

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

## **A. PROJECT IDENTIFICATION**

### **1. Applicant/CON Action Number**

#### **Melbourne Terrace RCC, LLC/CON #10404**

709 S. Harbor City Boulevard, Suite 240  
Melbourne, Florida 32901

Authorized Representative: Geoff Fraser  
(321) 288-0191

### **2. Service District/Subdistrict**

District 7/Subdistrict 7-1 (Brevard County)

## **B. PUBLIC HEARING**

A public hearing was not held or requested regarding the proposed project.

### **Letters of Support**

**Melbourne Terrace RCC, LLC (CON #10404):** The Agency received various letters of support submitted by the applicant. The support letters fall broadly among three categories: physicians, patients/families and letters or notes of appreciation. All these letters/notes are individually composed. Also found in Appendix E are two newspaper clippings and a CD-ROM. While many of these support letters apply to the applicant, some are support/appreciation letters that compliment rehabilitative services provided at three sister Clear Choice skilled nursing facilities (SNFs) in Florida and one outside of Florida:

- Belleair Health Care Center (District 5/Subdistrict 5-2/Pinellas County)
- Winter Haven Health and Rehabilitation Center (District 6/Subdistrict 6-5/Polk County)
- Conway Lakes Health & Rehabilitation Center (District 7/Subdistrict 7-2/Orange County)
- Orchard Park Health Care Center (in the State of Colorado)

The CD/ROM includes “The Story of Bill”, about the successful rehabilitative care of a stroke patient at Belleair Health Care Center, who, through Clear Choice’s rehabilitative efforts, went from requiring intensive assistance with all activities of daily living in a SNF setting to noticeably improved measures of independence, sufficient to transition into an assisted living facility. This same CD/ROM also includes a brief video of “Dr. Krumins” who is highly complementary of Conway Lakes Health & Rehabilitation Center’s rehabilitation services that were provided to his patients.

**C. PROJECT SUMMARY**

**Melbourne Terrace RCC, LLC (CON #10404)**, hereafter referred to as Melbourne Terrace, MTRCC or the applicant, a for-profit entity, owned by the nursing home chain Clear Choice Health Care, (referred to as Clear Choice, CC or parent), proposes to add 30 community nursing home beds or a partial award to add 27 community nursing home beds to the existing 129-bed community nursing home Melbourne Terrace Rehabilitation Center in Subdistrict 7-1, Brevard County, Florida. The applicant plans to aggregate beds from Subdistrict 7-3 (Osceola County) that has a calculated bed need of three beds with published need from Subdistrict 7-1 in order to accommodate the proposed project.

According to Section 408.034 (6), Florida Statutes:

*“If nursing home bed need is determined to exist in geographically contiguous subdistricts within a district, an applicant may aggregate the subdistricts’ need for a new community nursing home in one of the subdistricts. If need is aggregated from two subdistricts, the proposed nursing home site must be located in the subdistrict with the greater need as published by the agency in the Florida Administrative Register. “*

The reviewer confirms that Brevard County had the greater need as published by the Agency in the Florida Administrative Register on October 2, 2015.

CC manages eight SNFs in Florida, listed below:

- Belleair Health Care Center
- Centre Pointe Health and Rehab Center
- Conway Lakes Health and Rehabilitation Center
- East Bay Rehabilitation Center
- Melbourne Terrace Rehabilitation Center
- Port Charlotte Rehabilitation Center

- Spring Lake Rehabilitation Center
- Sun Terrace Health Care Center

The project involves 27,580 gross square feet (GSF) of new construction for the full award. The construction cost is \$6,023,472. Total project cost is \$9,499,450. Project costs include land, building, equipment, project development, financing and start-up costs.

The partial project involves 27,580 GSF of new construction. The construction cost is \$6,023,472. Total project cost is \$9,455,500. Project costs include land, building, equipment, project development, financing and start-up costs.

The applicant expects issuance of license and initiation of service in December 2017.

The applicant proposes to condition the project as shown below:

1. The applicant will continue to provide an array of unique high-intensity subacute care rehabilitative programs and services for residents in its nursing home, including the following:
  - Left Ventricular Assist Device (LVAD)
  - Lee Silverman Voice Treatment (LSVT) Loud Program
  - Lee Silverman Voice Treatment (LSVT) BIG Program
  - Infusion Therapy Services including:
    - (a) Peritoneal Dialysis and
    - (b) Total Peritoneal Nutrition
  - Aquatic therapy, through development of two hydrotherapy pools
  - Rehabilitative therapy for patients unable to perform 100 percent weight-bearing ambulation, through purchase and use of an Anti-Gravity treadmill
  - Rehabilitative therapy for patients who would benefit from compressed-air equipment designed specifically for the aging population, through purchase and use of HUR Equipment
  - Sunshine/Wellness Check Program
  - Home Assessments:
    - (a) Medication Reconciliation and
    - (b) Rehabilitation Therapy Team Assessment, as appropriate
  - Transportation Program to transport outpatients from their home environment to therapy sessions when medically necessary

2. The applicant will continue to ensure highly skilled clinical staff members provide care to residents in its nursing home, evidenced by special training and/or certification as follows:
  - Lee Silver Voice Treatment (LSVT) Loud Certified
  - Lee Silver Voice Treatment (LSVT) BIG Certified
  - Aquatic Therapy Certification
  - Certified Stroke Rehabilitation Specialist (CSRS)
  - Lymphedema Certification
  - Vital Stim Therapy Certification
  - Neurodevelopmental Treatment (NDT) Certification
  - Fiberoptic/Flexible Endoscopic Evaluation of Swallowing (FEES) Certification
  
3. Community Give-Back Programs: Annual Funding of at least \$250,000
  - Unreimbursed indigent/charity care provided to patients requiring services at its facility
  - Donations of goods, services and/or direct funding to local charities selected by residents
  - Scholarship programs, which pay the costs of staff members to enroll in academic programs to further their formal education

Compliance of these conditions will be measured through notification to AHCA of the establishment of each program upon implementation of the program.

*Should the proposed 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. The Agency will not impose conditions on already mandated reporting requirements.*

<b>Total GSF and Project Costs of CON application #10404 and #10404P</b>					
<b>Applicant</b>	<b>CON #</b>	<b>Project</b>	<b>GSF</b>	<b>Costs \$</b>	<b>Cost Per Bed</b>
Melbourne Terrace RCC, LLC	10404	Add 30 community nursing home beds	27,580	\$9,499,450	\$316,648
Melbourne Terrace RCC, LLC	10404P	Add 27 community nursing home beds	27,580	\$9,455,500	\$350,204

Source: CON applications 10404, Schedules 1 and 9, full award and partial award, respectively

**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 with consultation from the financial analyst, Everett (Butch) Broussard of the Bureau of Central Services, who evaluated the financial data and Gregory Register of the Office of Plans and Construction, who reviewed the application for conformance with the architectural criteria.

