

**STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED**

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

DG Miami Lakes SNF, LLC/CON #10517

5200 N.E. 2nd Avenue
Miami, Florida 33137

Authorized Representative: Richard D. Skelly
Executive Vice President
(305) 751-8626

2. Service District/Subdistrict

District 11/Subdistrict 11-1 (Miami-Dade County)

B. PUBLIC HEARING

A public hearing was not requested or held regarding the proposed project to construct a new 80-bed community nursing home through the voluntary delicensure of 80 beds from within Subdistrict 11-1.

C. PROJECT SUMMARY

DG Miami Lakes SNF, LLC (CON application #10517), referenced as Miami Lakes or the applicant, proposes to establish a new 80-bed community nursing home in Subdistrict 11-1, Miami-Dade County, through the voluntary delicensure of 80 community nursing home beds from affiliate, Miami Jewish Health System, Inc., (a 438-bed skilled nursing facility or SNF also referenced as MJHS, located at 5200 NE 2nd Avenue, Miami) within Subdistrict 11-1, Miami-Dade County.

CON application #10517, Exhibit 1-1, page 1-18, includes a signed and notarized letter from Richard D. Skelly, Executive Vice President, C.F.O (authorized representative for Miami Jewish Health Systems, Inc.) agreeing to delicense 80 beds in conjunction with the proposed project.

The project involves 85,259 gross square feet (GSF) of new construction. The construction cost is \$20,723,200. Total project cost is \$33,597,190. Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant proposes to condition the project as shown below.

The proposed 80-bed nursing home:

1. Shall be located in Hialeah, ZIP Code 33016, near the corner of Commerce Way and NW 146th Street
2. Shall provide all private rooms, including five equipped for bariatric residents

Should the project be approved, the applicant's proposed conditions would be reported in the annual condition compliance report as required by Rule 59C-1.013 (3) Florida Administrative Code.

Total GSF and Project Costs of CON application #10517					
Applicant	CON #	Project	GSF	Costs \$	Cost Per Bed
DG Miami Lakes SNF, LLC	10517	New 80-Bed Community Nursing Home through Delicensure of 80 Beds	85,259	\$33,597,190	\$419,965

Source: CON applications 10517, Schedules 1 and 9

D. REVIEW PROCEDURE

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

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

Section 59C-1.010(3)(b), Florida Administrative Code, allows no application amendment information subsequent to the application being deemed complete. The burden of proof to entitlement of a certificate rests with the applicant. As such, the applicant is responsible for the representations in the application. This is attested to as part of the application in the Certification of the applicant.

As part of the fact-finding, the consultant, Dwight Aldridge, analyzed the application with consultation from Financial Analyst Everett “Butch” Broussard of the Bureau of Central Services, who evaluated the financial data, and Scott Waltz of the Office of Plans and Construction, who reviewed the application for conformance with the architectural criteria.

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

The following indicate the level of conformity of the proposed project with the criteria and application content requirements found in Florida Statutes, Sections 408.035, and 408.037; applicable rules of the State of Florida, Chapter 59C-1 and 59C-2 and 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? Rule 59C-1.008(2), Florida Administrative Code.

The proposed project is not submitted in response to the fixed need pool and does not add community nursing beds within Subdistrict 11-1 (Miami-Dade County). The project, if approved, will not change the total community nursing home bed inventory count in the planning area.

Miami Lakes indicates that the proposed SNF will be located at Commerce Way and NW 146th Street within Hialeah, ZIP Code 33016. The applicant asserts that the proposed project is accessible via major roads and offers the following benefits:

- Supports renovation and modernization that adds residential spaces at MJHS
- Provides outreach to Hialeah with a bed to population ratio of 13 per 1,000 persons aged 65+, less than the subdistrict’s ratio of 19 beds per 1,000 elders
- Extends outreach with a plan for assisted living on the campus by an affiliate of MJHS

b. **If no Agency policy exists, the applicant will be responsible for demonstrating need through a needs assessment methodology, which must include, at a minimum, consideration of the following topics, except where they are inconsistent with the applicable statutory or rule criteria:**

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

Population demographics and dynamics

The applicant states that ten ZIP Codes define the primary service area (PSA), which includes one Broward County ZIP Code 33027 (Miramar), having a portion of the ZIP Codes within the five-mile radius of the proposed site. Miami Lakes provides the current and projected elderly (age 65+) population estimates for the PSA ZIP Codes by year, from 2017 through 2022. Miami Lakes notes that the proposed facility site lies within ZIP Code 33016 having a compound annual growth rate (CAGR) of 3.2 percent per year, ranking that ZIP Code third after ZIP Codes 33018 and 33015 with a 4.0 percent and 4.5 percent CAGR respectively. See the table below.

Estimated Primary Service Area Elderly Population Age 65+ Five Years-2017 Through 2022						
ZIP Code	2017	2018	2019	2020	2021	2022
33010	10,464	10,668	10,875	11,087	11,303	11,523
33027	13,390	13,867	14,361	14,872	15,402	15,950
33018	7,187	7,478	7,781	8,095	8,423	8,764
33016	7,576	7,822	8,075	8,337	8,608	8,887
33012	17,861	18,157	18,457	18,763	19,073	19,389
33014	7,079	7,247	7,420	7,596	7,777	7,962
33013	8,081	8,191	8,303	8,417	8,532	8,648
33054	3,846	3,976	4,110	4,249	4,393	4,541
33015	7,736	8,087	8,454	8,837	9,238	9,657
33055	7,160	7,362	7,569	7,782	8,001	8,226
PSA	90,380	92,854	95,405	98,035	100,749	103,547

