

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

The Shores Behavioral Hospital, LLC/CON #10224

1601 East Las Olas Boulevard
Fort Lauderdale, Florida 33301

Authorized Representative: Manuel Llano, CEO
(954)453-8651

2. Service District

District 10 – Broward County

B. PUBLIC HEARING

A public hearing was requested and held on Monday, April 28, 2014, at the Broward Regional Health Planning Council, Inc., 200 Oakwood Lane, Suite 100, Conference Rooms B and D, Hollywood, Florida 33020. The applicant was not represented at the hearing and there were no speakers in support of the project.

Allison Klein, Service Employees International Union (SEIU)¹, stated that UHS (Universal Health Services, Inc.) facilities have been cited “repeatedly for staffing issues in recent years”. SandyPines (a District 9 Residential Treatment Facility for Children & Adolescents), Emerald Coast Behavioral Hospital and “Manatee Palms Group Home” were mentioned as UHS facilities with staff deficiency issues². Ms. Klein also stated concerns about training of staff and patient safety at UHS facilities in Florida. The Vines was mentioned concerning restraint, seclusion and other nursing/staff issues. Ms. Klein indicated that due to recent patient

¹ Per the website at <http://www.seiu.org/>, the Service Employees International Union (SEIU) has 2.1 million members.

² Manatee Palms Group Home refers to UHS affiliate Manatee Palms Youth Services, a 64-bed Intensive Residential Treatment Facility with an inactive license set to expire on September 30, 2014.

physical harm and an Agency determination of substantial non-compliance with relevant statutes and rules at The Vines, the Agency declared a moratorium on admissions there. SEIU indicated and the reviewer confirms that the Agency issued an immediate Emergency Order of Moratorium (AHCA No. 2013002129), effective February 22, 2013, against Ocala Behavioral Health LLC, d/b/a The Vines.³ Ms. Klein indicated because of these concerns, she opposed the proposed project.

Liz Smith, SEIU, stated UHS has publicly disclosed that three of its Florida facilities are under federal investigation—Wekiva Springs Center, River Point Behavioral Health and The National Deaf Academy, with subpoenas issued by the U. S. Department of Justice, in 2013, as part of these investigations. Ms. Smith stated concern that UHS has multiple facilities in Florida under federal investigation and stated she opposed the proposed project.

The reviewer notes that Ms. Klein and Ms. Smith cited brief excerpts of a more detailed/expansive 12-page letter of opposition from Ryan Pfeffer, Research Coordinator, SEIU, which is described more fully in Item B of this report. The reviewer also notes that Universal Health Services, Inc.'s audited financial statements (10-K Annual Report Form) for year ending December 31, 2013, states that the three UHS Florida facilities cited by Ms. Smith remain under federal investigation as of February 2014. Licensed UHS affiliated Florida facilities cited in SEIU opposition to the proposed project include:

- Emerald Coast Behavioral Hospital, LLC
- Manatee Palms Youth Services
- The National Deaf Academy, LLC
- Ocala Behavioral Health, LLC d/b/a The Vines Hospital
- SandyPines
- Wekiva Springs Center, LLC
- TBJ Behavioral Center, LLC d/b/a River Point Behavioral Health.

Robert C. Hails, Vice President, Psychiatric Services, HCA East Florida submitted an eight and a half page statement of opposition, dated April 28, 2014 and signed by Joseph Melchiode, Chief Executive Officer, University Hospital and Medical Center. Mr. Melchiode states University Hospital and Medical Center is a District 10 licensed general hospital,

³ The reviewer confirmed the moratorium on The Vines was effective February 22, 2013 – March 14, 2013.

with 257 acute, 52 adult inpatient psychiatric and eight child/adolescent psychiatric beds and is also a Baker Act Receiving Facility⁴.

Mr. Melchiode’s letter states that “there are no geographic, financial or programmatic barriers to access by Broward County residents to high quality psychiatric services”. He states that University Medical Center opposes The Shore’s new facility “especially if it is located only a short distance from University, because it would have significant adverse impact on University, without any corresponding benefit to Broward County residents”.

He contends that “The Shores mischaracterizes its CON application as seeking approval for either a replacement hospital or replacement CONs”. He also correctly states that because CON #10131 and #10132 were terminated and no longer exist, “they cannot be replaced through the current application” and consequently, no authorization for the 72 adult mental health beds currently exists. Mr. Melchiode notes that District 10 adult inpatient psychiatric bed utilization declined by 3,203 patient days from July 2010 – June 2011 to the July 2012 - June 2013 reporting periods (see the table below).

**Adult Psychiatric Inpatient Bed Utilization for District 10
36 Months Ending June 30, 2013**

Period	Adult Population	Patient Days	Bed Days	Percent Occupancy	Use Rate
2010-11	1,360,197	98,460	175160	56.2	72.4
2011-12	1,374,069	95,877	167994	57.1	69.8
2012-13	1,388,501	95,257	161913	58.8	68.6
Change	28,304	-3,203	-13,247	2.6	-3.8
% Change	2.1%	-3.3%	-7.6%	4.7	-5.2

Source: Statement of Opposition, Table 1, University Hospital and Medical Center, April 28, 2014.

Mr. Melchiode further indicates and the reviewer confirms that for the 12-month period ending June 30, 2013, District 10 had the second lowest average occupancy rate for adult inpatient psychiatric services (58.83 percent) of Florida’s 11 districts. The reviewer notes that for the 12-month periods ending June 30, 2012 and June 30, 2011, District 10 had the lowest occupancy rate (57.07 percent and 56.21 percent, respectively) of any district in the state.

Mr. Melchiode comments and the reviewer confirms that for the 12-month period ending June 30, 2013, there were “more than 180” vacant adult inpatient psychiatric beds in Broward County on any given

⁴ Per Agency for Health Care Administration hospital licensure and Florida Department of Children and Families records as of April 18, 2014.

day. There were approximately 139 vacant beds when you exclude Atlantic Shores' 42 beds. He expects that the existing utilization pattern is not likely to change substantially in the future relative to the proposed project, considering use rates shown above and University's expectation that population in the area will "grow slowly in the coming years" (specifically at least through the July 2019 planning horizon for this batching cycle).

Mr. Melchiode indicates that the applicant's stated review of Broward County psychiatric patient diversion logs didn't specify the time period, making it "impossible to know when these diversions occurred". The reviewer notes that the applicant discussed diversion logs in the application but these were not included for Agency review. Per Mr. Melchiode, "it is common and typical that hospitals occasionally find it necessary to divert patients, and will continue to do so in the future due to inherent occasional patient circumstances" and "diversion logs are not evidence of a problem, but rather reflect a solution working as intended".

Mr. Melchiode states and the reviewer confirms that The Shores does not contend that these patients do not get admitted, or do not receive the care they need.

Mr. Melchiode maintains that "any Atlantic Shores relocation substantially west, northwest or north of its existing location would severely, adversely impact" University Hospital and Medical Center. The reviewer notes that The Shores' proposed project target location appears, broadly, to be southwest of its current location and the applicant's project would add 18 beds to the district as Atlantic Shores presently is licensed for 42 adult inpatient psychiatric beds.

Mr. Melchiode concludes that The Shores has options (reproduced verbatim below) for solving problems, in the current situation, short of the proposed project.

- *It can move the child and adolescent residential treatment program out of the Atlantic Shores facility the same way it moved it in. This option requires no CON approval.*
- *It can delicense its remaining 42 adult inpatient psychiatric beds without impairing access to care. This option does not require CON approval.*

Letters of Support

The Shores Behavioral Hospital, LLC (CON application #10224) submitted 26 unduplicated letters of support for the project (CON

application #10224, Tab 4 – Letters of Support). Twenty-one were dated during March 14—25, 2014; three were not dated and two were dated during CY 2011. All support letters were signed, 18 indicated a Broward County address and eight had a Miami-Dade County address. A summary of these comments include:

Scott Segal, MD, MBA, a practicing psychiatrist and former medical director of Atlantic Shores Hospital, states that “the need to replace the current physical plant is substantial.” He also states “The care delivered by the staff at Atlantic Shores is exceptional; however, due to limitations in the physical plant, the patient’s overall experience is tempered”. Per Dr. Segal, “A new facility would benefit patients, their families, staff and law enforcement while improving the quality of care delivered to each patient”.

Patricia Kramer, Regional Substance Abuse and Mental Health Director, Southeast Region, Florida Department of Children and Families (DCF), and Silvia Quintana, CEO, Broward Behavioral Health Coalition⁵, provide letters which state that “whenever there is a specific need in the community, Atlantic Shores Hospital has always collaborated with my office to answer the needs of the district’s residents by adding, improving and expanding upon the programs and services when necessary.” She concludes that “a new state-of-the-art facility is needed to bring the quality psychiatric and substance abuse programs of Atlantic Shores Hospital into the 21st Century for District 10 residents”.

Rhea V. Allen, Regional System of Care Coordinator, Southeast Region and Circuit 17, DCF, states that “Atlantic Shores Hospital has consistently demonstrated a commitment and dedication to the constituents within Broward County”. She further states “The leadership team at that facility always seeks to work with us (The DCF) in bridging the gaps in our service delivery system so that the growing needs in the community are met”. Ms. Allen concludes that the project would allow the applicant to “improve the structure of the facility in which they will be able to deliver increased substance abuse and mental health services with greater efficiency and effectiveness”.

Carla A. Taylor-Bennett, Grants Manager, Broward Sheriff’s Office, states the proposed project “will bring very important and essential capacity to our system of care, thus reducing jail overcrowding”. Ms. Taylor-Bennett also states “Currently our system has a need for additional beds to

⁵ Per the website at <http://www.bbhcflorida.org/>, this organization was created in 2011 and was selected by DCF as Broward County’s managing entity for mental health and substance abuse services.

address adolescent clients, Baker and Marchman Acts and beds for indigent individuals”.

Diana Diaz-Valdes, LMHC, CAP, Coordinator, Miami-Dade County Drug Court, Eleventh Judicial Circuit of Florida, states that the existing hospital, which was built in the 1960s, has limited space and “structural and functional problems which affect the quality of care of its patients”. She also states that “While Atlantic Shores Hospital provides quality psychiatric and mental health for the residents of District 10, those residents deserve to have those services delivered in a new building”.

Alan S. Levine, Esq., Founder and Managing Partner of Addiction Recovery Legal Services, LLC, maintains that “A new, larger, more modern facility will only serve to provide better services for the many individuals in Broward County who are in need of adult psychiatric and substance abuse treatment.”

Stephanie Coberly, LMHC, CAP, Executive Director and Chief Clinical Officer, John’s Place, Inc.⁶ states her organization, “along with the Family Services Department within the Seminole Tribe of Florida, has worked in conjunction with Atlantic Shores Hospital for a number of years and though the staff remains efficient, it is clear that the building is in dire need of replacement”.

Letter of Opposition

Ryan Pfeffer, Research Coordinator, SEIU, submitted a 12-page letter of opposition regarding the proposed project. He states SEIU represents over 27,000 workers in health care facilities throughout Florida, including more than 3,000 in Broward County. Mr. Pferrer indicates the following four major reasons to oppose the project:

- The Shores Behavioral Health, LLC⁷ does not own a health care facility, nor does this entity have licensed beds. The proposal seeks to build a new facility with new beds at an undisclosed location with a promise from another license holder to give up their beds, which does not constitute a replacement under the Florida regulatory structure.
- There is a fixed need pool of zero for District 10 for the planning horizon.

⁶ Per the website at <http://johnsplace.org/>, the mission of John’s Place is to provide comprehensive, quality addiction treatment services exclusively to The Seminole Tribe of Florida.

⁷ The reviewer notes the legal name of the applicant is The Shores Behavioral Hospital, LLC.