**E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA**

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

**1. Fixed Need Pool**

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

In Volume 41, Number 192 of the Florida Administrative Register dated October 2, 2015, a fixed need pool of 27 beds was published for Subdistrict 7-1 (Brevard County) for the July 2018 Planning Horizon. A fixed need pool of three beds was published for Subdistrict 7-3 (Osceola County) for the same planning horizon. After publication of this fixed need pool, zero existing Subdistrict 7-1 facilities filed exemption requests or filed expedited CON reviews to increase or add community nursing home beds.

As of November 18, 2015, Subdistrict 7-1 had 2,638 licensed community nursing home beds and one approved community nursing home project – for Brevard Oaks Center, LLC, to establish a 131-bed community nursing home in Subdistrict 7-1 (CON #10312). During the 12-month period ending June 30, 2015, Subdistrict 7-1 experienced 88.87 percent utilization at 20 existing facilities. Below is a table illustrating nursing home patient days and occupancy within Subdistrict 7-1.

**Brevard County Nursing Home Patient Days and Occupancy  
July 1, 2014-June 30, 2015**

<b>Facility</b>	<b>Comm. Nursing Home Bed Inventory</b>	<b>Bed Days</b>	<b>Patient Days</b>	<b>Total Occupancy</b>	<b>Medicaid Occupancy</b>
Anchor Care and Rehabilitation Center	120	43,800	37,044	84.58%	58.92%
Atlantic Shores Nursing and Rehab Center	120	43,800	39,595	90.40%	59.90%
Avante at Melbourne, Inc.	110	40,150	31,951	79.58%	58.31%
Consulate Health Care of Melbourne	167	60,955	54,899	90.06%	53.92%
Courtenay Springs Village	96	35,040	25,967	74.11%	40.00%
Health Care Center of Merritt Island, The	180	65,700	61,365	93.40%	41.10%
Huntington Place	100	36,500	34,600	94.79%	63.51%
Indian River Chase	179	65,335	64,344	98.48%	74.99%
Island Health and Rehabilitation Center	120	43,800	41,585	94.94%	65.66%
Life Care Center of Melbourne	120	43,800	40,199	91.78%	28.00%
Life Care Center of Palm Bay	141	51,465	46,344	90.05%	49.38%
Melbourne Terrace and Rehabilitation Center	129	45,348	43,475	95.87%	29.34%
Palms Rehabilitation and Healthcare Center, The	120	43,800	42,490	97.01%	65.90%
Rockledge Health and Rehabilitation Center	107	39,055	35,589	91.13%	42.14%
Royal Oaks Nursing and Rehab Center	120	43,800	38,808	88.60%	40.82%
Titusville Rehabilitation and Nursing Center	157	57,305	46,744	81.57%	77.36%
Viera Health and Rehabilitation Center	114	41,610	37,222	89.45%	30.98%
Wave Crest Health and Rehabilitation Center	138	50,370	41,604	82.60%	62.20%
Vista Manor	120	43,800	38,338	87.53%	70.16%
West Melbourne Health and Rehabilitation Center	180	65,700	51,991	79.13%	66.66%
<b>Total</b>	<b>2,638</b>	<b>961,133</b>	<b>854,154</b>	<b>88.87%</b>	<b>54.76%</b>

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2015 Batching Cycle

The reviewer notes the current and projected population of Subdistrict 7-1 for the planning horizon. The projected population growth, both numerically and by percent are illustrated below.

**Current and Projected Population Growth Rate  
Brevard County, District 7, and Florida  
January 2015 and January 2018**

Area	January 1, 2015 Population			January 1, 2018 Population		
	0-64	65+	Total	0-64	65+	Total
Brevard	437,294	119,741	557,035	442,213	127,058	569,271
District 7	2,197,488	348,009	2,545,497	2,267,442	375,335	2,642,777
Florida	16,044,019	3,635,347	19,679,366	16,510,025	4,013,237	20,523,262
Area	2015-2018 Increase			2015-2018 Growth Rate		
	0-64	65+	Total	0-64	65+	Total
Brevard	4,919	7,317	12,236	1.12%	6.11%	2.20%
District 7	69,954	27,326	97,280	3.18%	7.85%	3.82%
Florida	466,006	377,890	843,896	2.90%	10.39%	4.29%

Source: Florida Agency for Health Care Administration Population Estimates, February 2015

The community nursing home beds per 1,000 residents for the age 65+ cohort in the subdistrict are shown below.

**Beds per 1,000 Residents Age 65 and Older**

Area	Community Beds	2015 Pop. Aged 65+	2015	2018 Pop. Aged 65+	2018
			Beds per 1,000		Beds per 1,000
<b>Brevard</b>	2,638	119,741	22	127,058	21
<b>District 7</b>	8,964	348,009	26	375,335	24
<b>Florida</b>	80,130	3,635,347	22	4,013,237	20

Source: Florida Agency for Health Care Administration Population Estimates, February 2015 and Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2015 Batching Cycle

**Melbourne Terrace RCC, LLC (CON #10404)** seeks approval to aggregate three beds from a contiguous subdistrict (7-3) to the community bed need of 27 beds in Subdistrict 7-1/Brevard County pursuant to the Agency’s Fixed Need Pool publication on October 2, 2015—an aggregation of 30 community nursing home beds. The applicant also seeks approval for a partial request of 27 beds.

MTRCC contends that the proposed project will increase access to the provision of specialized high-intensity rehabilitation and recovery services available to all residents, provided by certified staff using advanced, specially-designed equipment for the elderly population. The applicant asserts that this subacute care level of rehabilitative services offered by the applicant is not typically available in community nursing homes in general, and is not offered by other existing providers in Brevard County. The applicant indicates that the proposed project will continue to meet the growing need for high-intensity rehabilitative services which it is known to provide to the Brevard County community.

The applicant notes that the existing location is accessible to major thoroughfares, such as Interstate 95, U.S. Highway 192 and U.S. Highway 1. The applicant does not offer a data source for its population

estimates but states that Brevard County will grow from 559,975 persons (2015) to 575,533 persons (2018) and Osceola County will grow from 309,494 persons to 336,348 persons, over the same three-year period. According to MTRCC, this represents an increase of 15,558 persons or 2.8 percent for Brevard County and an increase of 26,854 persons or 8.7 percent for Osceola County from 2015 to 2018.