ZIP Code	CARG 65+	NET INCREASE					TOTAL
33010	1.9%	204	208	212	216	220	1,059
33027	3.6%	477	494	511	530	548	2,560
33018	4.0%	291	303	315	328	341	1,577
33016	3.2%	246	254	262	270	279	1,311
33012	1.7%	296	301	306	311	316	1,528
33014	2.4%	168	172	177	181	185	883
33013	1.4%	110	112	113	115	116	567
33054	3.4%	130	134	139	144	148	695
33015	4.5%	351	367	383	401	419	1,921
33055	2.8%	202	207	213	219	225	1,066
PSA	2.8%	2,474	2,551	2,631	2,713	2,798	13,167

Source: CON application #10517, page 1-6

The applicant states that overall, the PSA has a 2.8 percent CAGR. According to the applicant’s calculations, the proposed facility site ZIP Code 33016 elderly population will experience an increase of 1,311 (10 percent) during a five-year period (2017-2022), with the PSA’s overall elderly population increasing by 13,167 for the same period. Miami Lakes states that the first three PSA ZIP Codes experiencing the highest growth rates increased by 4,809 elders (36.5 percent of the PSA’s total growth). Miami Lakes compares CAGRs for the age 65+ cohort among Miami-Dade County and the state, pointing out that the total population for the county and state both have a 1.3 percent CAGR. The applicant indicates that the CAGR for the elderly population for Miami-Dade County and the state are 2.3 percent and 3.4 percent respectively, which is 2.5 times higher than the CAGR for the total population for the county and state (1.3 percent). See the table below.

Population Growth for Miami-Dade County and the State Five Years-2017 through 2022						
Miami-Dade County	2017	2018	2019	2020	2021	2022
Total Population	2,752,656	2,788,651	2,825,116	2,862,059	2,899,484	2,937,399
Age 65+	436,700	450,739	465,229	480,186	495,623	511,556
CAGR	1.3%					
Total Population CAGR	2.3%					
State	2017	2018	2019	2020	2021	2022
Total Population	20,748,693	21,017,637	21,290,067	21,566,028	21,845,566	22,128,727
Age 65+	4,167,018	4,307,178	4,452,052	4,601,800	4,756,584	4,916,574
CAGR	1.3%					
Total Population CAGR 65+	3.4%					
NET INCREASE						
Miami-Dade County	2018	2019	2020	2021	2022	Total
Total Population	35,995	36,466	36,942	37,425	37,915	184,743
Age 65+	14,039	14,490	14,956	15,437	15,933	74,856
State	2018	2019	2020	2021	2022	Total
Total Population	268,944	272,430	275,961	279,538	283,161	1,380,034
Age 65+	140,160	144,874	149,747	154,784	159,990	749,556

Source: CON application #10517, page 1-7

Miami Lakes notes that net increases in the elderly population for the county (74,856 persons aged 65+) over the five-year period reflects a sizable increase as does the state's net increase of 749,556 elders. The applicant states that the ten PSA ZIP Codes account for 18 percent of the overall growth in the county (13,167), indicating demographic trends support the Miami Lakes site selection for the SNF, underscoring the benefits that the project provides. The applicant maintains that planning and providing supportive services for the elderly keeps pace with the demographic trends that this project achieves.

Availability, Utilization, and quality of like services

Regarding availability, Subdistrict 11-1 has 8,352 licensed and 545 approved community nursing home beds. During the 12-month period ending June 30, 2017, Subdistrict 11-1 averaged 90.3 percent utilization at 54 existing community nursing homes.¹

The applicant states that there are six existing nursing homes within Hialeah, with two being located in ZIP Code 33016, totaling 847 community beds. The applicant provides a table depicting current utilization and calculated beds per 1,000 for elderly age 65+ among Hialeah’s existing nursing homes. The applicant illustrates that the six Hialeah (which include seven of the ten PSA ZIP Codes) SNFs combine for a total of 847 beds, resulting in a bed ratio of 13 beds per 1,000 elderly.

The applicant provides a map on page 1-5 of CON application 10517, illustrating the five-mile radius that defines the PSA of ten ZIP Codes, noting that a portion of two PSA ZIP Codes (33027 and 33010) lie within Broward. Miami Lakes indicates that the PSA is currently home to 90,380 elders age 65+. Miami Lakes asserts that the proposed location improves availability and will address future growth demands absent any bed increases.

Medical Treatment Trends

The applicant examines the conditions that the elderly experience requiring post-acute care, specially analyzing hospital discharges to SNFs for the age 65+ cohort for CY 2016. Miami Lakes provides a summary of the top Major Diagnostic Categories (MDCs) and diagnostic related groups (DRGs) discharged from hospitals to SNFs located in the PSA. See the table below.

CY 2016 PSA Discharges to Nursing Homes Age 65+			
MDC	Cases	Top 10 DRG Cases	Percent of Top 10 MDC Cases
08 Musculoskeletal System	1,198	912	76.1%
05 Circulatory System	701	390	55.6%
04 Respiratory System	679	560	82.5%
01 Nervous System	509	330	64.8%
11 Kidney & Urinary Tract	465	413	88.8%
06 Digestive System	366	254	69.4%
Subtotal	3,918	2,859	
All Other MDCs	974		
Total	4,892		

Source: CON #10517, page 1-9

¹ Based on the Agency’s Florida Nursing Home Bed Need Projections by District and Subdistrict, September 2017.

The applicant presents a comprehensive list of the top 25 MDCs that elderly residents of the PSA experience requiring post-acute nursing home placement (CON application #10517, pages 1-10 and 1-11), noting that of the 4,892 discharges to SNFs in the PSA, 80.1 percent of the cases fall into six MDCs (3,918 cases). The applicant states that category MDC 08 (musculoskeletal system), contains the most cases at 1,198. Miami Lakes indicates that typical cases include hip and knee replacements or related conditions.

The applicant provides a detailed description, based on the discharge rates of various MDCs and DRGs (CON application #10517, pages 1-12 through 1-13), of the intended therapies and services that will be provided-stating that therapy programs provide individuals with appropriate plans of care primarily focused on returning individuals to a home setting. Miami Lakes indicates that current medical trends emphasize shorter lengths of stay, enhancing the functional independence of residents, reducing hospital readmissions and providing a comprehensive service mix that allows discharges to go home or to less intensive institutional services.