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- There are “serious concerns” about SBH’s ability to provide quality and sufficient staffing. There are also issues about SBH’s parent, UHS, concerning the parent’s commitment to quality and governance.
- The U.S. Department of Justice Civil Division, Criminal Fraud Section is currently investigating three facilities in Florida (the reviewer notes two of which are CON regulated – Wekiva Springs Center and River Point Behavioral Health). Also, Mr. Pfeffer states civil fraud subpoena activity concerning UHS Florida facilities, by the Office of Inspector General, U.S. Department of Health and Human Services. The Attorney Generals of other states “appear to be investigating facilities” affiliated with UHS in their respect jurisdictions.

The opposition letter also indicates four UHS Florida CON-regulated facilities where state surveys revealed problems, between May 2012 and March 2013. The reviewer notes that a summary of Florida UHS facilities’ substantiated complaints during the three-year period ending March 9, 2014 is in Item E. 3. b. of this report.

C. PROJECT SUMMARY

The Shores Behavioral Hospital, LLC (CON application #10224), also referenced as the applicant or TSBH, is a development stage company. TSBH’s corporate parent is Universal Health Services, Inc., which is also the corporate parent of Atlantic Shores Hospital. The applicant indicates that the project seeks to replace previously approved CONs #10131 and #10132 which authorized the replacement of the currently licensed beds and operations of Atlantic Shores Hospital. However, CONs #10131 and #10132 are no longer valid as they were terminated effective March 10, 2014 and Atlantic Shores Hospital is presently licensed for 42 adult inpatient psychiatric beds.

CON application #10224 is to establish a new 60-bed adult inpatient psychiatric Class III specialty hospital in District 10, Broward County, Florida. The applicant indicates that the facility will also include 12 substance abuse beds (which a licensed hospital can add by CON exemption) and 30 residential treatment beds, which are not subject to CON review. Upon approval and licensure of the proposed CON application #10244, Atlantic Shores Hospital is to be closed and its beds and services delicensed, per TSBH. The 60-bed project subject to review will result in a net addition of 18 adult inpatient psychiatric beds in District 10.

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The proposed project involves a total cost of \$27,493,690. The total project cost includes: land, building, equipment, project development and start-up costs. The applicant indicates that the project consists of 67,809 gross square feet (GSF) of new construction and a total construction cost of \$15,032,194.

In Schedule C, the applicant proposes the following conditions for CON application #10224.

- Upon approval of this CON Application to establish a Class III Specialty Hospital with 60 adult psychiatric beds, the applicant will return CON #10131 to AHCA for its voiding. The reviewer notes that this is not an issue as this CON is void.
- Concurrent to licensure and certification of 60 adult inpatient psychiatric beds, 12 adult substance abuse beds and 30 adolescent residential treatment (DCF) beds at The Shores Behavioral Hospital, LLC, all hospital beds and adolescent residential beds at Atlantic Shores Hospital will be delicensed.
- The Shores Behavioral Hospital will become a designated Baker Act Receiving Facility upon licensure and certification.
- Upon licensure and certification The Shores Behavioral Hospital will seek Joint Commission Accreditation.

TSBH contends that the approval of this CON application to replace the original CONs for The Shores will ensure that patients of the area have improved access to mental health and substance abuse inpatient and outpatient services in a more healthful environment. TSBH states that the new facility will provide the residents with a full range of services to meet the needs of the community as a whole.

The reviewer notes that in the CON #10131/CON #10132 applications, Manuel Llano, in his capacity as Atlantic Shores Hospital's Chief Executive Officer, provided a letter which indicated that upon licensure of The Shores Behavioral Hospital, LLC, all of the existing beds at that time (60 adult psychiatric and 12 adult substance abuse beds) at Atlantic Shores would be delicensed. CON application #10224 does not include a letter from Mr. Llano committing to delicense Atlantic Shores Hospital existing 42 adult inpatient psychiatric beds. The reviewer notes that per Agency records, Mr. Llano is the CEO at Atlantic Shores Hospital as of May 19, 2014.

Atlantic Shores Hospital, LLC, as the license holder could have applied for a replacement facility during that batching cycle, as it could have during this one, per Rule 59C-1.008(1)(h) Florida Administrative Code.

Per section 408.036(1)(b) Florida Statutes, a replacement facility can be approved “if the number of beds in each licensed bed category will not increase”.

Section 408.043 (4), Florida Statutes prohibits accreditation by any private organization as a requirement for the issuance or maintenance of a certificate of need, so Joint Commission (Condition #4) will not be cited as a condition to approval. Should the project be approved, the applicant’s conditions would be reported in the annual condition compliance report as required by Rule 59C-1.013 (3) Florida Administrative Code.

D. REVIEW PROCEDURE

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes; and applicable rules of the State of Florida, Chapters 59C-1 and 59C-2, Florida Administrative Code. These criteria form the basis for the goals of the review process. The goals represent desirable outcomes to be attained by successful applicants who demonstrate an overall compliance with the criteria. Analysis of an applicant's capability to undertake the proposed project successfully is conducted by evaluating the responses and data provided in the application, and independent information gathered by the reviewer.

Applications are analyzed to identify strengths and weaknesses in each proposal. If more than one application is submitted for the same type of project in the same district, applications are comparatively reviewed to determine which applicant(s) 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, Everett “Butch” Broussard of the Bureau of Central Services, who evaluated the financial data and Said Baniahmad 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 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? Rules 59C-1.008(2) Florida Administrative Code.

In Volume 40, Number 12, dated January 17, 2014 of the Florida Administrative Register, a fixed need pool of zero beds was published for adult inpatient psychiatric beds in District 10 for the July 2019 planning horizon.

As of March 17, 2014, District 10 had 441 licensed adult inpatient psychiatric beds and notification #130024 to add 11 adult inpatient psychiatric beds at Memorial Regional Hospital by delicensure of 11 adult substance abuse beds. The Shores Behavioral Hospital, LLC was also approved to establish a 60-bed adult inpatient psychiatric hospital via CON #10131, which contained the commitment to delicense Atlantic Shores. However, effective March 10, 2014, CON #10131 was terminated.

District 10's 441 licensed beds had an occupancy rate of 58.83 percent during the 12-month period ending June 30, 2013. The applicant is applying to establish a new 60-bed Class III specialty hospital through CON application #10224. The applicant states that it is not responding to a fixed need pool. As previously stated, The Shores Behavioral Hospital, LLC states that this project is to build a replacement facility for 60 beds currently at Atlantic Shores Hospital and to add 12 substance abuse beds to the new hospital through notification. However, an exemption per s. 408.036(3)(o) Florida Statutes and Rule 59C-1.005(6)(i) Florida Administrative Code would be required to establish the 12-bed adult substance abuse unit. The facility will also have 30 residential treatment beds that are not subject to CON review. Atlantic Shores Hospital, LLC, the license holder, is the only legal entity that could file a replacement application for Atlantic Shores Hospital. This project would result in the addition of 18 adult inpatient psychiatric beds in District 10.

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Per TSBH, ASH has received CON approval to replace its existing facility, programs and services. The reviewer notes the original bed count was 72 licensed beds—60 adult inpatient beds and 12 adult substance abuse beds. TSBH states that in “September 2012, ASH temporarily delicensed 30 of its beds to more accurately portray the maximum number of beds it might be able to operate.” As previously stated, Atlantic Shores has a total of 42 licensed adult psychiatric inpatient beds.

Of the eight facilities in District 10 with licensed adult psychiatric beds, five are general hospitals (Class 1) and three are freestanding (Class 3), with corresponding bed counts and adult occupancy rates, as follows:

**District 10
Adult Inpatient Psychiatric Utilization
12 Months Ending June 30, 2013**

Facility	Service Class	# Adult Beds	Adult Occupancy
Atlantic Shores Hospital	Class 3	42	50.32%
Broward Health Imperial Point	Class 1	47	56.50%
Broward Health Medical Center	Class 1	83	52.37%
Florida Medical Center-A Campus of North Shore	Class 1	74	49.59%
Fort Lauderdale Hospital	Class 3	48	86.23%
Hollywood Pavilion	Class 3	50	19.97%
Memorial Regional Hospital	Class 1	45	81.68%
University Hospital & Medical Center	Class 1	52	84.01%
District 10 Total		441	58.83%

Source: *Florida Hospital Bed Need Projections and Service Utilizations by District, January 2014 Batching Cycle.*

The following is a map of District 10’s licensed adult inpatient psychiatric facilities. The applicant does not include a proposed site address but does state that the new hospital will be within a couple of miles and within the same general vicinity of the existing facility—in east central Broward. The Shores indicates that the target area and location is between Las Olas Boulevard on the south, Commercial Boulevard on the north, Interstate 95 on the west and Federal Highway on the east. As stated previously, the applicant does not condition the project to a specific location.

**District 10
Adult Inpatient Psychiatric Facilities**



Source: Microsoft MapPoint® 2013

The chart below contains the population estimates for the total adult population (age 18 and older) in District 10 (Broward County) for January 2014 and the July 2019 planning horizon.

**Broward County
Population Age 18 and Over
January 2014 to the July 2019 Planning Horizon**

County	Population Age 18 And Over January 2014	Population Age 18 And Over July 2019	Percent Change
District Total	1,397,411	1,450,414	3.79%
State Total	15,374,044	16,673,415	8.45%

Source: Agency for Health Care Administration Population Projections, published September 2013.

As shown above, District 10’s population age 18 and over is expected to experience 4.66 percent lower growth than the state.

b. “Not Normal” Circumstances.

The Shores Behavioral Hospital, LLC (CON application #10224) is proposing to develop a Class III specialty hospital with 60 adult psychiatric beds. The applicant indicates that the proposal is outside the fixed need pool in that Atlantic Shores Hospital is an existing licensed provider and the proposed project will “allow a new development time line (clock) to start providing for the 18-month schedule to complete foundations”. The applicant maintains that there is a quantitative need and qualitative need to replace the current facility.

Quantitative Need

The applicant contends that because of Atlantic Shores Hospital’s current facility condition, “ASH has only been able to operate a portion” of its beds but that there is sufficient need to fill all licensed beds at a reasonable occupancy level. The Shores maintains that there is an incremental bed need in Broward County based on the county’s growth in population, overflow at other licensed hospitals, outmigration levels, and immigration to Broward County from outlying areas and out of state.

Per the applicant, ASH currently receives 80 percent of its total admissions from Broward County (the service area), 12 percent from elsewhere in the State of Florida and eight percent from outside of the state. The reviewer notes that Atlantic Shores had 1,254 discharges during the 12 months ending June 30, 2013, and 952 or 75.92 percent of these were Broward County residents. Residents of other Florida counties accounted for 192 discharges (15.31 percent) and 110

discharges (8.77 percent) were out of state or patients whose county of origin was not provided. Miami-Dade County residents accounted for 117 (9.33 percent) and Palm Beach County residents (3.83) of the facility’s total discharges during the reporting period.⁸

Broward County is the second most populous county in the State of Florida. The table below illustrates the historical and current adult population of the county.

Broward County Population by Age Cohort 2011 through 2013			
As of July 1	2011	2012	2013
Ages 18-64	1,109,196	1,118,286	1,121,915
Ages 65+	265,167	264,028	271,392
Total Adult	1,365,363	1,382,314	1,393,307
Percent 18-64	81.2%	80.9%	80.5%
Percent 65+	18.8%	19.1%	19.5%

Source: CON application #10224, page 17 from AHCA Population Estimates, September 2013.

The applicant provides forecasted population data by age cohort for 2017 (year one of operation) and 2018 and highlights the anticipated 11.8 percent growth rate in the 65 and older age cohort. The Shores maintains that the incremental 35,893 total adults between 2013 and 2017 in Broward County will generate additional census at the proposed replacement facility.

The applicant contends that the total population will have improved access as the replacement facility becomes operational, thus decompressing existing facilities that are regularly on diversion/overflow.

