's total discharges and 2.4 percent of total patient days. The applicant's projection exceeds the current volume.

Notes to Schedule 7A indicate approximately two percent charity admissions and 1.5 percent charity days. The applicant proposes to condition CON approval (Schedule C) to 1.5 percent of the facility's total annual patient days to charity and two percent of admissions to same. State Center for Health Policy and Analysis data for the first six months of 2008 indicates that charity care accounted for 40 District 8 adult psychiatric discharges and 208 patient days. This is 2.0 percent of the district's total discharges and 1.5 percent of total patient days. The applicant's projection meets the current volume.

## F. SUMMARY

In Volume 34, Number 30, dated July 25, 2008 of the Florida Administrative Weekly, a fixed need pool of zero beds was published for adult inpatient psychiatric beds in District 8 for the January 2014 planning horizon.

District 8 has 140 licensed and 77 CON approved (by exemption) adult psychiatric beds. District 8 experienced an occupancy rate of 46.22 percent during the 12-month period ending December 31, 2007. The applicant is applying outside of the fixed need pool.

AHCA inpatient adult psychiatric utilization data for the 12-month period ending December 31, 2007, indicates that there were a total of 3,318 adult psychiatric discharges from the four hospitals that had licensed adult inpatient psychiatric beds and 635 (or approximately 19.14 percent) were adult Lee County residents. Lee County adult resident psychiatric discharges, volume by facility indicates that Charlotte Regional provided 77.80 percent, Naples Community Hospital 15.28 percent, The Willough at Naples 3.94 percent and Sarasota Memorial Hospital 2.99 percent. Lee County residents as the percentage of the facility's total psychiatric discharges during CY 2007 were Charlotte Regional 38.44 percent, The Willough at Naples 14.88 percent, 14.74 percent of Naples Community Hospital's, and Sarasota Memorial Hospital 1.57 percent.

The applicant proposes to establish a new, private-for-profit, specialty adult inpatient psychiatric hospital with 76 beds, in District 8 (Lee County) and proximate to the existing HealthPark Medical Center.

The proposed project involves a total cost of $21,118,201. Construction costs are projected at $12,590,550[42] and the project will involve 64,508 gross square feet (GSF) of new construction.

The applicant proposes the following conditions found in the attachment to Schedule C:

[42] CON Application #10034, Project Summary, page# ii states construction costs of $14,578,005; however, Schedule 9 states construction costs of $12,590,550 with a total building cost of $14,578,005. The construction cost reported on Project Summary page ii is in fact the stated total building cost.

1. A commitment to become a Baker Act receiving facility.
2 A commitment to provide outpatient services.
3. A commitment to provide charity care which is forecasted at two percent of total cases and 1.5 percent of total inpatient days of care delivered at the hospital.

**Need**

The applicant states that need is justified in the absence of published need by the following "Not Normal" or special circumstances:

The applicant states that access emerges as a problem with just 85 percent of the District 8 population living within 45 minutes of an existing provider, not 90 percent as requested by applicable CON rule[43]. Further, The Pavilion identifies the following five major factors that it contends justify need:

- Beds are not located where they are available to larger segments of the adult population and access problems exist.
- Existing adult psychiatric facilities in the district are of insufficient size to offer comprehensive services for the variety of psychiatric disorders in MDC 19.
- Restrictions may exist, either by type of program, like at The Willough or perhaps limited medical staffs and programs available.
- Lack of promotion, outreach, and referral from the medical centers may impede availability and access.
- Lack of coordinated programs and centralized services to support services of larger size and more diversity.

The applicant provides detailed discussion of the above factors that tends to support most of the contentions. Additional factors to support the project include:

- Lee County is the most populated county in District 8, yet it has no licensed inpatient psychiatric facility. The approved 15-bed unit at Lee Memorial will be closed upon the opening of this facility.

[43] CON Application #10034, Project Summary, page iii, referencing Florida Administrative Code 59C-1.040 (6). This rule reads, "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."

- Support letters indicate a discrepancy between community experience and the Agency's need data. These letters emphasize the negative impact that a lack of an important mental health resource has on, and the need for such facility for Lee County residents. The 30 letters include the local residential treatment center and CSU provider, local university, governmental groups, approximately 10 mental health advocacy groups, the largest acute care hospital chain in Lee County and many Lee County health care professionals. The project would fill a void in the District 8 and particularly Lee County's health care continuum.

- District 8 has the lowest adult psychiatric beds use rate and the fewest beds per 1,000 residents of any district in the state. Lee County residents have to travel outside the county for inpatient psychiatric services and the applicant's support letters indicate that many residents stay in Lee County and are served in less than ideal venues. AHCA data indicates that 30.51 percent of Lee County residents total MDC 19 discharges were from Lee County acute care hospitals with 69.49 percent treated outside the county.

**Quality of Care**

As a new entity, the applicant does not have a history of providing care. The applicant provides a description of its proposed provision of quality care, indicates that it will seek Joint Commission accreditation and states commitment to the National Patient Safety Goals.

The applicant has support from Florida Gulf Coast University indicating that the College's School of Nursing will serve as a practitioner source and the College will be providing online continuing education courses.

The applicant demonstrates the ability to provide quality care.

**Cost/Financial Analysis**

The applicant has sufficient resources to fund the equity portion of the project; however, funding is dependent on the applicant's ability to acquire the debt portion.

Assuming the applicant will be able to obtain funding for the project and that its patient day and payer mix estimates are correct, the 76-bed adult psychiatric hospital appears to be financially feasible.

Due to the health care industry's existing barriers in consumer-based competition, this project will not likely foster the type of competition generally expected to promote quality and cost-effectiveness.

**Medicaid/Indigent Care**

Schedule 7A shows that the applicant will be providing 4.7 percent of its patient days to Medicaid HMO patients and 8.0 percent to self-pay patients. Notes to Schedule 7A indicate approximately two percent charity admissions and 1.5 percent charity days.

The applicant proposes to condition CON approval (Schedule C) to 1.5 percent of the facility's total annual patient days to charity and 2.0 percent of admissions to same.

**Architectural Analysis**

The applicant states the construction will conform to all current applicable building codes, including the National Fire Protection Association (NFPA) codes and the requirements of the FBC. Overall, the proposed project, as submitted, is designed to be functional and efficient.

The cost and schedule for the construction of the project appears to be appropriate.

## G. RECOMMENDATION

Approve CON #10034 to establish a 76-bed adult inpatient psychiatric hospital in District 8 (Lee County). Total project cost is $21,118,201. Construction costs are $12,590,550 and the project involves 64,508 gross square feet (GSF) of new construction

The project is conditioned to the following:

1. A commitment to become a Baker Act receiving facility.
2 A commitment to provide outpatient services.
3. A commitment to provide charity care which is forecasted at two percent of total cases and 1.5 percent of total inpatient days of care delivered at the hospital.

**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: _____

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James B. McLemore
**Health Services and Facilities Consultant Supervisor**
**Certificate of Need**

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Jeffrey N. Gregg
**Chief, Bureau of Health Facility Regulation**