Market Trends

In determining the impact of the proposed project on existing providers, the applicant provides the forecasted utilization for the first two years of operation. See the table below.

Results of Miami Lakes Entering the Market First Two Years of Operation		
Factor	Year One (2021)	Year Two (2022)
PSA Forecasted Resident Days	311,945	320,610
Resident Days Added by Miami Lakes	16,093	25,693
Miami Lakes Market Share	5.2%	8.0%
Net Days Remaining	295,852	294,917
Occupancy w/o Miami Lakes	83.8%	83.6%

Source: CON application #10517, page 1-15

Miami Lakes states the service area generates 311,945 resident days in the project’s first year and grows to 320,610 resident days by year two. The applicant projects a 5.2 percent and 8.0 percent market share in year one and year two, respectively, based on proxy market shares for similarly sized SNFs in the subdistrict. The applicant states that the proposed project generates 25,693 resident days by the second year of operation. The applicant further indicates that by removing those days from the forecast, the remaining days for the seven PSA SNF yield an occupancy rate of 84 percent with the current subdistrict inventory.

Miami Lakes asserts that the proposed project does not produce adverse financial impact on existing providers.

The applicant indicates that through innovations and improved programs, operators capture a greater share of the market and achieve higher occupancy rates. Miami Lakes asserts that as profit margins are low in the SNF industry, high occupancy represents a goal. The applicant states that the proposed facility, with all private rooms and many amenities, will continue to advance the environment of care. Miami Lakes notes that the proposed site provides sufficient size to accommodate the SNF, ALF and future development of additional residential options. The applicant maintains that with respect to price, since both governmental programs set rates—Medicare under the Resource Utilization Groups (RUGs) prospective payment system and Florida Medicaid on a per diem rate basis—competition that reduces costs or sets rates does not exist. Miami Lakes concludes that competition in nursing home services does not bring cost-savings or lower prices.

2. Agency Rule Preferences

Does the project respond to preferences stated in Agency rules? Please indicate how each applicable preference for the type of service proposed is met. Chapter 59C-1.036, Florida Administrative Code.

Chapter 59C-1.036 of the Florida Administrative Code does not contain preferences relative to community nursing home beds nor does the Agency for Health Care Administration publish specific preferences for these facilities. However, the rule does contain standards the Agency utilizes in assessing the applicant's ability to provide quality care to the residents.

- a. **Geographically Underserved Areas.** In a competitive certificate of need review within the nursing home subdistrict as defined in 59C-2.200, Florida Administrative Code, the Agency shall award a certificate of need if the applicant meets all applicable criteria for a geographically underserved area as specified in subsection 408.032(15), Florida Statutes (Florida Statutes), and if the applicant meets the applicable statutory certificate of need review criteria specified in section 408.035, Florida Statutes, including bed need according to the relevant bed need formula contained in this rule. If the applicant is awarded a certificate of need based on the provisions of this paragraph, the applicant shall agree that the nursing facility will be located in a county without a nursing facility, or in the center of an area within the subdistrict of a radius of at least 20 miles which meets the definition of a geographically underserved area. The center of the geographically underserved area shall be the proposed nursing home location in the application.

The application is not submitted in order to remedy a geographically underserved area.

- b. **Proposed Services.** Applicants proposing the establishment of Medicare-certified nursing facility beds to be licensed under Chapter 400, Florida Statutes, shall provide a detailed description of the services to be provided, staffing pattern, patient characteristics, expected average length of stay, ancillary services, patient assessment tools, admission policies, and discharged policies.

Miami Lakes states that the proposed facility will provide short-term and long-term care to both Medicare and Medicaid recipients. The applicant indicates that the maximum benefit period for Medicare is 100 days per year in a SNF setting while Medicaid recipients select from several Medicaid Managed Care Plans, providing case management services. The applicant states that the per diem rate for each facility is set by the Florida Medicaid Program and managed care plans must adopt the rate as set for placing enrollees into SNFs.

The applicant indicates that Medicare service eligibility requires an assessment to determine if therapies and SNF care target improvement in functional independence to allow the person to return home. The applicant explains that under the RUGs prospective payment system, each RUG indicates the payment, to produce the results to achieve improvement based on an expected length of stay. Miami Lakes notes that ongoing assessment within the plan of care notes progress so that Medicare eligibility continues.

Miami Lakes states that the proposed facility will provide a comprehensive array of therapies and equipment along with professionals and paraprofessionals to deliver care. The applicant indicates that the proposed facility will provide the following services:

- Pharmacy
- Psychiatry
- Podiatry
- Dental
- Ophthalmology
- Optical
- Durable medical equipment
- Mobile x-ray
- Oxygen supplier
- Physical, speech and occupational therapies
- Hip and other joint replacements
- Assistive devices and accommodations to amputations or disability
- Respiratory therapy
- Stroke rehabilitation
- Pain management
- Cardiac rehabilitation
- Clinical nursing
- Nutrition and dietary support and education
- Tracheotomy care
- Osteotomy care
- Tube feeding
- IV therapy
- Wound care
- Pneumonia treatment
- Infectious disease (septicemia)
- Resident and family education
- Diabetes, cardiac and pulmonary condition monitoring

Regarding admissions policies, Miami Lakes states that the admission process requires an assessment from the multidisciplinary team to assure that the required services exist in order to meet the conditions and needs of the prospective resident. The applicant notes that the comprehensive assessment addresses each resident individually and living wills and health care surrogate documents become part of the record. Miami Lakes indicates that requirements in regards to a follow-up with the primary care physician or any medical specialists are documented at the comprehensive assessment as well.

Miami Lakes conveys that at the time of admission, special attention to acute and chronic conditions occurs and the multidisciplinary team sets out treatment specifications to reduce the possibility of a hospital readmission if applicable.