Broward County Forecasted Population by Age Cohort Calendar Years 2017 and 2018				
Age Cohort	Forecasted		Incremental Population 2013 to 2017	
	2017 (year one of operation)	2018 (year two of operation)	Percent	Count
18-64	1,125,809	1,127,163	0.3%	3,894
65+	303,391	312,595	11.8%	31,999
Total Adult	1,429,200	1,439,758	2.6%	35,893

Source: CON application #10224, page 17 from AHCA Population Estimates September 2013. Estimates are for July 1, 2017 and July 1, 2018.

The Shores contends that there was a 1.7 percent decrease (from 14,398 as of 12 months ending June 30, 2011 to 14,149 discharges as of 12 months ending June 30, 2013) in adult resident discharges with psychiatric disorders (MDC 19). Per The Shores, the “slight decrease” is

⁸ Per Agency For Health Care Administration hospital discharge data obtained by the CON reviewer on May 19, 2014.

largely due to the “temporary” delicensure at ASH. The applicant indicates that the younger adult age cohort, ages 18-64, accounted for 89 percent of all cases (see the table below).

Broward County Resident Discharges MDC 19 and 20 by Age Cohort 12 Months Ending June 30, 2011—2013				
	YE 6/30/11	YE 6/30/12	YE 6/30/13	Percent Change 2011-2013
Psychiatric Disorders (MDC 19)				
18-64	12,916	12,985	12,619	-2.3
65+	1,482	1,514	1,530	3.2
Total Adult	14,398	14,499	14,149	-1.7
Substance Abuse Disorders (MDC 20)				
18-64	3,011	2,865	2,935	-2.5
65+	224	262	283	26.3
Total Adult	3,235	3,127	3,218	-0.5
Total Behavioral Health Resident Discharges (MDC 19 and MDC 20)				
18-64	15,927	15,850	15,554	-2.3
65+	1,706	1,776	1,813	6.3
Total Adult	17,633	17,626	17,367	-1.5

Source: CON application #10224, page 18.

The Shores next discusses Broward County psychiatric resident discharges and market share by facility for the 12 months ending June 30, 2013. The applicant notes that 1,815 adults age 18 and older, either left Broward County for psychiatric treatment or were admitted to a Broward County hospital not licensed for psychiatric beds.

District 10 Resident Adult Psychiatric Discharges (MDC 19) Market Share by Age Cohort & Facility 12 Months Ending June 30, 2013						
Hospital	Patient Age 18-64	Percent Market Share	Patient Age 65+	Percent Market Share	Total Adult	Percent Market Share
Atlantic Shores Hospital	655	5.19%	38	2.48%	693	4.90%
Broward Health Imperial Point	1,279	10.14%	226	14.77%	1,505	10.64%
Broward Health Medical Center	1,623	12.86%	161	10.52%	1,784	12.61%
North Shore Med. Center—FMC	2,177	17.25%	195	12.75%	2,372	16.76%
Fort Lauderdale Hospital	1,678	13.30%	50	3.27%	1,728	12.21%
Hollywood Pavilion	51	0.40%	1	0.07%	52	0.37%
Memorial Regional Hospital	1,424	11.28%	206	13.46%	1,630	11.52%
University Hospital & Med. Center	2,230	17.67%	340	22.22%	2,570	18.16%
All Other Hospitals	1,502	11.90%	313	20.46%	1,815	12.83%
District 10 Total	12,619	100.0%	1,530	100.0%	14,149	100.0%

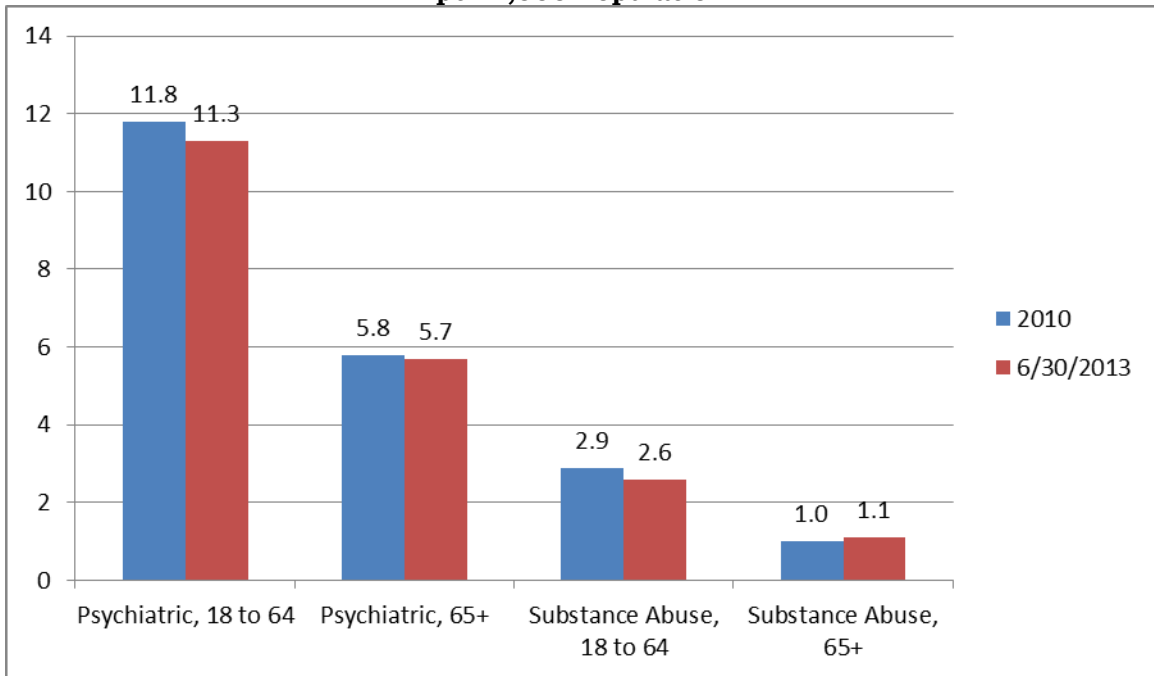
Source: CON application #10224, page 19.

Broward County’s declining adult psychiatric discharge use rates and adult substance abuse discharge use rates per 1,000 adults from calendar year 2010 through June 30, 2013 are presented below. The Shores indicates this decline is due to Atlantic Shores’ temporarily delicensing its 12 adult substance abuse beds and 18 of its adult psychiatric beds (see the table and chart below).

District 10 Adult Discharge Use Rates MDC 19 and 20 by Age Cohort 12 Months Ending June 30, 2013		
	Ages 18-64	Ages 65+
Population	1,120,667	267,834
Psychiatric (MDC 19) Discharges	12,619	1,530
Discharge Use Rate per 1,000 Population	11.26	5.71
Substance Abuse (MDC 20) Discharges	2,935	283
Discharge Use Rate per 1,000 Population	2.62	1.08

Source: CON application #10224, page 21 and AHCA Population Estimates September 2013. Estimates are for January 1, 2013.

**Broward County Adult Discharge Use Rates
per 1,000 Population**



Source: CON application #10224, page 21.

The reviewer notes that during the 12-month period ending June 30, 2012, District 10 facilities reported 95,877 adult inpatient psychiatric days (54.07 percent occupancy in 459 beds) to the local health council. This decreased to 95,257 patient days for the 12 months ending June 30, 2013 or 58.83 percent occupancy in 441 beds. Atlantic Shores delicensed the 18 adult inpatient psychiatric beds effective September 19, 2012. District 10's facilities reported 98,460 adult inpatient days during the 12 months ending June 30, 2011, which indicates that bed days are decreasing irrespective of the delicensure of 18 beds at Atlantic

Shores. In terms of incremental resident discharges in Broward County, the applicant states that there will be 1,333 between 2013 and 2017, and 1,409 incremental discharges by 2018—nearly 48 percent of these discharges will be in the 65 and older age cohort. The Shores maintains that these incremental discharges will be a direct result from the anticipated population growth within the county, adjusting use rates to reflect former utilization before bed delicensure and the availability of a new specialized geriatric unit it proposes to add to its facility.

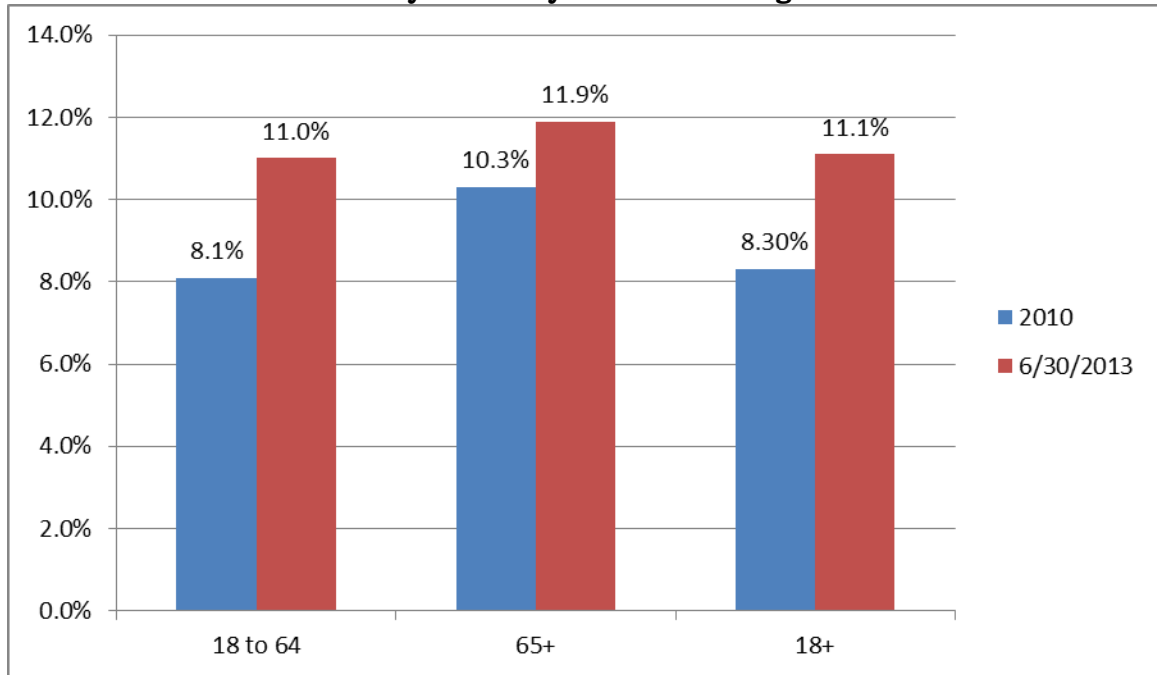
The applicant states that 11.1 percent (1,566 of 14,149) of Broward County residents received inpatient psychiatric treatment in a non-Broward County facility and this percentage is higher for the 65 and older age cohort (11.9 percent or 182 of 1,530 cases). See the table below.

District 10 Adult Psychiatric (MDC 19) Resident Discharges By Age Cohort & Facility County 12 Months Ending June 30, 2013			
By Case			
	Ages 18-64	Ages 65+	Total
Broward County Hospitals	11,235	1,348	12,583
Other Counties	1,384	182	1,566
Total Resident Discharges	12,619	1,530	14,149
By Percent			
Broward County Hospitals	89.0%	88.1%	88.9%
Contiguous Counties	11.0%	11.9%	11.1%
Total Resident Discharges	100.0%	100.0%	100.0%

Source: CON application #10224, page 23.

The applicant indicates predominantly rising adult psychiatric outmigration rates, per 1,000 adults in Broward County, from calendar year 2010 through June 30, 2013. The Shores indicates this rise is again due to temporary delicensure at ASH, the fact that TSBH has not yet become operational “and other bed dynamics by hospital” within the district during the past 2 ½ years (see the chart below).

Broward County Adult Psychiatric Out-Migration Trend



Source: CON application #10224, page 23.

The Shores contends that when the proposed facility becomes accessible to Broward County residents, an additional “---”⁹ cases will remain in Broward County facilities (see the table below).