The applicant indicates that a more important consideration in bed need forecasting is the projected population of the service area's older age cohorts, specifically those aged 65+. Again not offering a data source for its population estimates and not offering a time frame for the projected population change, the applicant expects that the Brevard County age 65+ population will realize an incremental increase of 11,342 residents (9.5 percent) and that the Osceola County age 65+ population will realize an incremental increase of 6,709 residents (18.6 percent). MTRCC offers brief discussion also of the population ages 75+ and that this age cohort will also experience "significant" growth in both Brevard and Osceola Counties.

MTRCC contends that the proposed project is best positioned to address the community needs of residents in Brevard County, as demonstrated by what the applicant presents as distinct advantages, listed as following:

1. An experienced, local community nursing home management team, with headquarters and a training facility in Florida, will establish and operate the proposed project.
2. Comprehensive continuity of care provided for nursing home residents, including the subacute level of high-intensity rehabilitative services, provided by certified clinical staff using advanced equipment and facilities to ensure optimal patient outcomes and recovery.
3. Design and management of the facility by a community-focused organization that tailors its facility, programs and services and community giveback programs to the local communities' needs – all with the goals of ensuring resident choices, independence and dignity.
4. The proven programs and services to be provided will ensure that the highest quality nursing home services are available to the residents in Brevard County, evidenced by three Governor's Gold Seal facilities and six facilities with four or five-star rankings based on the Centers for Medicare & Medicaid Services ("CMS") national standards.



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

**Melbourne Terrace RCC, LLC (CON #10404)** is responding to the Agency's published fixed need pool, therefore this criterion is not applicable.

**2. Agency Rule Preferences**

**Please indicate how each applicable preference for the type of service proposed is met. Chapter 59C-1.036, Florida Administrative Code.**

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

- a. **Geographically Underserved Areas. In a competitive certificate of need review within the nursing home subdistrict as defined in 59C-2.200, Florida Administrative Code, the Agency shall award a certificate of need if the applicant meets all applicable criteria for a geographically underserved area as specified in subsection 408.032(18), Florida Statutes, and if the applicant meets the applicable statutory certificate of need review criteria specified in section 408.035, Florida Statutes, including bed need according to the relevant bed need formula contained in this rule. If the applicant is awarded a certificate of need based on the provisions of this paragraph, the applicant shall agree that the nursing facility will be located in a county without a nursing facility, or in the center of an area within the subdistrict of a radius of at least 20 miles which meets the definition of a geographically underserved area. The center of the geographically underserved area shall be the proposed nursing home location in the application.**

**Melbourne Terrace RCC, LLC (CON #10404)** was not submitted to remedy a geographically underserved area as defined above. The applicant indicates that this rule is not applicable in this application.

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

**Melbourne Terrace RCC, LLC (CON #10404)** states that through collaborative efforts, MTRCC will ensure that patients receive care in the most appropriate setting within the health care continuum. The applicant contends that one of the key benefits of the proposed project will be to allow local hospitals to increase limited hospital bed space for patients with a need for acute care services through timely and appropriately discharging of patients requiring intensive, post-acute care services to the proposed project. MTRCC maintains that a limited number of SNFs in Brevard and Osceola Counties offer the high-intensity services offered by the applicant. The applicant states the following equipment, programs and services will be part of the proposed project:

- HydroWorx® aquatic therapy
- AlterG anti-gravity treadmill
- Congestive heart failure/cardiac patient services
- LVAD patient services
- Cerebral vascular accident/stroke patient services
- Parkinson's Disease patient services
- Chronic Obstructive Pulmonary Disease (COPD) patient services
- Medication reconciliation
- Complex wound care
- Peritoneal dialysis
- Total peritoneal nutrition
- Infectious disease management
- HUR equipment
- Continuous and bi-level passive airway pressure (BIPAP/CPAP) programming
- Portable biosway
- Omni-cycle
- E-stim
- Ultrasound
- Diathermy
- Kinesis pulley system
- NuStep
- Sci-Fit

- Vitalstim
- Lee Silverman Voice Treatment (LSVT) Loud and BIG programs
- Various treatment and staff certifications
- Palliative care (through contracting with area hospice providers)
- WOW factor program
- Guardian Angel program
- Concierge service

Melbourne Terrace offers a table of contents for each of what the applicant states are policies and procedures in place at each CC-managed nursing home (CON #10404, Appendix I). These policies and procedures are as follows:

- Rehabilitation Guidelines Manual
- Dietary Guidelines Manual
- Clinical Operations Guidelines Manual
- Staff Development Manual

The reviewer notes that the applicant did not provide any specific information in the narrative regarding admission or discharge policies and procedures.

The applicant's Schedule 7 (for the full award) indicates that the average length of stay (ALOS) for the proposed project is 40.66 days and 41.02 days for years one and two, respectively. The applicant's Schedule 7 (for the partial award) indicates that the ALOS for the proposed project is 40.67 days and 41.34 days for years one and two, respectively.

Schedule 6A illustrates that the incremental FTEs for year one (ending December 31, 2018) total 30.0 and the incremental FTEs for year two (ending December 31, 2019) total 39.5. The year one and year two FTE totals increase by 9.5 FTEs from year one to year two and are the same for the full award and for the partial award. The proposed project's year one and year two incremental FTEs are shown in the table below.

<b>Melbourne Terrace RCC, LLC Proposed 30-Bed Addition (Full Award) and Proposed 27-Bed Addition (Partial Award) Projected Year One (Ending 12/31/2018) and Year Two (Ending 12/31/2019) Staffing</b>		
	<b>Year One FTEs</b>	<b>Year Two FTEs</b>
<b>Administration</b>		
Administrator In Training	0.0	1.0
Medical Records Clerk	0.0	0.5
Other: Marketing	1.0	1.0
Other: Nursing Administration	2.0	2.0
<b>Nursing</b>		
RNs	2.0	3.0
LPNs	4.0	4.0
Nurses' Aides	8.0	12.0
<b>Ancillary</b>		
Physical Therapist	1.5	1.5
PTA	1.5	1.5
Speech Therapist	0.5	0.5
OT	1.0	1.0
COTA	1.0	1.0
<b>Dietary</b>		
Cooks	1.5	2.0
Food Service Aides	2.0	3.0
Other: Dietician	0.0	1.0
<b>Social Services</b>		
Other: Transportation	1.0	1.0
<b>Housekeeping</b>		
Housekeepers	2.0	2.5
<b>Laundry</b>		
Laundry Aides	1.0	1.0
<b>Total</b>	<b>30.0</b>	<b>39.5</b>

Source: CON application #10404 and #1404P, Schedule 6A, respectively

According to the Schedule 6A notes, the staff projections reflect the number and mix of patients expected to be served in the proposed project and the applicable regulatory and professional staffing standards.

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

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

The applicant does not respond to this rule preference. However, Agency licensure records indicate that the

applicant has not had a nursing facility license denied, revoked or suspended within the 36 months prior to the current application.