In regards to care planning, Miami Lakes maintains that for each MDC, specific care requirements and goals are developed, including a target discharge goal. The applicant states that by having a care plan that sets a discharge goal at time of admission, the resident becomes engaged with the care team and takes responsibility in following their regimen. Miami Lakes states that subsequent to the initial plan of care, ongoing adjustments occur concurrent with the condition of the resident. The applicant indicates that goals may change, services added or dropped, and other aspects of the plan of care such as monitoring of specific issues occurs.

Miami Lakes describes the discharge plan, stating that the plan includes the health status of the resident, the protocols for care (including any follow-up with other practitioners), appointments specifying day and time, and medical record noting any address change for the resident and family including telephone numbers, email addresses, and health care surrogate information. The applicant states that if medical transportation is required upon discharge, the social worker makes arrangements ahead of time to assure timely discharge while a CNA provides assistance to the resident and family with packing belongings and having them ready at the scheduled time of departure.

The applicant states that on the day of discharge, the social worker reviews the discharge plan with the resident and family. Miami Lakes indicates that a social worker also provides comment cards and satisfaction survey forms so residents have the opportunity to express their opinions about the services he or she received while at the facility. The applicant indicates that the social worker will

provide the resident and family with documentation that his or her medical record as requested was released to the medical professionals.

The applicant’s Schedule 7 indicates that the average length of stay (ALOS) is 30 days for both years one and two. Schedule 6 illustrates that full-time employees (FTEs) for year one (ending June 30, 2021) total 83.7 and 119.2 for year two (ending June 30, 2022). The proposed project’s year one and year two FTEs are shown in the table below.

DG Miami Lakes, LLC Projected Year One and Year Two Staffing		
	Year One FTEs	Year Two FTEs
Administration		
Administrator	1.0	1.0
Director of Nursing	1.0	1.0
Admissions	2.0	2.0
Bookkeeper	1.0	1.0
Medical Records Clerk	2.0	2.0
Other: Receptionist	1.0	1.0
Nursing Admin	4.5	4.5
Physicians		
Medical Director (Contracted)	0.5	0.5
Nursing		
RNs	4.0	6.4
LPNs	7.1	11.4
Nurses’ Aides	21.8	34.7
Ancillary		
Physical Therapist (Contracted)	5.6	8.3
Speech Therapist (Contracted)	1.5	2.2
Occupational Therapist (Contracted)	4.5	7.0
Dietary		
Dietary Supervisor	1.0	1.0
Cooks	6.1	9.6
Dietary Aides	6.1	9.6
Social Services		
Social Service Director	2.0	2.0
Activity Director	1.0	1.0
Activities Assistant	1.0	1.0
Housekeeping		
Housekeepers Supervision	1.0	1.0
Housekeepers	4.0	6.4
Laundry		
Laundry Aides	2.0	2.6
Plant Maintenance		
Maintenance Supervisor	1.0	1.0
Maintenance Assistance	1.0	1.0
Total	83.7	119.2

Source: CON application #10517, Schedule 6

c. Quality of Care. In assessing the applicant's ability to provide quality of care pursuant to s. 408.035(1), Florida Statutes, the Agency shall evaluate the following facts and circumstances:

- 1. Whether the applicant has had a Chapter 400, Florida Statutes, nursing facility license denied, revoked, or suspended within the 36 months prior to the application.**

The applicant is a newly formed entity and has not had a nursing home license denied, revoked, or suspended.

- 2. Whether the applicant has had a nursing facility placed into receivership at any time during the period of ownership, management, or leasing of a nursing facility in the 36 months prior to the current application.**

The applicant is a newly formed entity and states that this provision does not apply.

- 3. The extent to which the conditions identified within subparagraphs 1 and 2 threatened or resulted in direct, significant harm to the health, safety, or welfare of the nursing facility residents.**

This provision is not applicable.

- 4. The extent to which the conditions identified within subparagraph 3 were corrected within the time frames allowed by the appropriate state agency in each respective state and in a manner satisfactory to the Agency.**

This provision is not applicable.

- 5. Rule 59C-1.036 (4) (f) Harmful Conditions. The Agency shall question the ability of the applicant to provide quality of care within any nursing facility when the conditions identified in subparagraph (e) 1 and (e) 2 result in the direct, significant harm to the health, safety, or welfare of a nursing facility resident, and were not corrected within the time frames allowed by the appropriate state agency in each respective state and in a manner satisfactory with the Agency.**

The applicant indicates that this provision is not applicable, since there have been no violations.

- d. **Rule 59C-1.036 (5) Utilization Reports. Within 45 days after the end of each calendar quarter, facilities with nursing facility beds licensed under Chapter 400, Florida Statutes shall report to the Agency, or its designee, the total number of patient days, which occurred in each month of the quarter, and the number of such days that were Medicaid patient days.**

The applicant states it will provide the required data to the Health Council of South Florida and to the Agency.

3. Statutory Review Criteria

- a. **Is need for the project evidenced by the availability, quality of care, accessibility and extent of utilization of existing health care facilities and health services in the applicant's service area? ss. 408.035 (1)(b) and (e), Florida Statutes.**

As of November 15, 2017, Subdistrict 11-1 had 8,352 licensed and 545 approved community nursing home beds. During the 12-month period ending June 30, 2017, Subdistrict 11-1 experienced 90.3 percent utilization at 54 existing community nursing homes. Miami Lakes proposes to construct a new 80-bed community nursing home located at Commerce Way and NW 146th Street, within Hialeah ZIP Code 33016.