District 10 Forecasted Change to Outmigration Experience for Psychiatric (MDC 19) Discharges by Age Cohort						
	CY 2017			CY 2018		
	18-64	65+	Total	18-64	65+	Total
Resident Discharges	13,510	1,972	15,482	13,526	2,032	15,558
Historical Outmigration	11.0%	11.9%	---	11.0%	11.9%	---
Resulting Outmigration	6.5%	8.0%	---	6.5%	8.0%	---
Net Change in Outmigration	4.5%	3.9%	---	4.5%	3.9%	---
Incremental Discharges	608	77	685	609	79	688

Source: CON application #10224, page 24.

The applicant provides a table with forecasted incremental utilization for 2017 and 2018 (year one and two of operation) using its 8.0 average length of stay (ALOS) experience. TSBH contends that by the second year of the project, based on population growth, discharge use rates based on enhanced access to licensed bed capacity, historical in-migration percents and effect on outmigration—there will be an incremental average daily census (ADC) of 52 psychiatric patients, 15 of which will be 65+ (see the table below).

⁹ While the applicant put “---“ in narrative, based on the information in the table, The Shores projects that 685 patients in 2017 and 688 in 2018 that would otherwise out-migrate without the project, will remain in Broward County.

District 10 Forecasted Incremental Utilization for Psychiatric (MDC 19) by Age Cohort						
	CY 2017			CY 2018		
	18-64	65+	Total	18-64	65+	Total
Incremental Discharges	891	442	1,333	907	502	1,409
In-Migration (20%)	178	88	267	181	100	282
Reduction in Out-Migration	608	77	685	609	79	688
Total Incremental Discharges	1,677	607	2,285	1,697	681	2,379
Average Length of Stay (ALOS)	8.0			8.0		
Forecasted Incremental Utilization						
Patient Days	13,418	4,859	18,277	13,579	5,451	19,030
Census	36.8	13.3	50.1	37.2	14.9	52.1

Source: CON application #10224, page 25.

The applicant provides a forecasted utilization for the first two years of operation based on incremental population growth, in-migration, enhanced access and utilization, specialized programming for geriatrics and the frequency of diversion at competing facilities in Broward County. The reviewer notes that the table below, except for the years, is identical to the applicant's CON #10131 application, page 23.

The Shores Behavioral Hospital Projected Utilization Years One and Two of Operation		
	CY 2017	CY 2018
Admissions		
Psychiatric	1,725	1,916
Substance Abuse	597	608
Total	2,322	2,525
Average Length of Stay		
Psychiatric	8.0	8.0
Substance Abuse	6.6	6.6
Patient Days		
Psychiatric	13,797	15,330
Substance Abuse	3,942	4,015
Total	17,739	19,345
Average Daily Census		
Psychiatric	37.8	42.0
Substance Abuse	10.8	11.0
Total	48.6	53.0
Occupancy Rates		
	67.5%	73.6%

Source: CON Application #10224, page 26.

The Shores maintains that the forecasted occupancy rates and ADC are realistic and achievable, given the hospital's historical occupancy rate prior to the temporary delicensure of beds and its current demand for beds. As previously stated in item E.1.a. of this report, Agency records indicate that ASH realized a 50.32 percent adult inpatient psychiatric occupancy rate for the 12-month period ending June 30, 2013 with 8,191 adult psychiatric patient days. The applicant expects the forecasted increases (in 2017 and 2018) are reasonable, given stated

historical occupancies, recent increases in out-migration since temporarily delicensing some beds and the proposed physical plant.

TSBH states that District 10 has 441 licensed adult psychiatric beds dispersed amongst eight hospital providers and 63 adult substance abuse beds¹⁰ across three hospital providers. TSBH states that prior to delicensing its adult substance abuse unit, Atlantic Shores Hospital was one of only three hospitals that had both adult psychiatric and substance abuse beds—a stated added benefit for those patients that have a dual diagnosis. The applicant also notes that in District 10, all but three providers (including Atlantic Shores) are behavioral health programs located in general medical/surgical hospitals. TSBH contends that Atlantic Shores sole focus is to provide its patients with treatment for psychiatric and substance abuse whereas the other hospital providers may focus more on acute stabilization.

TSBH provides historical adult psychiatric hospital provider utilization and occupancy rates for each hospital provider in Broward County. The applicant states that District 10’s overall occupancy rate for its adult psychiatric beds has been between 57 and 59 percent for the past three years (ending June 30, 2013). TSBH contends that since it has not been able to utilize all of its licensed bed capacity due to physical space limitations, this has affected the facility and district wide occupancy rate, coupled with the fact it delicensed 30 of its adult beds (18 for psychiatric and 12 for substance abuse). See the table below.

District 10 Adult Inpatient Psychiatric Hospital Occupancy 12-Month Periods Ending June 30, 2011—June 30, 2013						
Hospital	7/1/10-6/30/11		7/1/11-6/30/12		7/1/12-6/30/13	
	Patient Days	Occupancy	Patient Days	Occupancy	Patient Days	Occupancy
Atlantic Shores Hospital	9,807	44.8%	8,236	37.5%	8,191	50.3%
Broward Health Imperial Point	11,386	66.4%	9,710	56.4%	9,692	56.5%
Broward Health Medical Center	15,901	52.5%	14,721	48.5%	15,866	52.4%
Florida Medical Center	12,552	46.5%	12,819	47.3%	13,394	49.6%
Fort Lauderdale Hospital	14,525	82.9%	15,554	88.5%	15,108	86.2%
Hollywood Pavilion	7,167	33.5%	6,351	34.7%	3,644	20.0%
Memorial Regional Hospital	13,172	80.2%	13,078	79.4%	13,416	81.7%
University Hospital & Medical Center	13,950	73.5%	15,408	81.0%	15,946	84.0%
District 10 Total	98,460	57.7%	95,877	57.1%	95,257	58.8%

Source: CON application #10224, page 30.

¹⁰ According to the Hospital Bed Need Projections & Services Utilization by District publication, issued January 17, 2014 District 10 had 441 licensed adult inpatient psychiatric beds and had CON approval to add 29 adult psychiatric beds.

TSBH contends that that the proposed project is to replace CON #10131 and “to alleviate a major problem the District is faced with, that of diversion”. The applicant maintains that despite the occupancy rates in the above table, District 10 hospitals often experience times when beds are fully occupied. TSBH explains that oftentimes Baker Act patients present to a particular facility that has no beds readily available for admission and therefore the patient needs to be transferred to one of the other facilities with available beds. Per TSBH, the psychiatric hospitals in District 10, in an effort to operate more effectively and efficiently, voluntarily inform each other when on diversion so that referring facilities do not send patients to a facility that will not be able to admit them. According to TSBH, this collaborative effort has been very successful for those facilities that participate. Records are stated to be maintained in a countywide facility overflow diversion log.

The applicant indicates that diversion log recorded during a 12-month period (the reviewer notes TSBH does not state what 12-month time frame), ASH and Fort Lauderdale Hospital captured four months of diversion data and diverted 283 patients from the various hospitals because the referring facility was at capacity or because patients presented at a facility that is not licensed with psych beds. The applicant contends that the proposed project would “alleviate much of the diversion that occurs in Broward County hospitals”. This would be accomplished, TSBH asserts, because it would be able to operate all 60 adult psychiatric beds and 12 substance abuse beds, rather than the 30 to 35 beds it operates now and would accept more diverted patients from licensed providers.

Qualitative Need

The applicant maintains that while the above analysis justified the incremental utilization based on population growth, migration patterns and enhanced accessibility—the more pressing need to replace this hospital stems from challenges with the existing facility itself.

Atlantic Shores Hospital was built in the 1960s and was originally licensed as a nursing home. The applicant contends that the existing facility does not meet the clinical needs of a 21st century behavioral health hospital. TBSH states that Atlantic Shores Hospital lacks the physical space to maintain regular availability of and accessibility to licensed beds and it faces a plethora of challenges stemming from its dated mechanical systems. The applicant states that the current limitations are widespread and are grouped into three categories:

- Clinical challenges
- Operational challenges
- Facility challenges

In regards to clinical challenges, the applicant states that while the facility has been retrofitted over the years, several barriers and challenges have transpired. Currently, group therapy poses a challenge due to lack of space. ASH is not able to provide a full continuum of care to its patients, post inpatient discharge or able to support population in the area with outpatient services to potentially avoid hospitalization.

The Shores would ideally like to offer, but is not limited to, the following inpatient programming within the new hospital:

- Geriatric program
- Trauma focused cognitive behavior therapy
- Therapies segregated by diagnosis
- Therapies segregated by age
- Impaired professionals program (a substance abuse program geared towards professional persons)
- Sexual addiction program

A sample of some of the outpatient programming the applicant intends to offer in the replacement hospital includes but is not limited to:

- Outpatient and intensive outpatient programming for school aged children and adolescents
- Partial hospitalization program
- Hospital-based outpatient mental health clinic
- Hospital-based family therapy
- Early intervention program
- Foster care prevention
- Substance abuse prevention for preteens
- Parenting classes
- Hospital-based employee assistance program
- Hospital-based medication monitoring for low functioning adults

TSBH indicates that ASH participates in a number of clinical drug trial programs but that the current physical space is extremely limited putting pressure on the availability of ASH's full licensed capacity. TSBH maintains that Atlantic Shores Hospital has no private spaces for physicians and nurse stations are undersized, which creates HIPAA challenges. In addition, the applicant states that ASH does not currently have an isolation room for cases of medically compromised patients.

The applicant contends that the current facility faces patient flow issues operationally due to the past retrofitting. ASH has one entrance for admissions, of any age or of any status (voluntary or involuntary) as well as the population treated for the Immigration and Naturalization Services¹¹. This main entrance also serves as the access door for Emergency Medical Services.

ASH is a Baker Act and Marchman Act receiving facility and the applicant states this population is comingled with other patients. The applicant maintains that a separate admitting area is the industry preference and a common standard of practice. TSBH states that Baker Act and Marchman Act patient triage is another challenge, as it is done in two rooms that are used for all admissions. TSBH states that often patients waiting to be triaged wait in the lobby or hallway.

The applicant asserts that the operational challenges impose strict management of schedules for group access to the functional rooms via the single rotunda design. TSBH states that co-mingling in the rotunda has to be managed for the higher functioning adult psychiatric patients and the lower functioning psychiatric patients to keep them separate as well as to avoid passage with the adolescent residential population. Patient rooms at ASH have typically had three beds; however, per TSBH, with the delicensure of beds, this has been addressed in some rooms. The applicant also states that the lack of licensed beds has created other problems. With the delicensure, bathrooms are shared between two patient rooms, meaning four patients may share one single toilet if there are two patients in each room. Further, up to 21 patients share two showers, which leads to scheduling problems. In order to avoid co-mingling of patient populations, scheduling meals is required. There are four half hour slots for each meal, two for adult acute inpatients, one for residential boys and one for residential girls. The result is reduced access to functional rooms on a daily basis.

The applicant contends that other operational challenges that confront ASH include:

- Undersized kitchen
- Undersized outdoor space
- Undersized visitation rooms
- Lack of employee lounge

¹¹ Per the website at <http://www.uscis.gov/>, the Immigration and Naturalization Services of the U.S. Department of Justice was abolished in 2003, with its functions at that time spread among three federal agencies, one being the U.S. Citizenship and Naturalization Services of the U.S. Department of Homeland Security.

TSBH states that the current physical plant limitations are over and above the approximately \$4 million in repair and replacement invested during the past three years. These include, but are not limited to:

- Main entrance poses a bottleneck problem.
- The parking lot does not accommodate sufficient space for visitors and staff.
- The mechanical systems are in disrepair. Patient rooms/common areas are not fully ventilated. Most patient rooms are not air-conditioned.
- Shortage of laundry facilities to accommodate facility needs. Two washers and dryers are available for the hospital.
- The kitchen is in need of major renovation.
- Life safety components are in need of upgrade, including fire panels for both administration and hospital areas.
- Existing electrical wiring of older panels throughout the entire facility are in need of upgrade.