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

The applicant does not respond to this rule preference. However, Agency licensure records indicate that the applicant has not had a nursing facility placed into receivership.

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

The applicant does not respond to this rule preference. However, Agency licensure records indicate that this provision is not applicable, since there have been no violations.

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

The applicant does not respond to this rule preference. However, Agency licensure records indicate that this provision is not applicable, since there have been no violations.

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

The applicant does not respond to this rule preference. However, Agency licensure records indicate that this provision is not applicable, since there have been no violations.

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

The applicant does not respond to this rule preference. However, the applicant has a history of reporting timely as required by rule.

**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 applicants' service area? s. 408.035 (1)(b) and (e), Florida Statutes.**

There are 71 licensed community nursing homes with a total of 8,964 community nursing home beds in District 7. Subdistrict 7-1 is composed of Brevard County and has 20 licensed community nursing homes with a total of 2,638 community nursing home beds. The subdistrict averaged 88.87 percent total occupancy for the 12-month period ending June 30, 2015.

**Melbourne Terrace RCC, LLC (CON #10404)** states that the intent of the proposed project is to increase availability and access to subacute care rehabilitation and recovery services to all patients in the service area—including those who are medically complex, requiring specialized equipment and staff. According to the applicant, the parent's referral services will benefit many stakeholders, including short-term acute care hospitals and physicians.

The applicant also briefly discusses the "unique architectural design" of the proposed project, stating that the design supports the intensive, high quality rehabilitation/recovery programs and culture of Clear Choice. MTRCC points out a significant number of private rooms and that the proposed project has a progressive concept, numerous amenities and efficient operations—all designed with the residents' quality of life in mind, including intensive rehabilitation and recovery needs.

The applicant notes that it recently received a Gold Seal in Brevard County as a Health First Health Plan recipient of the *Continuous Quality Improvement for Readmission Rates* award. MTRCC notes that this award recognizes the existing facility as a high quality, cost-effective post-acute care facility as well as a low re-admission provider.

Regarding utilization (of existing health care facilities and health services in the applicant’s service area), MTRCC maintains that its uniqueness of subacute care services provided by the applicant distinguishes it from all of the existing health care providers in the area. In addition, the applicant maintains that its parent company has the ability to develop strong relationships with referral sources, thus ensuring the successful development and ongoing operations.

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

**Melbourne Terrace RCC, LLC (CON #10404)** states that through its relationship with Clear Choice it has demonstrated a long history of providing high quality care. The parent is stated as being founded in 2007 to provide management services for its affiliated nursing home operators and that the parent currently operates eight nursing homes in Florida.

MTRCC offers a table to account for Clear Choice’s existing eight Florida nursing homes, indicating that three of these SNF’s hold the Governor’s Gold Seal Award. The applicant’s table also indicates the CMS rating for all eight facilities, along with each of their city and county locations. See the table below.

<b>Florida Nursing Home Facilities Managed by Clear Choice Health Care</b>				
<b>Facility Name</b>	<b>Quality Rating</b>		<b>City</b>	<b>County</b>
	<b>Governor’s Gold Seal</b>	<b>CMS Star Rating</b>		
Belleair Health Care Center		5-star	Clearwater	Pinellas
Centre Pointe Health & Rehab Center	✓	5-star	Tallahassee	Leon
Conway Lakes Health & Rehab Center	✓	5-star	Orlando	Orange
East Bay Rehabilitation Center		4-star	Clearwater	Pinellas
Melbourne Terrace Rehab Center	✓	5-star	Melbourne	Brevard
Port Charlotte Rehabilitation Center		3-star	Port Charlotte	Charlotte
Spring Lake Rehabilitation Center		2-star	Winter Haven	Polk
Sun Terrace Health Care Center		5-star	Sun City Center	Hillsborough

Source: CON application #10404, page 45, Table 3

The reviewer confirms that as of December 30, 2015, according to the Agency’s <http://www.floridahealthfinder.gov> website, Conway Lakes Health & Rehabilitation Center and MTRCC are Gold Seal facilities. The applicant did not provide documentation to verify that Centre Pointe Health and Rehab Center has been recommended for Gold Seal although the reviewer has confirmed with Agency licensure that Centre Pointe Health and Rehab Center is being recommended by the Governor’s Panel and that as of January 6, 2016 the facility’s application is under review at the Governor’s office and as of February 1, 2016 was recognized as a Gold Seal facility. The reviewer also confirms that as of December 30, 2015, according to the CMS’ Nursing Home Compare website at <https://www.medicare.gov/nursinghomecompare/search.html>, the eight nursing homes listed by the applicant (CON application #10404, page 45, Table 3 above) have the stated CMS star rating, as shown. The star rating shown is the overall rating for the applicable facility. According to the CMS website, nursing homes with five stars are considered to have “much above average” quality.

MRTCC maintains that the vast majority of high star ratings from CMS for Clear Choice facilities is consistent with its overall high star ratings from the Agency as well, with the applicant stating that this is evidenced by 63 percent of Clear Choice facilities achieving an Agency nursing home inspection rating of five stars. The reviewer generated the following table to account for the Agency’s overall nursing home inspection rating score for each of the eight SNFs managed by the parent. The rating time period is from April 2013 – September 2015 and was last updated November 2015. See the table below.

<b>Agency’s Nursing Home Inspection Rating Scores</b> <b>Rating Time Period: April 2013-September 2015</b> <b>Last Updated: November 2015</b>	
<b>Facility Name</b>	<b>Overall Inspection Rating Score</b>
Belleair Health Care Center	4-star
Centre Pointe Health & Rehab Center	5-star
Conway Lakes Health & Rehab Center	5-star
East Bay Rehabilitation Center	2-star
Melbourne Terrace Rehab Center	5-star
Port Charlotte Rehabilitation Center	2-star
Spring Lake Rehabilitation Center	1-star
Sun Terrace Health Care Center	5-star

Source: <http://www.floridahealthfinder.gov/CompareCare/CompareFacilities.aspx>

The Agency notes that generally, for the parent’s referenced SNFs, Agency nursing home inspection star ratings are at and in some cases slightly below the star ratings issued for the same facilities by CMS. The applicant states that the parent utilizes both CMS and Agency star



ratings for internal benchmarking purposes, working to continually improve upon its quality of care and overall delivery of services to residents.

Agency complaint records indicate that the applicant had one substantiated complaint for the three-year period ending December 18, 2015. The sole substantiated complaint was on physical environment.