The applicant states that Subdistrict 11-1 currently has 436,700 elder residents age 65+, producing a ratio of 19 beds per 1,000 elderly. The applicant indicates that the subdistrict elderly population will increase to 511,555 by 2022, producing a beds per 1,000 ratio of 16, absent any additional beds to the current inventory. Miami Lakes expresses that high occupancy rates produce delays in placement as beds may not be available. When this occurs, the applicant indicates that hospital patients must remain in the acute care setting until a bed becomes available. The applicant maintains that delayed admissions into SNFs will result in increases in cost within the health care system in broad terms as efficiencies decline. The applicant states that another unintended disadvantage occurs when placements occur farther away from the community in which residents live as the travel distance and time place burdens on families and spouses, often reducing the interactions during the SNF stay.

Miami Lakes identifies a site with seven nursing homes and 967 licensed beds within a five mile radius. The applicant reiterates the PSA bed ratio for elderly residents is 11 beds per 1,000, decreasing to 10 beds per 1,000 elderly by 2022. Miami Lakes reports that the seven SNFs proximate to the proposed facility have a 93 percent annual occupancy rate, asserting that the proposal to relocate beds will enhance availability of nursing home care.

In regards to quality, the applicant states that the proposed facility will emphasize autonomy, choice and quality of daily life for residents and family by ensuring data collection tools and monitoring systems are in place and are consistent for both proactive and system failure analysis as well as corrective action. Miami Lakes maintains that the scope of the program encompasses all varieties and segments of care, including services that impact clinical care, quality of life, resident choice and care transitions.

Miami Lakes discusses access as it relates to geographic and financial accessibility as well as service eligibility requirements with respect to payer source. The applicant states that the proposed project increases availability and access to the southern portion of Broward County and the Miami-Dade ZIP Codes that lie north and west of the proposed facility site. The applicant provides a map on page 3-3 of CON application #10517 delineating a 20-minute drive-time contour around the site which encompasses 26 ZIP Codes, including four located in Broward County. The applicant reports that by year 2022, a total of 197,863 elderly age 65+ will reside in the Miami-Dade ZIP Codes that lie within the defined contour. The applicant comments that of the subdistrict's 8,352 licensed beds, 3,125 (37 percent) beds are located within the defined contour, producing a use rate of 16 beds per 1,000 elderly. Miami Lakes indicates that the proposed project will improve access by increasing the bed count to 3,205 (38 percent) within the defined contour.

With respect to financial eligibility as it relates to access, the applicant compares the payor source for PSA and Subdistrict 11-1 residents discharged to SNFs in CY 2016. See the table below.

Discharges to Nursing Home Payor Source for PSA and Subdistrict 11-1 Residents Age 65+, CY 2016				
Payer	PSA Cases	Percent	Subdistrict 11-1 Cases	Percent
Commercial Health Insurance	90	1.8%	371	1.8%
Commercial Liability Coverage	1	0.0%	22	0.1%
Medicaid	5	0.1%	26	0.1%
Medicaid Managed Care	53	1.1%	329	1.6%
Medicare	2,486	50.8%	10,739	51.3%
Medicare Managed Care	2,250	46.0%	9,342	44.7%
Other/non-payment	4	0.1%	24	0.1%
Self-Pay	3	0.1%	44	0.2%
TriCare/Federal Govt/CHAMPUS	--	--	18	0.1%
VA	--	--	1	0.0%
Workers Comp	--	--	2	0.0%
Total	4,892	100.0%	20,918	100.0%

Source: CON application #10517, page 3-4

Miami Lakes states that the comparison shows little difference in payor source as Medicare/Medicare Managed Care account for 96 percent of elderly discharged to SNFs for both the PSA and the subdistrict. Medicaid and commercial health insurance represents 0.1 percent and 1.8 percent of discharges respectively, for both the PSA and subdistrict. Based on the comparative analysis, the applicant affirms that access to SNF care for the elderly unquestionably requires participation of Medicare/Medicare Managed Care as the primary payer source.

To depict the extent of utilization within the PSA and subdistrict, the applicant provides the five fiscal year (FY) occupancy rate, noting that on average, overall utilization for the PSA exceeds 90 percent. See the table below.

Historical Community Nursing Home Utilization in the PSA, Subdistrict, Miami-Dade County, FY 2012 Through FY 2016						
Nursing Homes	Beds	7/2012-6/2013	7/2013-6/2014	7/2014-6/2015	7/2015-6/2016	7/2016-6/2017
Glades West	120	0	0	0	16,698	39,153
Heartland-Miami Lakes	120	42,209	41,627	41,245	41,026	40,338
Hialeah	276	95,685	96,156	93,115	96,592	96,053
Palmetto	90	31,611	31,722	30,902	30,902	30,739
Signature-Waterford	214	71,754	73,715	74,645	75,943	74,218
Susanna Wesley	120	39,940	39,056	39,996	38,136	39,316
Villa Maria	20	6,417	6,419	7,295	8,672	8,371
PSA		287,616	288,245	287,017	307,969	328,188
Beds	840	840	847	847	967	967
Bed Days	306,600	306,600	309,155	309,155	352,955	352,955
Occupancy Rate		93.8%	93.2%	92.8%	87.3%	93.0%
Subdistrict 11-1		2,680,479	2,710,946	2,778,749	2,805,372	2,755,445
Beds		8,456	8,432	8,456	8,456	8,352
Occupancy Rate		86.8%	88.1%	90.0%	90.6%	90.4%

Source: CON application #10517, page 3-5

The applicant states although home and community based programs function to divert individuals either from SNFs to less restrictive settings, the overall elderly population growth will continue and as the subdistrict continues to be a destination for retirees, SNF utilization will be driven by the elderly growth rate.

- b. Does the applicant have a history of providing quality of care? Has the applicant demonstrated the ability to provide quality care? Is the applicant a Gold Seal Program nursing facility that is proposing to add beds to an existing nursing home? ss. 408.035 (1)(c) and (j), Florida Statutes.**

Miami Lakes is a newly formed entity and has no licensure history. The applicant states that affiliate MJHS, through its mission, vision and values, has established a community reputation for leading in the provision of services for the elderly and needy-including inpatient, long-term care, housing and community bases services, such as Channeling, Project Independence, PACE and other services. The applicant indicates that it will adopt the same mission statement, vision and values (listed below) as MJHS.