The applicant concludes its qualitative need portion by stating that facility challenges impact the physicians and clinicians ability to provide the highest quality of care.

TSBH maintains that rather than having an adverse impact on existing providers, the proposed replacement facility will have a positive impact for an existing provider and the community at large. The applicant contends that adverse impact will be non-existent as Atlantic Shores Hospital is already a licensed and existing provider “and has approval to replace the hospital in the service area”. The reviewer notes that CONs #10131 and #10132 have been terminated and as such, there is no longer Agency approval to proceed with those respective projects.

The applicant indicates that it will continue to work collaboratively with the other licensed hospital providers and the local crisis stabilization unit. TSBH asserts that ASH has a longstanding collaborative relationship in District 10 as evidenced by its work with the “Diversion Task Force”. Per TSBH, another positive impact of the project on existing providers, will be the development of a 16-bed geriatric unit, which it contends will raise awareness of psychiatric and mental health disorders affecting the elderly, promote healthy aging strategies and increase access to quality mental health care for the elderly. The applicant maintains that this unit will allow existing providers that do not have a geriatric unit to have more beds available to care for the mental health needs of the younger adult age cohort.

TSBH indicates that the proposed replacement hospital will have further positive impact by offering the community a broader continuum of care with its outpatient programming. Additionally, the applicant states it will provide partial hospitalization programs and specialized outpatient group/individual therapy services to ensure continued stabilization and reintegration of patients into the community.

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-1.040(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 applicant states that this application is consistent with the needs of the community and other criteria as well as Florida Department of Children and Families' Substance Abuse and Mental Health Services Plan. Per TSBH, evidence of this is detailed throughout CON application #10224 in the appropriate sections and/or responses to the state Rules and Criteria. There are no State Health Plan or Local Health Council Plan criteria to meet.

- 2. 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.**

TSBH contends that approval of the proposed project will not alter District 10's current inpatient licensed and approved general psychiatric bed inventory, "as the applicant only seeks to replace the beds approved via CON #10131 for 60 adult beds". The applicant maintains that while CON application #10224 does not directly correlate to the current existing licensed beds due to the temporary delicensing of 18 adult psychiatric beds, it does directly correlate to the licensed and approved beds as it is a substitute CON application for CON #10131 which was approved for 60 psychiatric beds.

The project will add 18 beds in a freestanding facility and with the 11-bed notification at Memorial Regional Hospital, 360 of the district's 470 beds or 76.60 percent of the district's adult inpatient beds will be in general hospitals. However, this criterion is becoming obsolete with the expansion of Medicaid managed care which allows freestanding hospitals to be reimbursed from Medicaid funds.

3. **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.**

District 10's adult psychiatric beds experienced 58.8 percent occupancy during the 12-month period ending June 30, 2013. The project involves adding 18 new beds as 42 of the 60 beds proposed are presently licensed.

- b. **Priority Considerations for hospital inpatient general psychiatric services (Rule 59C-1.040 (5) (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 equal to greater than the average percentage of Medicaid and charity care 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 applicant states that while freestanding psychiatric and substance abuse hospitals can contract with Medicaid managed care plans, ASH is precluded from participating in the Medicaid Fee for Service Program.

TSBH indicates that Atlantic Shores Hospital provided 13.8 percent of its total psychiatric patient days to Medicaid HMO

enrollees and another seven percent of its patient days to unfunded charity care/self-pay patients in the 12-month period ending June 30, 2013. Broward County has been in Medicaid Managed Care pilot diversion program since 2010.

According to the Florida Center for Health Information & Policy Analysis hospital discharge data for the 12-month period ending June 30, 2013, ASH provided 11.41 percent of its total patient days to Medicaid and Medicaid HMO patients and 0.03 percent to charity care patients. District 10 provided 15.39 percent of patient days to Medicaid/Medicaid HMO patients and 1.92 percent to charity or 17.31 percent of patient days to a combination of Medicaid/Medicaid HMO and charity.

Per Schedule 7 of the application, by year two of operation, TSBH forecasts to provide 1,113 psychiatric patient days to Medicaid HMOs and 479 charity care days—representing seven percent and three percent, respectively, of total psychiatric patient days.

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.

TSBH asserts that ASH already serves the most seriously mentally ill patients and will continue to do so in the replacement hospital. These patients include but are not limited to suicidal patients, those with acute schizophrenia and those suffering from severe depression.

The applicant states that Admission Criteria Policy requires that the adult patient must be at least 18 years of age and eligible patients are admitted regardless of sex, race or ethnic/social background.

TSBH maintains that it reserves the right to refer elsewhere any persons not meeting the stated criteria for admission include:

- The program is not designed or equipped to handle patients who are bed ridden or immovable.
- Individuals whose prior history of violent or aggressive behavior is assessed as beyond the capabilities of the staff and physical environment to accommodate.
- Individuals who have an acute, unstabilized medical condition in addition to psychiatric problems.

- Individuals who have contracted communicable diseases and thus require isolation/intensive nursing care.
- Individuals who have extensive physical care needs which may be better served in another facility.

The applicant indicates that when a person is deemed ineligible for admission the reason for refusal is explained and alternatives for treatment are discussed. TSBH asserts that every effort is made to provide a referral with the appropriate quality of care and scope of services.

3. Propose to serve Medicaid-eligible persons.

TSBH states it will contract with Medicaid managed care plans and provide charity care in the replacement facility. The applicant states that in the 12-month period ending June 30, 2013, ASH provided 13.8 percent¹² of its total psychiatric patient days to Medicaid HMO enrollees and another seven percent of patient days to unfunded charity care/self-pay patients. TSBH contends that the nearly 21 percent provided by the facility to Medicaid HMO and charity care exceeds the district average of 17.8 percent.

TSBH projects 1,002 of its psychiatric patient days will be Medicaid HMO payors in year one of operation. The reviewer notes these figures are consistent with CON application #10224, Schedule 7. In year two of operation, TSBH projects 1,113 psychiatric patient days will be provided to Medicaid HMO enrollees.

Propose to serve individuals without regard to their ability to pay.

The applicant states that patients are treated at ASH and will be treated at the new facility, without regard for their ability to pay. Furthermore, TSBH states that in fiscal year 2013 (ending December 31, 2013), ASH provided \$215,667 (2.6 percent of net inpatient revenue before bad debt) in charity care. The reviewer notes that as of this review, the Florida Hospital Uniform Reporting System is not yet updated to verify these calendar year 2013 stated figures.

¹² The applicant does not indicate an actual number in the narrative on page 54 of CON application #10224 specifically in answer to this criteria, but did indicate on page 52 that it provided 13.8 percent of its total psychiatric patient days to Medicaid HMO enrollees.

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

The applicant states that ASH is and TSBH will continue to be a private Baker Act receiving facility and a Marchman Act receiving facility. The applicant reiterates that it has conditioned approval of CON application #10224 on the condition it will become a designated Baker Act receiving facility upon licensure and certification.

- 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's proposal is for a 60-bed adult psychiatric freestanding Class III specialty hospital in Broward County. TSBH maintains that the individual programs and units meet this criterion. The applicant provided a depiction of the separately organized units in Tab V (Schedule 9 and architectural plans) of CON application #10224.

- 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).**

TSBH states that ASH receives 80 percent of its total admissions from Broward County and 20 percent from elsewhere (12 percent from other counties in Florida and eight percent from outside the state). The applicant maintains that the new facility will be located in the same general vicinity as the existing hospital, within east central Broward between Las Olas on the south, Commercial Boulevard on the north, I-95 on the west and Federal Highway on the east. The applicant notes that Broward County's population resides within 45 minutes of existing facilities.

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).**

TSBH states it will meet Agency standards and comply with this rule criterion. Furthermore, the applicant maintains that it will continue to operate a mechanical restraint and seclusion free environment.

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).**

TSBH states that ASH is a longstanding behavioral health hospital provider in Broward County and has a well-established referral network for outpatient services, partial hospitalization programs, intermediate residential facilities, community mental health programs and local psychiatrists/psychologists. The applicant states that these relationships will continue to play a significant role in the inpatient's continuity of care.

The applicant maintains that the proposed facility will have dedicated space for outpatient programming. The outpatient programs will be designed for former inpatients as well as the community at large and will include:

- Partial hospitalization program
- Outpatient and intensive outpatient programming for school aged children and adolescents
- Hospital-based outpatient mental health clinic
- Hospital-based family therapy
- Early intervention program
- Foster care prevention
- Substance abuse prevention for preteens

- Parenting classes
- Hospital-based employee assistance program
- Hospital-based medication monitoring for low functioning adults

TSBH indicates that as part of its discharge planning process, it will provide referrals to community mental health centers, local mental health programs and local substance abuse programs.

- 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 states that ASH provides medical screening to determine the appropriate level of care for the patient. TSBH asserts that a medical screening is never delayed in order to verify insurance information.

TSBH states that this screening must be completed in full as it identifies chief symptoms, vital signs, general appearance, mental state, medical issues, degree of danger to self or others, medication, mental status, psychiatric and substance abuse treatment history, support system, referral source and time/date of screening.

TSBH maintains that ASH's emergency medical screening aims to best determine the plan of care for the patient and identify all risk factors. The applicant asserts that the emergency medical screening policy and procedures will be implemented at the proposed facility.

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 applicant states it will serve all adults ages 18 and older. Additionally, TSBH indicates that the proposed project will have a 16-bed geriatric unit.¹³

It is noted that the Agency considers adult psychiatric patients to be patients 18 years of age and older. For CON purposes, there is no Agency recognized geriatric designation for adult psychiatric patients.

2. Specialty programs to be provided.

TSBH states that a major benefit to the proposed hospital is that there will be more space to provide specialized inpatient programming. For instance, TSBH maintains that if more space was available, the applicant could provide more specific group therapy sessions and separate these sessions by such factors as:

- higher/lower functioning patients
- substance abuse/psychiatric disorders
- younger/older adults

Programs TSBH plans to offer in the new facility include but are not limited to:

- Crisis stabilization
- Specialized geriatric services in a 16-bed geriatric unit
- Behavioral problems and conduct disorders
- Chemical dependency programs
- Dual diagnoses
- Therapies segregated by age
- Trauma focused cognitive behavior therapy
- Sexual addiction therapy

¹³ There is no designated geriatric unit in the architectural drawings. The psychiatric units are divided into two 15-bed units and one 30-bed unit.

- Abuse therapy
- Familial issues therapy
- Gender specific group therapy
- Eating disorders therapy
- Impaired professional program

The applicant maintains that offering a continuum of care for its patients will help in successful treatment and that all treatment modalities will be based on a clinical decision by the treatment team.

TSBH states that the treatment philosophy used by ASH that patients are viewed as holistic persons will continue at its facility. The applicant states that it teaches each and every patient the skills to deal with defeats that prevent them from having a fulfilling life.

The applicant indicates that the therapeutic approach at ASH to be used at TSBH's proposed facility is based on the following techniques and principles:

- Multidisciplinary approach incorporating psychiatric, psychosocial and medical components
- Therapeutic milieu designed to encourage patient participation in therapeutic, behavioral, nursing and recreational groups
- Components of Cognitive Behavioral Therapy (CBT) and Rational Emotive Behavior Therapy (REBT) incorporated into clinical groups to develop problem solving and coping skills
- Components of Transactional Analysis to facilitate appropriate communication techniques and more functional interpersonal relationships
- 12-Step Recovery targeting those admitted for chemical dependency and expanded to include implementation of the 12 steps in relation to psychiatric conditions

In CON application #10224, page 60-61, TSBH offers a brief explanation of some of the services that will continue to be used at the proposed facility, including:

- Nursing services
- Individual therapy
- Family therapy
- Family and patient education
- Pharmacology

- Activities therapy
- Discharge planning
- Referral services

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

The applicant proposes the following staff and FTE counts, for year one and year two.