Agency complaint records indicate that the affiliated nursing homes associated with the parent company, for the three-year period ending December 18, 2015, had 22 substantiated complaints among its eight facilities. A single complaint can encompass multiple complaint categories. The substantiated complaint categories are listed below:

<b>Nursing Homes Affiliated with Clear Choice Substantiated Complaint History Three Years Ending November 18, 2015</b>	
<b>Complaint Category</b>	<b>Number Substantiated</b>
Quality of Care/Treatment	11
Nursing Services	4
Dietary Services	2
Administration/Personnel	1
Misappropriation of Property	1
Physician Services	1
Resident Abuse	1
Resident Assessment	1

Source: Florida Agency for Healthcare Administration Complaint Records

- c. What resources, including health manpower, management personnel and funds for capital and operating expenditures, are available for project accomplishment and operation? ss. 408.035 (1)(d), Florida Statutes.**

**Melbourne Terrace RCC, LLC (CON #10404):**

**Analysis:**

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

Historically we have compared all applicant financial ratios regardless of type to bench marks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities. Below is an analysis of the audited financial statements of the applicant and where the two short-term and long-term measures fall on the scale (highlighted in gray) for the most recent year.

<b>Melbourne Terrace RCC, LLC</b>		
	<b>Dec-14</b>	<b>Dec-13</b>
Current Assets	\$2,637,901	\$1,969,306
Total Assets	\$2,800,002	\$2,127,707
Current Liabilities	\$937,583	\$1,093,053
Total Liabilities	\$974,768	\$1,093,053
Net Assets	<b>\$1,825,234</b>	<b>\$1,034,654</b>
Total Revenues	\$16,718,881	\$15,176,546
Excess of Revenues Over Expenses	\$936,413	\$703,433
Cash Flow from Operations	\$539,551	<b>(\$147,572)</b>
<b>Short-Term Analysis</b>		
Current Ratio (CA/CL)	2.8	1.8
Cash Flow to Current Liabilities (CFO/CL)	57.55%	-13.50%
<b>Long-Term Analysis</b>		
Long-Term Debt to Net Assets (TL-CL/NA)	2.0%	0.0%
Total Margin (ER/TR)	5.60%	4.64%
<b>Measure of Available Funding</b>		
Working Capital	<b>\$1,700,318</b>	<b>\$876,253</b>

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

**Capital Requirements and Funding:**

The applicant indicates on Schedule 2 capital projects totaling \$9,674,450, which includes this project (\$9,499,450) and routine capital expenditures (\$175,000). The applicant indicates on Schedule 3 of its application that funding for the project will be provided by SBK Capital, LLC, and third-party debt financing.

The applicant indicates that 15 percent of the funding will be provided by SBK Capital LLC. The applicant provided both an investment and bank statement from SBK Capital indicating investments with a market value of \$7.2 million and a bank balance of \$1.7 million for the month ending

November 30, 2015. Staff notes in addition that the applicant is a wholly owned subsidiary of SBK Capital LLC.

Regarding the debt financing, the applicant provided a letter of interest in providing debt financing from Capital One bank. A letter of interest does not constitute a firm commitment to lend.

**Conclusion:**

Funding for this project is likely but not guaranteed.

**Melbourne Terrace RCC, LLC (CON #10404P):**

**Analysis:**

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

Historically we have compared all applicant financial ratios regardless of type to bench marks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities. Below is an analysis of the audited financial statements of the applicant and where the two short-term and long-term measures fall on the scale (highlighted in gray) for the most recent year.

<b>Melbourne Terrace RCC, LLC</b>		
	<b>Dec-14</b>	<b>Dec-13</b>
Current Assets	\$2,637,901	\$1,969,306
Total Assets	\$2,800,002	\$2,127,707
Current Liabilities	\$937,583	\$1,093,053
Total Liabilities	\$974,768	\$1,093,053
Net Assets	\$1,825,234	\$1,034,654
Total Revenues	\$16,718,881	\$15,176,546
Excess of Revenues Over Expenses	\$936,413	\$703,433
Cash Flow from Operations	\$539,551	(\$147,572)
<b>Short-Term Analysis</b>		
Current Ratio (CA/CL)	2.8	1.8
Cash Flow to Current Liabilities (CFO/CL)	57.55%	-13.50%
<b>Long-Term Analysis</b>		
Long-Term Debt to Net Assets (TL-CL/NA)	2.0%	0.0%
Total Margin (ER/TR)	5.60%	4.64%
<b>Measure of Available Funding</b>		
Working Capital	\$1,700,318	\$876,253

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

**Capital Requirements and Funding:**

The applicant indicates on Schedule 2 capital projects totaling \$9,630,500, which includes this project (\$9,455,500) and routine capital expenditures (\$175,000). The applicant indicates on Schedule 3 of its application that funding for the project will be provided by SBK Capital, LLC, and third-party debt financing.

The applicant indicates that 15 percent of the funding will be provided by SBK Capital LLC. The applicant provided both an investment and bank statement from SBK Capital indicating investments with a market value of \$7.2 million and a bank balance of \$1.7 million for the month ending November 30, 2015. Staff notes in addition that the applicant is a wholly owned subsidiary of SBK Capital LLC.

Regarding the debt financing, the applicant provided a letter of interest in providing debt financing from Capital One bank. A letter of interest does not constitute a firm commitment to lend.

**Conclusion:**

Funding for this project is likely but not guaranteed.

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

**Melbourne Terrace RCC, LLC (CON #10404):**

**Analysis:**

The immediate and long-term financial feasibility of the project is tied to expected profitability. The purpose of our analysis for this section is to evaluate the reasonableness of the applicant’s profitability projections and, ultimately, whether profitability is achievable for this project. Our analysis includes an evaluation of net revenue per patient day (NRPD), cost per patient day (CPD), nurse staffing ratios, and profitability. We compared the NRPD, CPD, and profitability to actual operating results from skilled nursing facilities as reported on Medicaid cost reports (2012 and 2013 cost report years). For our comparison group, we selected skilled nursing facilities with similar Medicaid utilizations to the utilization projected by the applicant on a per patient day basis (PPD). Comparison group data was adjusted for inflation to match the second year projection (inflation factor was based on the New CMS Market Basket Price Index as published in the 3rd Quarter 2015, Health Care Cost Review).

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

	PROJECTIONS PER APPLICANT		COMPARATIVE GROUP VALUES PPD		
	Total	PPD	Highest	Median	Lowest
Net Revenues	24,486,781	411	458	361	286
Total Expenses	22,768,879	382	452	356	287
Operating Income	1,717,902	29	29	10	-29
Operating Margin	7.02%		<b>Comparative Group Values</b>		
	Days	Percent	Highest	Median	Lowest
Occupancy	59,616	96.08%	99.48%	88.96%	62.35%
Medicaid/MDCD HMO	22,266	37.35%	50.03%	45.97%	30.87%
Medicare	31,145	52.24%	58.06%	36.42%	17.01%

**Staffing:**

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

The projected NRPD, CPD, and profit fall within the group range and are considered reasonable. In addition, the total cost appears to include at least the minimum staffing required. Therefore, the overall profitability appears achievable.