Mission for Quality Senior Healthcare:

To provide compassionate healthcare through a full range of quality services, guided by research and education, honoring traditional Jewish values of dignity and respect.

Vision:

To be the innovative leader in healthcare, promoting longer, healthier, more enriched lives.

Values:

Employees as our greatest asset
Nurturing the potential of each individual
Responsibility and fiscal accountability
Integrity in everything we do
Collaboration and teamwork, committed to shared goals
Honoring those we serve and those who support us.

As part of its commitment to quality, research, education and innovation, the applicant states that MJHS pursued Joint Commission accreditation for its SNF. The applicant cites a study in the *Journal of Post-Acute and Long-Term Care Medicine* (JAMDA) published January 2017, which indicates that few SNFs obtain Joint Commission Accreditation. Miami Lakes notes that the authors of the study report that nationally only 711 of the 15,637 community nursing homes held Joint Commission Accreditation. The applicant discusses additional aspects of the study detail on page 4-4 of CON application #10517.

The applicant compared state and national CMS resident care measures (CON application #10517, page 4-3) noting that MJHS scored better than the Florida average and national average on two short-stay resident measures and seven long-stay resident measures. Additionally, the applicant indicates that MJHS exceeded the Florida and national average for total number of licensed nurse staff hours per day, including those for registered nurse (RN) and certified nursing assistant (CNA), as well as receiving five stars in the staffing category of its Center for Medicare and Medicaid Services (CMS) rating.

Miami Lakes indicates it will implement MJHS' Quality Assurance and Performance Improvement (QAPI), with efforts focused on systems and process rather than individuals. Miami Lakes asserts that a Quality Oversight and Risk Management Board, comprised of staff leaders for MJHS, as well as members from the organization's Board of Directors, oversee the development and implementation of the QAPI program. The applicant indicates that the Executive Director of QAPI, along with the Quality Assessment and Assurance Committee, will facilitate the program. Duties of the committee include determining areas for Performance Improvement Projects as well as Plan-Do-Study-Act.

The applicant states that the Committee coordinates and evaluates QAPI program activities; reviews and analyzes data; and develops and implements plans to correct identified quality deficiencies. The applicant maintains that all departments and services are involved in the QAPI process and that staff, volunteers and board members are trained on the process. Miami Lakes indicates that the program incorporates input, participation and responsibility across all departments at all levels.

Miami Lakes conveys that it will deploy multiple analytic and electronic tools to support the facility's quality function, specifically the proposed project will utilize the on-line quality management system-Abaqis, to obtain national benchmarks for the measurement of QAPI program goals. The applicant indicates that it will also utilize MJHS' electronic health record (EHR), PointClickCare, which contains tools for monitoring and tracking hospital transfers and 30-day admissions. Miami Lakes notes that both Abaqis and EHR are web-based applications allowing simultaneous data collection and analysis, team collaboration, and remote monitoring of quality improvement efforts.

In addition to the QAPI program, the applicant states that affiliate MJHS also works with Florida's Quality Improvement Organization, Health Services Advisory Group, to obtain access to Medicare data on readmissions and quality measures contained in the Certification and

Survey Provider Enhanced Reports. The applicant contends that the proposed facility will build on the successes of MJHS quality measures, applying the methods and tools of the affiliate’s QAPI program as well as testing new approaches to improving resident care.

Regarding resident rights, the applicant states that upon admission each person will receive a Resident Handbook and facility employees are trained on resident rights upon hire and annually.

Miami Lakes includes discussion of planned activities that are designed to augment treatments that occur pursuant to the resident’s care plan.

The applicant states that activities accomplish the following objectives:

- To provide a planned range of meaningful, purposeful activities that reflect the resident’s interest, skills and enjoyments
- To promote adaptation and restoration of functions
- To continue the fostering of individual interests and pursuits for enjoyment, creativity, mastery and purpose
- To maximize the expression of individualism through groups and family involvement, spiritual development and independence

Agency records indicate that the applicant’s controlling interest, MJHS, operates one Florida SNF by the same name.

According to Agency website: FloridaHealthFinder.gov, affiliated SNF MJHS achieved an overall nursing home inspection rating of two-star (of a possible five-star), for the time period April 2015 through September 2017. The Agency’s Nursing Home Inspection Guide was last updated November 2017. MJHS is not a Gold Seal facility nor is it on the Agency’s Nursing Home Watch List.

Agency complaint records indicate that affiliate MJHS had three substantiated complaints for the three-year period ending December 27, 2017. A single complaint can encompass multiple complaint categories. The substantiated complaint categories are listed below:

Miami Jewish Health System, Inc. Three Years Ending December 27, 2017	
Complaint Category	Number Substantiated
Administration/Personnel	1
Infection Control	1
Quality of Care/Treatment	1
Resident/Patient/Client Rights	1

Source: Florida Agency for Healthcare Administration Complaint Records

- 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.**

Analysis:

The purpose of our analysis for this section is to determine if the applicant has access to the funds necessary to fund this and all capital projects. Our review includes an analysis of the short and long-term position of the applicant, parent, or other related parties who will fund the project. The analysis of the short and long-term position is intended to provide some level of objective assurance on the likelihood that funding will be available. The stronger the short-term position, the more likely cash on hand or cash flows could be used to fund the project. The stronger the long-term position, the more likely that debt financing could be achieved if necessary to fund the project. We also calculate working capital (current assets less current liabilities) a measure of excess liquidity that could be used to fund capital projects.

Historically we have compared all applicant financial ratios regardless of type to bench marks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities. The applicant provided audited financial statements for Miami Jewish Health Systems, Inc., and Subsidiaries, its parent company, where the short-term and long-term measures fall on the scale (highlighted in gray) for the most recent year.