CON #10224 Forecasted Full Time Equivalents Calendar Years 2017 and 2018				
Position	Year One (CY 2017)		Year Two (CY 2018)	
	Total FTEs	Psych FTEs	Total FTEs	Psych FTEs
Administration				
Administrator	1.5	0.8	1.5	0.8
Director of Nursing	1.0	0.5	1.0	0.5
Admissions Director	1.0	0.5	1.0	0.5
Secretary	1.0	0.5	1.0	0.5
Medical Records Clerk	2.0	1.0	2.0	1.1
Other	20.5	10.6	20.5	10.9
Nursing				
R.N.s	23.6	14.0	23.6	14.0
L.P.N.s	6.8	4.8	6.8	4.8
Nurses Aides	34.6	15.2	40.1	19.0
House Supervisor	3.6	1.9	3.6	1.9
Dietary				
Dietary Supervisor	1.0	0.5	1.0	0.5
Cooks	2.0	1.0	2.0	1.1
Dietary Aides	2.0	1.0	2.0	1.1
Social Services				
Social Service Director	1.0	0.5	1.0	0.5
Activities Assistant	2.0	1.0	2.0	1.1
Therapist	7.2	3.8	7.8	4.2
Housekeeping				
Housekeeping Supervision	1.0	0.5	1.0	0.5
Housekeepers	3.0	1.6	3.0	1.6
Plant Maintenance				
Maintenance Supervisor	1.0	0.5	1.0	0.5
Maintenance Assistance	2.0	1.0	2.0	1.1
Total FTEs*	119.8	61.6	123.9	66.3

Source: CON application #10224, page 62-63.

Notes: The applicant's Schedule 6 excludes 2.0 Pharmacy FTEs, which are a contracted service. The reviewer notes slight differences with three total columns - Year one total facility FTEs compute to 117.8 and Psych (the project's) FTEs are 61.2. Year two for the project computes to 66.2 FTEs.

Notes to CON application #10224, Schedule 6 indicates that this staffing model is based upon historical and current staffing patterns at ASH as well as the anticipated occupancy and programs to be provided at TSBH's proposed facility. Furthermore,

the applicant asserts that the proposed project will create “more than 20 new jobs” in the first two years and will have “a positive economic impact on the local economy”.

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

The applicant states that patient groups excluded from treatment include organic brain syndrome and dementia which would require significant clinical intervention that would not produce positive results. TSBH provided the following exclusions:

- Those who are “mentally retarded without corresponding affective disturbances or thought disorders”
- Those who require custodial care rather than active psychiatric treatment
- Involuntary admission involving charges for capital offenses and felony cases
- Those whose organicity will, in the judgment of a psychiatrist, not progress with a course of inpatient care

The Shores Behavioral Hospital notes that Atlantic Shores has a contract with INS to treat non-criminal cases.

5. Therapeutic approaches to be used.

TSBH states that the treatment philosophy used at ASH, that patients are holistic persons, will be used at the new facility. The applicant states that it teaches each and every patient the skills to deal with defeats that prevent them from having a fulfilling life.

The clinical service team is stated to assist patients in recognizing full potential through a variety of means, including but not limited to:

- Crisis interventions
- Group therapy
- Family therapy
- Discharge planning

The applicant indicates that the focus of its therapeutic approach is based on the following techniques and principles:

- Multidisciplinary approach incorporating psychiatric, psychosocial and medical components
- Therapeutic milieu designed to encourage patient participation in therapeutic, behavioral, nursing and recreational groups
- Components of Cognitive Behavioral Therapy (CBT) and Rational Emotive Behavior Therapy (REBT) incorporated into clinical groups to develop problem solving and coping skills
- Components of Transactional Analysis to facilitate appropriate communication techniques and more functional interpersonal relationships
- 12-Step Recovery targeting those admitted for chemical dependency and expanded to include implementation of the 12 steps in relation to psychiatric conditions

In CON application #10224, page 64-65, TSBH offers a brief explanation of some of the therapies that will continue to be used at the proposed facility, including:

- Nursing services
- Individual therapy
- Group therapy
- Family therapy
- Family and patient education
- Pharmacology
- Activities therapy

6. Expected sources of patient referrals.

The applicant expects to continue to receive patient referrals from the same sources as ASH does presently. TSBH offers the following “predominant” referral sources:

- Henderson Crisis Stabilization Unit
- Law enforcement
- Immigration and Naturalization Services (INS)
- Broward County medical/surgical hospitals without adult inpatient psychiatric beds
- Broward County medical/surgical hospitals with licensed adult inpatient psychiatric beds—either because these facilities are on diversion or because it does not contract for a particular payor and cannot admit the patient
- Attending physicians

- Local psychiatrists, psychologists and other clinicians/physicians
- Managed care companies
- Residential treatment programs
- Court order
- Skilled nursing facilities
- Assisted living facilities
- Schools and universities
- Word of mouth

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

Per TSBH, based on the historical utilization at the existing hospital, the expected length of stay for all adult psychiatric patients at the proposed facility is 8.0 days. This exceeds the 6.09 ALOS for adult inpatients in MS-DRGs 880-887 during the 12 months ending June 30, 2013 for all patients discharged from psychiatric providers in District 10. This also exceeds the 6.10 ALOS for all adult Broward County resident discharges from inpatient psychiatric facilities statewide in DRGs 880-887 for the 12 months ending June 30, 2013.

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 applicant provides a table of forecasted patient days by payer type for each of the first two years of operation at the replacement hospital. TSBH states that approximately 40 percent of the facility's (ASH's) current admissions are Baker Act or Marchman Act patients. The applicant anticipates that this 40 percent factor will continue throughout the projection years.

The Shores Behavioral Hospital, LLC Forecasted Patient Days Calendar Years 2017 and 2018						
	Psychiatric Patient Days		Substance Abuse Patient Days		Total Hospital Patient Days	
	CY 2017	CY 2018	CY 2017	CY 2018	CY 2017	CY 2018
Medicare	3,831	4,257	2,066	2,088	5,897	6,345
Medicare HMO	772	858	162	161	934	1,019
Commercial/Mgd Care	7,761	8,623	1,494	1,527	9,255	10,150
Medicaid	N/A	N/A	N/A	N/A	N/A	N/A
Medicaid HMO	1,002	1,113	25	40	1,027	1,153
Self Pay/Charity	432	479	195	199	627	678
Total	13,798	15,330	3,942	4,015	17,740	19,345

Source: CON application #10224, page 66.

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

The applicant states that its parent company, UHS, Inc.’s policy is to provide financial assistance based on federal poverty guidelines to patients with no health insurance, other state, federal health assistance or for whom the out of pocket expenses are “significant”. TSBH maintains that all financial assistance will be provided based on established protocols and completion of applicable forms.

TSBH states that the ASH provided \$215,667 in charity care representing 2.6 percent of its net inpatient revenue (before bad debt) in fiscal year 2013. According to the Florida Center for Health Information & Policy Analysis hospital discharge data for the 12-month period ending June 30, 2013, ASH provided 0.03 percent of its total patient days to charity care patients. The applicant asserts it will continue to provide the same level of care to residents of the community regardless of their ability to pay.

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’s response to this criterion is not applicable to the subject of quarterly reports. It is reproduced verbatim below.

The Applicant is seeking to establish a Class III Specialty Hospital with 60 adult inpatient psychiatric beds. These beds exist at ASH prior to its temporary delicensure due to physical plant challenges. The 30 adolescent DCF beds that will also be relocated to the proposed hospital.

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

In Volume 40, Number 12, dated January 17, 2014 of the Florida Administrative Register, a fixed need pool of zero beds was published for adult inpatient psychiatric beds in District 10 for the July 2019 planning horizon.

As of March 17, 2014, District 10 had 441 licensed adult inpatient psychiatric beds and notification NF130024 by Memorial Regional Hospital to add 11 adult inpatient psychiatric beds. The reviewer notes that The Shores Behavioral Hospital, LLC was approved to establish both a 60-bed adult inpatient psychiatric (CON #10131) and a 12-bed adult substance abuse hospital (CON #10132). However, effective March 10, 2014, the Agency terminated these CONs.

District 10's 441 licensed beds had an occupancy rate of 58.83 percent during the 12-month period ending June 30, 2013. The applicant is applying to establish a new 60-bed Class III specialty hospital through CON application #10224. The Shores Behavioral Hospital, LLC states that this project is to build a replacement facility and substitute for CON #10131. Atlantic Shores Hospital, LLC, the license holder, is the only legal entity that could file a replacement application for Atlantic Shores Hospital.

TSBH states that previously there were 30 more beds at ASH but those beds (18 adult psychiatric and 12 adult substance abuse) were temporarily delicensed due to physical plant challenges. TSBH states that prior to the beds being delicensed, ASH was one of only three hospitals in Broward County that had both adult psychiatric and substance abuse beds—which it contends is an added benefit for those patients that have a dual diagnosis. Broward County presently has two hospitals—Fort Lauderdale Hospital and Memorial Regional Hospital with both adult psychiatric and adult substance abuse beds. As previously

stated, Memorial Regional Hospital has notified the Agency of its intent to convert the substance abuse beds to adult psychiatric beds.

TSBH emphasizes that the sole focus of ASH and its sister facility, Fort Lauderdale Hospital, is to provide treatment for psychiatric and substance abuse whereas the other providers may focus more on acute stabilization.

TSBH provided historical psychiatric hospital provider utilization and occupancy rates for each psychiatric hospital provider in Broward County. TSBH contends that since ASH has not been able to utilize all of its licensed bed capacity due to physical space limitations, this has affected the facility and district wide occupancy rate. The applicant maintains that the proposed project, if approved, will alleviate a major problem District 10 is facing – that of diversion. TSBH again provides the District 10 adult inpatient psychiatric utilization table for the three year period ending June 30, 2013. See the table below.

District 10 Adult Inpatient Psychiatric Hospital Occupancy 12-Month Periods Ending June 30, 2011—June 30, 2013						
Hospital	7/1/10-6/30/11		7/1/11-6/30/12		7/1/12-6/30/13	
	Patient Days	Occupancy	Patient Days	Occupancy	Patient Days	Occupancy
Atlantic Shores Hospital	9,807	44.8%	8,236	37.5%	8,191	50.3%
Broward Health Imperial Point	11,386	66.4%	9,710	56.4%	9,692	56.5%
Broward Health Medical Center	15,901	52.5%	14,721	48.5%	15,866	52.4%
Florida Medical Center	12,552	46.5%	12,819	47.3%	13,394	49.6%
Fort Lauderdale Hospital	14,525	82.9%	15,554	88.5%	15,108	86.2%
Hollywood Pavilion	7,167	33.5%	6,351	34.7%	3,644	20.0%
Memorial Regional Hospital	13,172	80.2%	13,078	79.4%	13,416	81.7%
University Hospital & Medical Center	13,950	73.5%	15,408	81.0%	15,946	84.0%
District 10 Total	98,460	57.7%	95,877	57.1%	95,257	58.8%

Source: CON application #10224, page 70 from Hospital Bed Need Projections & Services by District–January 2011-2014.

The applicant maintains that the proposed project is to replace ASH, which will enhance access for Broward County residents. TSBH asserts that the proposed facility will increase its occupancy rates as well as the district’s overall occupancy rate and decrease newly increasing out-migration.

The applicant indicates that the proposed facility will allow enough physical space to enhance accessibility and utilization to specialized inpatient programming. TSBH states that the proposed facility will have a 16-bed geriatric unit, impaired professionals program, sexual addiction

program and therapies segregated by diagnosis and age. Furthermore, the proposed facility will be large enough to house a partial hospitalization program and outpatient programs.