**Conclusion:**

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

**Melbourne Terrace RCC, LLC (CON #10404P):**

**Analysis:**

The immediate and long-term financial feasibility of the project is tied to expected profitability. The purpose of our analysis for this section is to evaluate the reasonableness of the applicant's profitability projections and, ultimately, whether profitability is achievable for this project. Our analysis includes an evaluation of net revenue per patient day (NRPD), cost per patient day (CPD), nurse staffing ratios, and profitability. We compared the NRPD, CPD, and profitability to actual operating results from skilled nursing facilities as reported on Medicaid cost reports (2012 and 2013 cost report years). For our comparison group, we selected skilled nursing facilities with similar Medicaid utilizations to the utilization projected by the applicant on a per patient day basis (PPD). Comparison group data was adjusted for inflation to match the second year projection (inflation factor was based on the New CMS Market Basket Price Index as published in the 3rd Quarter 2015, Health Care Cost Review).

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

	PROJECTIONS PER APPLICANT		COMPARATIVE GROUP VALUES PPD		
	Total	PPD	Highest	Median	Lowest
Net Revenues	24,355,677	415	458	361	286
Total Expenses	22,768,784	388	452	356	287
Operating Income	1,586,893	27	29	10	-29
Operating Margin	6.52%		<b>Comparative Group Values</b>		
	Days	Percent	Highest	Median	Lowest
Occupancy	58,643	96.21%	99.48%	88.96%	62.35%
Medicaid/MDCD HMO	22,266	37.97%	50.03%	45.97%	30.87%
Medicare	30,172	51.45%	58.06%	36.42%	17.01%

**Staffing:**

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

The projected NRPD, CPD, and profit fall within the group range and are considered reasonable. In addition, the total cost appears to include at least the minimum staffing required. Therefore, the overall profitability appears achievable.

**Conclusion:**

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

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

**Melbourne Terrace RCC, LLC (CON #10404 and CON #10404P):**

**Analysis:**

The type of competition that would result in increased efficiencies, service, and quality is limited in health care. Cost-effectiveness through competition is typically achieved via a combination of competitive pricing that forces more efficient cost to remain profitable and offering higher quality and additional services to attract patients from competitors. Since Medicare and Medicaid are the primary payers in the nursing home industry, price-based competition is limited. With a large portion of the revenue stream essentially fixed on a per patient basis, the available margin to increase quality and offer additional services is limited. In addition, competitive forces truly do not begin to take shape

until existing business' market share is threatened. The publication of need in this area suggests that there is an unmet and untapped customer base for a new entrant to absorb. Since nursing home services are limited to available beds and the need formula suggest excess capacity in the market to fill those beds, the impact on market share would be limited. The combination of the existing health care system's barrier to price-based competition via fixed price payers and the existence of unmet need in the district limits any significant gains in cost-effectiveness and quality that would be generated from competition.

**Conclusion:**

This project is not likely to have a material impact on competition to promote quality and cost-effectiveness.

- f. Are the proposed costs and methods of construction reasonable? Do they comply with statutory and rule requirements? ss. 408.035 (1) (h), Florida Statutes; Ch. 59A-4, Florida Administrative Code.**

**Melbourne Terrace RCC, LLC (CON #10404):** The applicant has submitted all information and documentation necessary for the architectural review. The cost estimate for the proposed project provided in Schedule 9, Table A appears to be reasonable. A review of the architectural plans, narratives and other supporting documents did reveal possible deficiencies that are likely to have significant impact on either construction costs or the proposed completion schedule.

Deficiencies: A-1 Verify proposed Construction completion schedule.

The plans submitted with this application were schematic in detail with the expectation that they will be necessarily revised and refined prior to being submitted for full plan review. The architectural review of this application shall not be construed as an in-depth effort to determine complete compliance with all applicable codes and standards. The final responsibility for facility compliance ultimately rests with the applicant owner. Approval from the Agency for Health Care Administration's Office of Plans and Construction is required before the commencement of any construction.

- g. Does the applicant have a history of and propose the provision of health services to Medicaid patients and the medically indigent? Does the applicant propose to provide health services to Medicaid patients and the medically indigent? ss. 408.035 (1) (i), Florida Statutes.**

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



**Medicaid Patient Days and Medicaid Occupancy in Melbourne Terrace, RCC,  
Brevard County/Subdistrict 7-1, District 7 and Florida  
Five Years Ending June 30, 2015**

<b>Medicaid Patient Days</b>					
<b>Facility/Area</b>	<b>JUL 2010- JUN 2011</b>	<b>JUL 2011- JUN 2012</b>	<b>JUL 2012- JUN 2013</b>	<b>JUL 2013- JUN 2014</b>	<b>JUL 2014- JUN 2015</b>
Melbourne Terrace	23,427	20,356	15,006	12,609	12,756
Brevard County	472,518	466,958	459,344	463,000	467,774
District 7	1,770,087	1,774,604	1,750,964	1,776,171	1,774,373
Florida	15,612,015	15,726,251	15,676,855	15,837,261	15,875,092
<b>Medicaid Occupancy</b>					
<b>Facility/Area</b>	<b>JUL 2010- JUN 2011</b>	<b>JUL 2011- JUN 2012</b>	<b>JUL 2012- JUN 2013</b>	<b>JUL 2013- JUN 2014</b>	<b>JUL 2014- JUN 2015</b>
Melbourne Terrace	56.15%	50.19%	37.40%	31.47%	29.34%
Brevard County	55.27%	54.98%	54.54%	55.10%	54.76%
District 7	60.10%	60.33%	59.83%	60.70%	59.99%
Florida	61.56%	61.96%	61.58%	62.05%	61.88%

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2011-October 2015 Batching Cycles

As shown in the table above, for the five-year period ending June 30, 2015, MTRCC realized a decline each year in the percentage of Medicaid patient days, with a high of 56.15 percent for the 12 months ending June 30, 2011 to a low of 29.34 percent for the 12-month period ending June 30, 2015. Again, as shown above, the Medicaid patient day average for Brevard County overall has remained at approximately 55 for each year and for District 7 overall has remained at approximately 60 percent for each year, for the same five-year period.

The reviewer compiled the following Medicaid occupancy data for CC operated Florida facilities for July 1, 2014 to June 30, 2015. See the table below.