Miami Jewish Health Systems, Inc. and Subsidiaries CON 10517		
	Jun-17	Jun-16
Current Assets	\$66,409,454	\$49,342,397
Total Assets	\$176,811,428	\$154,121,043
Current Liabilities	\$23,116,092	\$23,775,874
Total Liabilities	\$82,957,922	\$70,833,982
Net Assets	\$93,853,506	\$83,287,061
Total Revenues	\$115,559,979	\$109,020,086
Excess of Revenues Over Expenses	\$11,188,851	(\$3,062,609)
Cash Flow from Operations	\$19,587,246	\$2,521,069
Short-Term Analysis		
Current Ratio (CA/CL)	2.9	2.1
Cash Flow to Current Liabilities (CFO/CL)	84.73%	10.60%
Long-Term Analysis		
Long-Term Debt to Net Assets (TL-CL/NA)	63.8%	56.5%
Total Margin (ER/TR)	9.68%	-2.81%
Measure of Available Funding		
Working Capital	\$43,293,362	\$25,566,523

Position	Strong	Good	Adequate	Moderately Weak	Weak
Current Ratio	above 3	3 - 2.3	2.3 - 1.7	1.7 - 1.0	< 1.0
Cash Flow to Current Liabilities	>150%	150%-100%	100% - 50%	50% - 0%	< 0%
Debt to Equity	0% - 10%	10%-35%	35%-65%	65%-95%	> 95% or < 0%
Total Margin	> 12%	12% - 8.5%	8.5% - 5.5%	5.5% - 0%	< 0%

Capital Requirements and Funding:

The applicant indicates on Schedule 2 capital projects totaling \$33,647,190, which includes this project, CON application #10517. Schedule 3 indicates that funding for the project would be provided by non-related company financing. The applicant provided a letter of interest from SunTrust bank indicating the project would require loans totaling \$41 million. Staff notes that a letter of interest is not a commitment to lend and if the applicant were not approved for the loan it would have to seek financing elsewhere.

While the applicant did not indicate that its parent company would provide financing, the applicant provided audited financial statements showing over \$32.6 million in cash & cash equivalents, and over \$43.3 million in working capital.

Conclusion:

Funding for this project is likely, but largely dependent on the SunTrust loan.

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

Analysis:

The immediate and long-term financial feasibility of the project is tied to expected profitability. The purpose of our analysis for this section is to evaluate the reasonableness of the applicant’s profitability projections and, ultimately, whether profitability is achievable for this project. Our analysis includes an evaluation of net revenue per patient day (NRPD), cost per patient day (CPD), nurse staffing ratios and profitability. We compared the NRPD, CPD and profitability to actual operating results from SNFs as reported on Medicaid cost reports (2015, 2016, and 2017 cost report years). For our comparison group, we selected SNFs with similar Medicaid utilizations to the utilization projected by the applicant on a per patient day basis (PPD). Comparison group data was adjusted for inflation to match the second year projection (inflation factor was based on the New CMS Market Basket Price Index as published in the 3rd Quarter 2017, Health Care Cost Review).

NRPD, CPD and profitability or operating margin that fall within the group range are considered reasonable projections. Below is the result of our analysis.

	PROJECTIONS PER APPLICANT		COMPARATIVE GROUP VALUES PPD		
	Total	PPD	Highest	Median	Lowest
Net Revenues	11,279,600	439	2,187	502	334
Total Expenses	9,826,500	382	1,992	495	353
Operating Income	1,453,100	57	151	6	-64
Operating Margin	12.88%		Comparative Group Values		
	Days	Percent	Highest	Median	Lowest
Occupancy	25,693	87.99%	97.74%	89.04%	70.53%
Medicaid	6,423	25.00%	40.02%	30.55%	21.38%
Medicare	14,131	55.00%	67.52%	39.97%	8.40%

The projected NRPD, CPD and profit fall within the group range and are considered reasonable. The overall profitability appears achievable.

Staffing:

Section 400.23(3)(a)(1), Florida Statutes, specifies a minimum certified nursing assistant staffing of 2.5 hours of direct care per resident per day and a minimum licensed nursing staffing of 1.0 hour of direct resident care per resident day. Based on the information provided in Schedule 6, the applicant meets this requirement.

Conclusion:

This project appears to be financially feasible based on the projections provided by the applicant.

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

Analysis:

Strictly from a financial perspective, the type of competition that would result in increased efficiencies, service, and quality is limited in health care. Cost-effectiveness through competition is typically achieved via a combination of competitive pricing that forces more efficient cost to remain profitable and offering higher quality and additional services to attract patients from competitors. Since Medicare and Medicaid are the primary payers in the nursing home industry, price-based competition is limited. With a large portion of the revenue stream essentially fixed on a per patient basis, the available margin to increase quality and offer additional services is limited. In addition, competitive forces truly do not begin to take shape until existing business' market share is threatened. The publication of need in this area suggests that there is an unmet and untapped customer base for a new entrant to absorb. Since nursing home services are limited to available beds and the need formula suggest excess capacity in the market to fill those beds, the impact on market share would be limited. The combination of the existing health care system's barrier to price-based competition via fixed price payers and the existence of unmet need in the district limits any significant gains in cost-effectiveness and quality that would be generated from competition.

Conclusion:

This project is not likely to have a material impact on competition 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-4, Florida Administrative Code.**

The applicant has submitted all information and documentation necessary to demonstrate compliance with the architectural review

criteria. The cost estimate for the proposed project provided in Schedule 9, Table A and the project completion forecast provided in Schedule 10 appear to be reasonable. A review of the architectural plans, narratives and other supporting documents did not reveal any deficiencies that are likely to have a significant impact on either construction costs or the proposed completion schedule.

The plans submitted with this application were schematic in detail with the expectation that they will be necessarily revised and refined prior to being submitted for full plan review. The architectural review of this 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 applicant. Approval from the Agency for Health Care Administration’s Office of Plans and Construction is required before the commencement of any construction involving a hospital, nursing home, or intermediate care facility for the developmentally disabled (ICF/DD).