TSBH asserts that the proposed project will provide a full continuum of care and the best therapeutic options to prevent relapse for those residents afflicted with behavioral health disease and disorders. The applicant also contends that the new facility will have increased functional capacity, a separate entrance, triage, and a holding area for patients with more of its beds available for admission. In addition, TSBH states it will continue to provide accessible behavioral health care to medically indigent patients and those enrolled in Medicaid HMO plans.

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 Shores Behavioral Hospital, LLC does not have a history of providing quality care. TSHB states that it is a newly formed entity created for the purposes of filing CON application #10224. The applicant indicates that concurrent with licensure and certification of the new hospital, Atlantic Shores Hospital will be delicensed. Per TSBH, the new facility will adopt all policies and procedures as well as the quality assurance program and performance improvement plan of ASH.

The applicant maintains that ASH has a history of providing quality care as evidenced by its two Joint Commission Accreditations for Hospital Accreditation and Behavioral Health Accreditation. TSHB states that it shares the companywide commitment of UHS, its parent company, to provide only the very highest quality of care. The UHS mission statement is, “to provide quality healthcare services the patients recommend to families & friends, physicians prefer for their patients, purchasers select for their clients, employees are proud of and investors seek for long-term results.”

The applicant also includes UHS’s statement of principles that set rules and guidelines to accomplish the organizational mission.

TSBH states that ASH has a performance improvement plan that focuses on improving the important functions and processes of the organization in order to increase the quality of care and patient outcome as well as to enhance operational efficiency. The applicant indicates that the performance improvement program strives to ensure that a uniform balance of patient care is provided for all clients through a continuum of services. TSBH states that the following facility wide functions will occur

on an ongoing and continuous basis:

- Quality council
- Surveillance, prevention and control of infection
- Risk management program
- Utilization management
- Management of the environment of care and risk assessment
- Management of Information
- Medication use.

TSBH states its parent company, UHS, provides a variety of continuing education courses for employees in three categories—new hire orientation, general in-service courses and health stream courses. The applicant provides a sample listing of these courses on pages 75-76 of CON application #10224. Furthermore, TSBH asserts that once employees have completed training, an online transcript is kept and evaluated by the human resources department.

Agency data obtained March 9, 2014 indicates that the 13 UHS hospitals (1,611 beds) had a total of 68 substantiated complaints during the previous 36 months. A single complaint can encompass multiple complaint categories. The table below has these listed by complaint categories.

UHS Substantiated Complaint Categories for the Past 36 Months	
Complaint Category	Number Substantiated
Quality of Care/Treatment	29
Resident/Patient/Client Rights	17
State Licensure	8
Admission, Transfer & Discharge Rights	7
Nursing Services	7
Resident/Patient/Client Abuse	6
Resident/Patient/Client Assessment	6
Administration/Personnel	4
Restraints/Seclusion General	4
Emergency Access	3
EMTALA	3
Physical Environment	2
Falsification of Records/Reports	1
Infection Control	1
Physician Services	1
Unqualified Personnel	1

Source: Agency for Health Care Administration complaint records.

During the reporting period, Atlantic Shores Hospital had three substantiated complaints in the following compliant categories—Quality of Care/Treatment (1), State Licensure (1) and Resident/Patient/Client Rights (2).

- 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 \$27,493,690 and year two operating costs of \$10,929,960.

Analysis:

The Shores Behavioral Hospital, LLC is a development stage company, with no assets, liabilities or operations, and is wholly owned by Universal Health Services, Inc. (parent). The applicant states the parent company will provide the funding required for the proposed hospital and provides a letter of financial commitment from the parent company stating it is committed to supporting the financial needs of the applicant "...subject to approval of our investment committee."

A copy of the parent's December 31, 2012 and 2013, audited financial statements (10-K) is included in the application. These statements were analyzed for the purpose of evaluating the parent's ability to provide the capital and operational funding necessary to implement the project.

Short-Term Position:

The parent's current ratio of 1.4 is below average and indicates current assets are approximately 1.4 times current liabilities, an adequate position. The working capital (current assets less current liabilities) of \$372.4 million is a measure of excess liquidity that could be used to fund capital projects. The ratio of cash flow to current liabilities of 0.8 is slightly below average and an adequate position. Overall, the parent has an adequate short-term position (see Table 1 below).

Long-Term Position:

The ratio of long-term debt to net assets of 1.2 is well above average and indicates that long-term debt is greater than equity, a weak position. The ratio of cash flow to assets of 10.6 percent is average and an adequate position. The most recent year had revenues in excess of expenses of \$554.0 million which resulted in a 6.6 percent operating margin. Overall, the parent has an adequate long-term position (see Table 1 below).

TABLE 1		
The Shores Behavioral Hospital, LLC – CON application #10224		
Universal Health Services, Inc. (ultimate parent) financial data		
	Parent	Parent
	12/31/2013	12/31/2012
	(Dollar amounts in thousands)	
Current Assets (CA)	\$1,432,329	\$1,407,496
Cash and Current Investment	\$17,238	\$23,471
Total Assets (TA)	\$8,311,723	\$8,200,843
Current Liabilities (CL)	\$1,059,888	\$894,058
Goodwill	\$3,049,016	\$3,036,765
Total Liabilities (TL)	\$5,011,494	\$5,434,894
Net Assets (NA)	\$3,300,229	\$2,765,949
Total Revenues (TR)	\$8,411,038	\$7,688,071
Interest Expense (Int)	\$146,131	\$178,918
Excess of Revenues Over Expenses (ER)	\$554,023	\$489,047
Cash Flow from Operations (CFO)	\$884,241	\$815,271
Working Capital	\$372,441	\$513,438
FINANCIAL RATIOS		
	12/31/13	12/31/12
Current Ratio (CA/CL)	1.4	1.6
Cash Flow to Current Liabilities (CFO/CL)	0.8	0.9
Long-Term Debt to Net Assets (TL-CL/NA)	1.2	1.6
Times Interest Earned (ER+Int/Int)	4.8	3.7
Net Assets to Total Assets (NA/TA)	39.7%	33.7%
Operating Margin (ER/TR)	6.6%	6.4%
Return on Assets (ER/TA)	6.7%	6.0%
Operating Cash Flow to Assets (CFO/TA)	10.6%	9.9%

Capital Requirements:

The applicant indicates on Schedule 2 capital projects totaling \$27.5 million, which includes this project and capital expenditures.

Available Capital:

The applicant indicates on Schedule 3 of its application that funding for the project will be provided by the ultimate parent. A letter from the parent’s vice president/treasurer in support of the related company financing was included. The parent’s 2013, audited financial statements shows \$372.4 million in working capital and \$884.2 million in cash flow from operations.

Staffing:

Staffing patterns for the applicant are displayed in the response to Item E. 2. f.(3) of this report.

Conclusion:

Funding for this project and the entire capital budget should be available as needed.

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.

Comparative data were derived from hospitals in peer groups that reported data in 2012; the applicant will be compared to the hospitals in Group 15, short-term psychiatric group. Group 15 has a total of 19 facilities. Per diem rates are projected to increase by an average of 2.9 percent per year. Inflation adjustments were based on the new CMS Market Basket, 4th Quarter, 2013.

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 \$475 in year one and \$474 in year two is between the control group's median and lowest values of \$650 and \$207 in year one, and \$668 and \$213 in year two. With net revenues falling between the control group's median and

lowest values, net revenues appear reasonable (see Tables 2 and 3 below).

Anticipated cost per adjusted patient day (CAPD) of \$390 in year one and \$380 in year two are below the control group lowest values of \$442 in year one and \$455 in year two. With projected costs below the lowest level, costs appear to be understated (see Tables 2 and 3 below).

The year two projected operating income for the applicant of \$2.7 million computes to an operating margin per adjusted patient day of \$94 or 19.9 percent which is between the control group's median and highest values of \$24 and \$238. With operating margin between the control group's median and highest values, operating margin appears reasonable (see Table 3 below).

Conclusion:

This project appears to be financially feasible.

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TABLE 3

**The Shores Behavioral Hospital, LLC
CON application #10224
2015 DATA Short-Term Psychiatric Group**

	Dec-18 YEAR 2 <u>ACTIVITY</u>	YEAR 2 ACTIVITY <u>PER DAY</u>	VALUES ADJUSTED FOR INFLATION		
			<u>Highest</u>	<u>Median</u>	<u>Lowest</u>
ROUTINE SERVICES	29,947,522	1,041	1,855	1,237	554
INPATIENT AMBULATORY	0	0	0	0	0
INPATIENT SURGERY	0	0	0	0	0
INPATIENT ANCILLARY SERVICES	0	0	258	0	0
OUTPATIENT SERVICES	0	0	315	36	0
TOTAL PATIENT SERVICES REV.	29,947,522	1,041	1,855	1,356	914
OTHER OPERATING REVENUE	45,968	2	99	1	0
TOTAL REVENUE	29,993,490	1,042	1,857	1,356	917
DEDUCTIONS FROM REVENUE	16,347,541	568	0	0	0
NET REVENUES	13,645,949	474	847	668	213
EXPENSES					
ROUTINE	3,557,558	124	461	181	108
ANCILLARY	1,040,574	36	182	23	0
AMBULATORY	0	0	0	0	0
TOTAL PATIENT CARE COST	4,598,132	160	0	0	0
ADMIN. AND OVERHEAD	2,836,698	99	0	0	0
PROPERTY	1,240,699	43	0	0	0
TOTAL OVERHEAD EXPENSE	4,077,397	142	698	356	148
OTHER OPERATING EXPENSE	2,254,432	78	0	0	0
TOTAL EXPENSES	10,929,961	380	899	634	455
OPERATING INCOME	2,715,988	94 19.9%	238	24	-245
PATIENT DAYS	28,730				
ADJUSTED PATIENT DAYS	28,774				
TOTAL BED DAYS AVAILABLE	37,230				
ADJ. FACTOR	0.9985				
TOTAL NUMBER OF BEDS	102				
PERCENT OCCUPANCY	77.17%				
			VALUES NOT ADJUSTED FOR INFLATION		
			<u>Highest</u>	<u>Median</u>	<u>Lowest</u>
			94.9%	82.6%	34.9%
	<u>PATIENT</u>	<u>% TOTAL</u>			
	<u>DAYS</u>				
PAYER TYPE					
SELF PAY	696	2.4%			
MEDICAID	0	0.0%	0.0%	0.0%	0.0%
MEDICAID HMO	1,324	4.6%			
MEDICARE	6,345	22.1%	99.2%	42.3%	15.0%
MEDICARE HMO	1,019	3.5%			
INSURANCE	848	3.0%			
HMO/PPO	7,789	27.1%	68.7%	28.8%	0.4%
OTHER	10,709	37.3%			
TOTAL	28,730	100%			

e. Will the proposed project foster competition to promote quality and cost-effectiveness? ss. 408.035(1) (e) and (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 42.3 percent of short-term psychiatric hospital charges in Florida, while HMO/PPOs account for approximately 33.3 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 payers. Price-based competition is further restricted as Medicare reimbursement, in many cases, is seen as the starting point for price negotiation among non-government payers. In this case, 22.3 percent of patient days are expected to come from Medicare with 35.0 percent from HMOs in year one. In year two, 22.1 percent of patient days are expected to come from Medicare with 35.3 percent from HMOs.

The User and Purchaser of Health Care are Often Different – Roughly 81.8 percent of short-term psychiatric 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 manner 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 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:

No, 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.

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 or 59A-4, Florida Administrative Code.

The plans and project narrative indicate the building will be fully sprinklered, of Florida Building Code (FBC) Type I-B, and National Fire Protection Association (NFPA)-3,3,2 construction. Both construction types are sufficient for the occupancy and building size. The applicant also acknowledges that the disaster preparedness issue will be a criterion in site selection, building design and construction.