**Clear Choice Operated Facilities, Florida Medicaid Occupancy  
July 1, 2014 to June 30, 2015**

<b>Facility</b>	<b>Medicaid Days</b>	<b>Total Days</b>	<b>Medicaid Occupancy</b>
Belleaire Health Care Center	21,005	40,191	52.26%
Centre Pointe Health and Rehab Center	16,468	40,690	40.47%
Conway Lakes Health and Rehabilitation Center	12,091	39,653	30.49%
East Bay Rehabilitation Center	19,039	40,220	47.34%
Melbourne Terrace Rehabilitation Center	12,756	43,475	29.34%
Port Charlotte Rehabilitation Center	20,757	40,176	51.67%
Spring Lake Rehabilitation Center	10,507	41,798	25.14%
Sun Terrace Health Care Center	8,330	35,688	23.34%
<b>Total</b>	<b>120,935</b>	<b>321,891</b>	<b>37.58%</b>

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2015 Batching Cycle

**Melbourne Terrace RCC, LLC (CON #10404)** provides a table to reflect the proposed project’s year one and year two total Medicaid patients as a percent of total patient days, demonstrating the level of care and commitment provided by CC to Medicaid residents, including patients who utilize the high-intensity rehabilitative services as well as residential care. See the table below.

<b>Proposed Project Will Serve Significant Amount of Medicaid Patients</b>		
<b>Medicaid Patient Type (Description)</b>	<b>Percent of Patient Days</b>	
	<b>Year One</b>	<b>Year Two</b>
“Residential” Medicaid	40%	40%
“Community/Skilled” Dual Eligible Medicaid	15%	15%
<b>TOTAL MEDICAID PERCENT OF PT DAYS</b>	<b>55%</b>	<b>55%</b>

Source: CON application #10404, page 53

MTRCC asserts that Clear Choice instills a culture of caring and giving back to the community. The applicant further asserts that CC expects to write-off over \$1,000,000 dollars in unreimbursed care to Medicaid and medically indigent residents in its current fiscal year. The applicant reiterates its condition of proposing community give-back programs with annual funding of at least \$250,000. MTRCC contends that Clear Choice’s commitment to the community give-back program is evident in the company’s mission statement:

“We fundamentally believe that caring for the elderly and the disabled is a calling, and we are committed to answering the call”

The reviewer notes that MTRCC does not condition to a percentage of Medicaid or indigent care patient days pursuant to the proposed project. However, the applicant does condition to a community give-back program for annual funding of at least \$250,000 and within this condition is unreimbursed indigent/charity care provided to patients requiring services at its facility.

Below is a table to account for the applicant’s Schedule 7 projected revenue estimates, by total admissions and by total patient days, for year one (ending December 31, 2018) and year two (ending December 31, 2019).

**Payor Mix for the Proposed and Existing Facility  
CY 2018 and 2019**

<b>This Project</b>						
<b>Year One (Ending December 31, 2018)</b>						
	<b>Self-Pay</b>	<b>Medicaid HMO</b>	<b>Medicare</b>	<b>Other Managed Care</b>	<b>Other Payers</b>	<b>Total</b>
Total Admissions	1	26	112	4	14	158
Total Patient Days	128	2,342	3,358	384	213	6,426
Percent of Total PTNT Days	2.0%	36.5%	52.3%	6.0%	3.3%	100.0%
<b>Existing Operations</b>						
<b>Year One (Ending December 31, 2018)</b>						
	<b>Self-Pay</b>	<b>Medicaid HMO</b>	<b>Medicare</b>	<b>Other Managed Care</b>	<b>Other Payers</b>	<b>Total</b>
Total Admissions	11	197	846	32	107	1,193
Total Patient Days	967	17,696	25,370	2,901	1,612	48,545
Percent of Total PTNT Days	2.0%	36.5%	52.3%	6.0%	3.3%	100.0%
<b>Combined</b>						
<b>Year One (Ending December 31, 2018)</b>						
	<b>Self-Pay</b>	<b>Medicaid HMO</b>	<b>Medicare</b>	<b>Other Managed Care</b>	<b>Other Payers</b>	<b>Total</b>
Total Admissions	12	223	958	37	122	1,351
Total Patient Days	1,095	20,038	28,728	3,285	1,825	54,971
Percent of Total PTNT Days	2.0%	36.5%	52.3%	6.0%	3.3%	100.0%
<b>This Project</b>						
<b>Year Two (Ending December 31, 2019)</b>						
	<b>Self-Pay</b>	<b>Medicaid HMO</b>	<b>Medicare</b>	<b>Other Managed Care</b>	<b>Other Payers</b>	<b>Total</b>
Total Admissions	2	40	168	6	20	235
Total Patient Days	177	3,601	5,036	531	295	9,640
Percent of Total PTNT Days	1.8%	37.3%	52.2%	5.5%	3.1%	100.0%
<b>Existing Operations</b>						
<b>Year Two (Ending December 31, 2019)</b>						
	<b>Self-Pay</b>	<b>Medicaid HMO</b>	<b>Medicare</b>	<b>Other Managed Care</b>	<b>Other Payers</b>	<b>Total</b>
Total Admissions	10	207	870	31	102	1,220
Total Patient Days	918	18,685	26,109	2,754	1,530	49,976
Percent of Total PTNT Days	1.8%	37.3%	52.2%	5.5%	3.1%	100.0%
<b>Combined</b>						
<b>Year Two (Ending December 31, 2019)</b>						
	<b>Self-Pay</b>	<b>Medicaid HMO</b>	<b>Medicare</b>	<b>Other Managed Care</b>	<b>Other Payers</b>	<b>Total</b>
Total Admissions	12	247	1,038	37	122	Blank
Total Patient Days	1,095	22,286	31,145	3,285	1,825	59,618
Percent of Total PTNT Days	1.8%	37.3%	52.2%	5.5%	3.1%	100.0%

Source: CON application #10404, Schedule 7

The applicant's Schedule 7 for the full award indicates that Medicaid HMO and self-pay represent 36.5 percent and 2.0 percent, respectively, of year one and 37.3 percent and 1.8 percent, respectively, of year two annual total patient days. The applicant's Schedule 7 estimates for the partial award indicate that Medicaid HMO and self-pay represent 36.0 percent and 2.0 percent, respectively, of year one and 38.0 percent and 1.9 percent, respectively, of year two annual total patient days.

**F. SUMMARY**

**Melbourne Terrace RCC, LLC (CON #10404)**, owned by the nursing home chain Clear Choice, proposes to add 30 community nursing home beds or a partial request to add 27 community nursing home beds to the existing 129-bed community nursing home MTRCC in Subdistrict 7-1, Brevard County, Florida. The applicant states that the proposed 30-bed addition is a combination of 27 beds from the fixed need pool for Brevard County and three beds, aggregated from the fixed need pool for Osceola County. Clear Choice, the parent, manages eight SNFs in Florida, including the applicant.