- g. Does the applicant have a history of and propose the provision of 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**

A five-year history of Medicaid patient days and occupancy for the subdistrict, district and state is provided in the table below.

Medicaid Patient Days and Medicaid Occupancy in Miami-Dade County, District 11 and Florida Five Years Ending June 30, 2017					
Medicaid Patient Days					
Area	JUL 2012- JUN 2013	JUL 2013- JUN 2014	JUL 2014- JUN 2015	JUL 2015 JUN 2016	JUL 2016- JUN 2017
Miami-Dade County	1,731,756	1,792,054	1,846,004	1,932,456	1,942,379
District 11	1,756,892	1,824,185	1,880,289	1,967,531	1,980,932
Florida	15,676,855	15,837,261	15,875,092	16,097,612	16,077,665
Medicaid Occupancy					
Area	JUL 2012- JUN 2013	JUL 2013- JUN 2014	JUL 2014- JUN 2015	JUL 2015 JUN 2016	JUL 2016- JUN 2017
Miami-Dade County	64.61%	66.10%	66.93%	68.88%	63.66%
District 11	64.49%	66.06%	66.84%	68.77%	60.98%
Florida	61.58%	62.05%	61.88%	62.73%	63.34%

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2012-October 2017 Batching Cycles

The reviewer provides the following Medicaid occupancy for affiliate MJHS for the FY 2015 through FY2017. See the table below.

Miami Jewish Health System Medicaid Occupancy FY 2015 through FY 2017			
Year	Total Patient Days	Medicaid Patient Days	Medicaid Occupancy
2015	143,753	96,129	66.9%
2016	147,634	102,816	69.6%
2017	146,884	101,873	69.4%
Total	438,271	300,818	68.6%

Source: Florida Nursing Home Need Projection by District and Subdistrict, June 2015-July 2017

As a newly formed entity that applicant does not have a history of providing care to Medicaid patients and the medically indigent. Miami Lakes states that it will seek dual certification to provide Medicare and Medicaid services to individuals requiring skilled nursing care. The applicant provides the forecasted payor mix for the proposed project's first two years of operation and states that for both year one and year two, Medicaid accounts for 25 percent of total resident days. See the table below.

Miami Lakes Projected Resident Days by Payor First Two Years of Operation			
Payer	Year1	Year 2	Percent
Medicaid	4,023	6,423	25.0%
Medicare	5,311	8,479	33.0%
Medicare Managed Care	3,540	5,652	22.0%
Self-Pay	3,219	5,139	20.0%
Total Resident Days	16,093	25,693	100.0%
Occupancy Rate N=80	55.1%	88.0%	

Source: CON application #10517, page 9-2

Miami Lakes asserts, and cites submitted audited financial statements as evidence, that MJHS and its subsidiaries designates 3.5 million for doubtful accounts and those unable to pay for care (amount includes all MJHS operations).

The applicant Schedule 7 indicates that Medicaid and self-pay represent 25 percent and 20 percent, respectively, of year one and year two, annual total patient days.

F. SUMMARY

DG Miami Lakes SNF, LLC (CON #10517) proposes to establish a new 80-bed community nursing home in District 11, Subdistrict 11-1, Miami-Dade County, through the voluntary delicensure 80 community nursing home beds from affiliate MJHS (a 438-bed SNF), located at 5200 NE 2nd Avenue, Miami, Florida 33137 within Subdistrict 11-1.

The project involves 85,259 GSF of new construction. The construction cost is \$20,723,200. Total project cost is \$33,597,190. Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant proposes two conditions on its Schedule C.

Need/Access:

The proposed project is not in response to the fixed need pool nor does it add community nursing home beds to District 11, Subdistrict 11-1, Miami-Dade County.

The applicant asserts that the proposed project is accessible via major roads and offers the following benefits:

- Supports renovation and modernization that adds residential spaces at MJHS
- Provides outreach to Hialeah with a bed to population ratio of 13 per 1,000 persons aged 65+, less than the subdistrict's ratio of 19 beds per 1,000 elders.
- Extends outreach with a plan for assisted living on the campus by an affiliate of MJHS

The Agency finds that, on balance, the applicant demonstrated the applicable criteria specified in statute and rule to merit approval of the proposed project.

Quality of Care:

DG Miami Lakes SNF, LLC described its ability to provide quality care.

The applicant's controlling interest (MJHS) had three substantiated complaints during the three-year period ending December 27, 2017.

Financial Feasibility/Availability of Funds:

Funding for this project is likely, but largely dependent on the SunTrust loan. Based on the information provided in Schedule 6, the applicant meets the statutory requirements for staffing pursuant to 400.23(3)(a)1, Florida Statutes. This project appears to be financially feasible based on the projections provided by the applicant. This project is not likely to have a material impact on competition to promote quality and cost-effectiveness.

Medicaid/Indigent/Charity Care:

The applicant does not propose to condition project approval to a percentage of Medicaid days.

The applicant's Schedule 7 indicates that Medicaid and self-pay represent 25 percent and 20 percent, respectively, of year one and year two, annual total patient days.

Architectural:

The cost estimate for the proposed project provided in Schedule 9, Table A and the project completion forecast provided in Schedule 10 appear to be reasonable. A review of the architectural plans, narratives and other supporting documents did not reveal any deficiencies that are likely to have a significant impact on either construction costs or the proposed completion schedule.

G. RECOMMENDATION

Approve CON #10517 to establish an 80-bed community nursing home. The total project cost is \$33,597,190. The project involves 85,259 GSF of new construction and a construction cost of \$20,723,200.

CONDITIONS:

1. Shall be located in Hialeah, ZIP Code 33016, near the corner of Commerce Way and NW 146th Street
2. Shall provide all private rooms, including five equipped for bariatric residents

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: _____

Marisol Fitch
Health Administration Services Manager
Certificate of Need