The facility is divided into areas that are located at the perimeter of central courtyards. A combination of corridors and covered walkways connect all areas. The public spaces and administrative offices are located near the main entrance to the facility. This arrangement limits unnecessary traffic through the psychiatric and substance abuse units. Public toilet facilities for both male and female visitors have been included and are conveniently located near the public waiting space.

The rooms will be made up of a mixture of 28 semi-private rooms and four private Americans with Disabilities Act (ADA) accessible rooms in the psychiatric unit. The facility will also include 12 semi-private rooms in the substance abuse unit. Toilet/shower rooms are provided within each patient room. At least 10 percent of the patient bedroom and attached toilet/shower rooms must meet the standards required by FBC – Accessibility. Therefore, one patient room must be modified to meet the requirements.

Patient care is divided into two 30-bed units for psychiatric and a 12-bed unit for substance abuse, with each containing all the required support spaces which appear to be adequately sized. Social spaces have been provided and are in compliance with current codes. Dining is located in

a separate space and in accordance with Guidelines for Design and Construction of Health Care Facilities, 20 square feet clear space per patient must be provided.

Seclusion rooms are provided as required and exceed the minimum size requirements. Some slight modification will be needed for these rooms to reduce the length of the room to 11'-0" or less.

The applicant states the construction will conform to all current applicable building codes, including the NFPA codes and the requirements of the FBC.

Overall, the proposed project, as submitted, is designed to be functional and efficient and does not indicate any major impediments that would prevent the design and construction of a code compliant facility.

The estimated construction costs and project completion forecast appear to be reasonable. It's noted the cost includes a 60-bed psychiatric unit, a 12-bed substance abuse unit and a 30-bed residential treatment center.

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.

The applicant is a new entity and does not have a long history of providing health services to Medicaid patients and the medically indigent. The applicant states that Atlantic Shores Hospital has a history of serving these patients. Florida Uniform Financial Hospital Reporting System (FHURS) data indicates that Atlantic Shores provided zero Medicaid/Medicaid HMO days during CY 2012 and 2011 compared to the state average for freestanding psychiatric hospitals of 2.2 percent and 0.3 percent Medicaid HMO during FY 2012 and 2011, respectively.

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Atlantic Shores reported 1.7 percent (CY 2012) and 2.5 percent of its CY 2011 total services to charity care patients. Per FHURS data, the state average for freestanding psychiatric hospitals was 5.2 percent and 6.6 percent charity care during FY 2012 and 2011, respectively.

According to TSBH, for fiscal year ending December 31, 2013, ASH provided \$215,667 in charity care representing 2.6 percent of its net inpatient revenue. The reviewer notes that FHURS is not yet updated to verify these calendar year 2013 stated figures (see the table below).

District 10-Adult Psychiatric Hospitals/MDC 19 Adult Patient Days by Provider					
Hospital	Charity/ Self-pay Days	Medicaid HMO Days	Medicaid HMO/ Charity/ Self-pay	Medicaid Fee for Service Days	Total Patient Days
Atlantic Shores Hospital*	419	842	1,261	24	6,093
North Shore Med Center – FMC	2,004	508	2,512	2,027	12,889
Memorial Regional Hospital	1,569	58	1,627	1,341	13,126
Broward General Medical Center	1,250	1,386	2,636	2,591	15,589
University Hospital & Medical Center	2,627	1,418	4,045	942	15,660
Imperial Point Medical Center	1,627	790	2,417	952	9,554
Hollywood Pavilion	40	0	40	0	1,114
Fort Lauderdale Hospital*	498	597	1,095	17	13,726
District 10 Total	10,034	5,599	15,633	7,894	87,751
Percentage of Hospital's Total Patient Days					
Atlantic Shores Hospital*	6.88%	13.82%	20.70%	0.39%	100.00%
North Shore Med Center – FMC	15.55%	3.94%	19.49%	15.73%	100.00%
Memorial Regional Hospital	11.95%	0.44%	12.40%	10.22%	100.00%
Broward General Medical Center	8.02%	8.89%	16.91%	16.62%	100.00%
University Hospital & Medical Center	16.78%	9.05%	25.83%	6.02%	100.00%
Imperial Point Medical Center	17.03%	8.27%	25.30%	9.96%	100.00%
Hollywood Pavilion	3.59%	0.00%	3.59%	0.00%	100.00%
Fort Lauderdale Hospital*	3.63%	4.35%	7.98%	0.12%	100.00%
District 10 Total	11.43%	6.38%	17.82%	9.00%	100.00%

*Atlantic Shores Hospital and Fort Lauderdale Hospital share UHS as their parent company.
Source: CON application #10224, page 84.

TSBH indicates that ASH Hospital provided 13.8 percent of its total psychiatric patient days to Medicaid HMO enrollees and another seven percent of its patient days to unfunded charity care/self-pay patients in the 12-month period ending June 30, 2013. Per the applicant, this accounted for “nearly 21 percent” of ASH’s total patient days for the period. TSBH states that the district average for 12 months ending June 30, 2013 was 17.8 percent. The reviewer obtained hospital discharge data for the 12 months ending June 30, CY 2013, which indicates that Atlantic Shores reported 11.41 percent of its total (9,153) patient days were Medicaid (39 days) and Medicaid HMO (1,005) days and .03 percent (three) charity care days.

The applicant states that by year two, it forecasts to provide 1,113 psychiatric patients days for Medicaid HMO and “4279” for charity care/self-pay, representing seven and three percent of total psychiatric days. The projected Medicaid/Medicaid HMO days are consistent with Atlantic Shores’ hospital discharge data for the 12 months ending June 30, 2013. The reviewer notes that per CON application #10224, Schedule 7, in year two, the applicant projects 479 charity care patient days (3.12 percent) of the estimated total patient days of 15,330. Per TSBH, the majority of self-pay is expected to be charity care. The applicant’s projected charity care days are much higher than Atlantic Shores’ historical experience.

F. SUMMARY

The Shores Behavioral Hospital, LLC (CON application #10224)

proposes to establish a new 60-bed adult inpatient psychiatric Class III specialty hospital in District 10, Broward County, Florida. Upon approval and licensure of the proposed CON application #10244, Atlantic Shores Hospital (42 licensed adult inpatient psychiatric beds) is to be closed and its beds and services delicensed.

In Schedule C, the applicant proposes the following conditions for CON application #10224.

- Upon approval of this CON Application to establish a Class III Specialty Hospital with 60 adult psychiatric beds, the applicant will return CON #10131 to AHCA for its voiding. As previously stated, these CONs are void as of March 2014.
- Concurrent to licensure and certification of 60 adult inpatient psychiatric beds, 12 adult substance abuse beds and 30 adolescent residential treatment (DCF) beds at The Shores Behavioral Hospital, LLC, all hospital beds and adolescent residential beds at Atlantic Shores Hospital will be delicensed. Atlantic Shores has 42 adult licensed inpatient psychiatric beds and no adult substance abuse beds.
- The Shores Behavioral Hospital will become a designated Baker Act Receiving Facility upon licensure and certification.
- Upon licensure and certification The Shores Behavioral Hospital will seek Joint Commission Accreditation. This will not be a condition to the CON.

The proposed project involves a total cost of \$27,493,690. The applicant indicates that the project consists of 67,809 GSF of new construction and a total construction cost of \$15,032,194.

Need

In Volume 40, Number 12, dated January 17, 2014 of the Florida Administrative Register, a fixed need pool of zero beds was published for adult inpatient psychiatric beds in District 10 for the July 2019 planning horizon.

As of March 17, 2014, District 10 had 441 licensed adult inpatient psychiatric beds and notification NF130024 by Memorial Regional Hospital to add 11 adult inpatient psychiatric beds. District 10's 441 licensed beds had an occupancy rate of 58.83 percent during the 12-month period ending June 30, 2013. TSBH indicates that the proposal is outside the fixed need pool in that Atlantic Shores Hospital is an existing licensed provider. However, the project will add 18 adult inpatient psychiatric beds to the district.

TSBH indicates that due to current physical plant conditions, Atlantic Shores Hospital temporarily delicensed 30 of its adult beds (18 for psychiatric and 12 for substance abuse). However, these beds have been delicensed since September 19, 2012 and the licensee would have to file CON exemptions to start the process to add these back to the facility license. Per the applicant, the new facility will ultimately have 60 adult psychiatric and 12 substance abuse beds.

The applicant contends that the total population of Broward County will have improved access as the proposed replacement facility becomes operational, thus decompressing existing facilities that are regularly on diversion/overflow (which the project is intended to alleviate).

TSBH indicates that adult psychiatric discharge use rates per thousand population have declined and adult psychiatric outmigration rates increased for Broward County residents from calendar year 2010 through June 30, 2013. The applicant contends that these fluctuations are due to temporary delicensure of beds at ASH. However, the 18 beds delicensed at Atlantic Shores' during September 2012, are 3.92 of the district's existing 459 licensed adult psychiatric beds.

TSBH contends that adverse impact will be non-existent as ASH is already a licensed and existing provider "and has approval to replace the hospital in the service area".

The applicant's previously approved CONs have been terminated. The project would add 18 adult inpatient psychiatric beds to the district as Atlantic Shores Hospital's 42-bed delicensure is a condition to CON approval.

Existing providers can add mental health beds by exemption. While the applicant does not document need for the additional 18 beds, the need to upgrade to a new facility is apparent.

Quality of Care

The applicant does not have a history of providing quality care because it is a newly formed entity. The applicant states that it will adopt Atlantic Shores Hospital's existing policies and procedures, quality assurance program and performance improvement plan.

TSBH maintains that ASH has a history of providing quality care as evidenced by its two Joint Commission Accreditations for Hospital Accreditation and Behavioral Health Accreditation.

Agency data shows that UHS's 13 Florida hospitals had a total of 68 substantiated complaints in 16 categories for the three-year period ending March 9, 2014.

Cost/Financial Analysis

Funding for this project and the entire capital budget should be available as needed.

The project 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

TSBH is a new entity that does not have a long history of providing health services to Medicaid patients and the medically indigent. The applicant cites Atlantic Shores Hospital's historical provision of services to indigent patients, which has been below the state average for freestanding facilities per FHURs FY 2012 and 2011 data.

ASH does not have a Medicaid or charity care condition and the applicant does not propose to condition project approval to Medicaid or charity care patient days.

The applicant states that by year two, it forecasts to provide 1,113 psychiatric patients days for Medicaid HMO and “4279” for charity care/self-pay, representing seven and three percent of total psychiatric days.

Architectural Analysis

The plans and project narrative indicate the building will be fully sprinklered and of FBC Type I-B and NFPA (3,3,2) construction. Both construction types are sufficient for the occupancy and building size.

The applicant states the construction will conform to all current applicable building codes, including the NFPA codes and the FBC.

Overall, the proposed project, as submitted, is designed to be functional and efficient and does not indicate any major impediments that would prevent the design and construction of a code compliant facility.

The estimated construction costs and project completion forecast appear to be reasonable.

G. RECOMMENDATION

Approve CON #10224 to establish a 60-bed adult inpatient psychiatric hospital in District 10, Broward County. The total project cost is \$27,493,690. The project involves 67,809 GSF of new construction and a total construction cost of \$15,032,194.

CONDITIONS:

- (1) Upon approval of this CON application to establish a Class III Specialty Hospital with 60 adult inpatient psychiatric beds, the applicant will return CON #10131 to AHCA for its voiding.
- (2) Concurrent to licensure and certification of 60 adult inpatient psychiatric beds, 12 adult substance abuse beds and 30 adolescent residential treatment (DCF) beds at The Shores Behavioral Hospital, LLC, all hospital beds and adolescent residential beds at Atlantic Shores Hospital will be delicensed.
- (3) The Shores Behavioral Hospital will become a designated Baker Act Receiving Facility upon licensure and certification.

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: _____

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

Jeffrey N. Gregg
Director, Florida Center for Health Information and Policy Analysis