The project involves 27,580 GSF of new construction for the full award and for the partial award. The construction cost is \$6,023,472 for the full award and for the partial award. Total project cost is \$9,499,450 for the full award and \$9,455,500 for the partial award. Both the full and the partial project costs include land, building, equipment, project development, financing and start-up costs.

The applicant proposes to condition the project as shown on pages 3-4 of this report.

**Need:**

In Volume 41, Number 192 of the Florida Administrative Register dated October 2, 2015, a fixed need pool of 27 beds was published for Subdistrict 7-1 (Brevard County) and a fixed need pool of three beds was published for Subdistrict 7-3 (Osceola County) for the July 2018 Planning Horizon. After publication of this fixed need pool, zero existing Subdistrict 7-1 facilities filed exemption requests to increase or add community nursing home beds.

As of November 18, 2015, Subdistrict 7-1 had 2,638 licensed community nursing home beds and one approved community nursing home project to establish a 131-bed community nursing home in Subdistrict 7-1 (CON #10312). During the 12-month period ending June 30, 2015, Subdistrict 7-1 experienced 88.87 percent utilization at 20 existing facilities.

**Melbourne Terrace RCC, LLC (CON #10404)** asserts need is justified for the proposed project based on the following factors:

- Being accessible to major thoroughfares, such as Interstate 95, U.S. Highway 192 and U.S. Highway 1.
- An expectation that the Brevard County age 65+ population will realize an incremental increase of 11,342 residents (9.5 percent) and that the Osceola County age 65+ population will realize an incremental increase of 6,709 residents (18.6 percent).
- An expectation that the population cohort age 75+ will experience “significant” growth in both Brevard and Osceola Counties.
- Increased accessibility to the provision of specialized high-intensity rehabilitation and recovery services to all residents, provided by certified staff using advanced, specially-designed equipment for the elderly population.
- The delivery of a higher level of subacute rehabilitative care that is not typically available by other existing providers in Brevard County.
- Utilization of an experienced, local community nursing home management team, with headquarters and a training facility in Florida.
- The delivery of a higher volume of comprehensive continuity of care provided for nursing home patients.
- The uniqueness of subacute care services provided by the applicant.

**Quality of Care:**

**Melbourne Terrace RCC, LLC (CON #10404)** described its ability to provide quality care.

- The applicant has a five-star nursing home inspection rating from the Agency for the rating time period April 2013-September 2015
- The applicant is a Gold Seal facility
- That applicant has a five-star nursing home quality rating by CMS
- The applicant had one substantiated complaint and the applicant’s controlling interest had 22 substantiated complaints among the parent’s eight Florida SNFs, during the three-year period ending November 18, 2015

**Financial Feasibility/Availability of Funds:**

**Melbourne Terrace RCC, LLC (CON #10404 and CON #10404P):**

- Funding for this project is likely but not guaranteed
- Based on the information provided in Schedule 6, the applicant’s projected nursing staffing meets the requirement
- This project is not likely to have a material impact on competition to promote quality and cost-effectiveness

**Medicaid/Charity Care:**

**Melbourne Terrace RCC, LLC (CON #10404)** does not condition to a percentage of Medicaid or indigent care patient days pursuant to the proposed project. However, the applicant does condition to a community give-back program for annual funding of at least \$250,000 and within this condition is unreimbursed indigent/charity care provided to patients requiring services at its facility.

The applicant's Schedule 7 for the full award indicates that Medicaid HMO and self-pay represent 36.5 percent and 2.0 percent, respectively, of year one and 37.3 percent and 1.8 percent, respectively, of year two annual total patient days. The applicant's Schedule 7 estimates for the partial award indicate that Medicaid HMO and self-pay represent 36.0 percent and 2.0 percent, respectively, of year one and 38.0 percent and 1.9 percent, respectively, of year two annual total patient days.

**Architectural:**

**Melbourne Terrace RCC, LLC (CON #10404):**

- The cost estimate for the proposed project provided in Schedule 9, Table A appears to be reasonable
- A review of the architectural plans, narratives and other supporting documents did reveal possible deficiencies that are likely to have significant impact on either construction costs or the proposed completion schedule
  - Deficiencies: A-1 Verify proposed Construction completion schedule

**G. RECOMMENDATION**

Approve CON #10404 to add 30 community nursing home beds, using 27 beds from the fixed need pool and aggregating three beds from Subdistrict 7-3, Osceola County. The total project cost is \$9,455,500. The project involves 27,580 GSF of new construction and a construction cost of \$6,023,472.

**CONDITIONS:**

1. The applicant will continue to provide an array of unique high-intensity subacute care rehabilitative programs and services for residents in its nursing home, including the following:
  - Left Ventricular Assist Device (LVAD)

- Lee Silverman Voice Treatment (LSVT) Loud Program
  - Lee Silverman Voice Treatment (LSVT) BIG Program
  - Infusion Therapy Services including:
    - (a) Peritoneal Dialysis and
    - (b) Total Peritoneal Nutrition
  - Aquatic therapy, through development of two hydrotherapy pools
  - Rehabilitative therapy for patients unable to perform 100 percent weight-bearing ambulation, through purchase and use of an Anti-Gravity treadmill
  - Rehabilitative therapy for patients who would benefit from compressed-air equipment designed specifically for the aging population, through purchase and use of HUR Equipment
  - Sunshine/Wellness Check Program
  - Home Assessments:
    - (a) Medication Reconciliation and
    - (b) Rehabilitation Therapy Team Assessment, as appropriate
  - Transportation Program to transport outpatients from their home environment to therapy sessions when medically necessary
2. The applicant will continue to ensure highly skilled clinical staff members provide care to residents in its nursing home, evidenced by special training and/or certification as follows:
- Lee Silver Voice Treatment (LSVT) Loud Certified
  - Lee Silver Voice Treatment (LSVT) BIG Certified
  - Aquatic Therapy Certification
  - Certified Stroke Rehabilitation Specialist (CSRS)
  - Lymphedema Certification
  - Vital Stim Therapy Certification
  - Neurodevelopmental Treatment (NDT) Certification
  - Fiberoptic/Flexible Endoscopic Evaluation of Swallowing (FEES) Certification
3. Community Give-Back Programs: Annual Funding of at least \$250,000
- Unreimbursed indigent/charity care provided to patients requiring services at its facility
  - Donations of goods, services and/or direct funding to local charities selected by residents
  - Scholarship programs, which pay the costs of staff members to enroll in academic programs to further their formal education

Deny CON #10404P.

**AUTHORIZATION FOR AGENCY ACTION**

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

DATE: \_\_\_\_\_

\_\_\_\_\_  
Marisol Fitch  
**Health Administration Services Manager**  
**Certificate of Need**