

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

**A. PROJECT IDENTIFICATION**

**1. Applicant/CON Action Number**

**Deep Creek RNC, LLC  
d/b/a Port Charlotte Rehabilitation Center/CON #10405**  
709 S Harbor City Blvd., Suite 240  
Melbourne, Florida 32901

Authorized Representative: Geoff Fraser  
(850) 386-2522

**2. Service District/Subdistrict**

District 8/Subdistrict 1 (Charlotte County)

**B. PUBLIC HEARING**

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

**Letters of Support**

The Agency received numerous letters of support submitted by the applicant. These letters were composed by local health care professionals and providers, local business owners, Clear Choice Health Care affiliates, former and current employees as well as former and current residents. The applicant also included a couple of newspaper clippings and a CD-ROM with two testimonials.

**C. PROJECT SUMMARY**

**Deep Creek RNC, LLC d/b/a Port Charlotte Rehabilitation Center (CON application #10405)**, henceforth referred to as Port Charlotte or the applicant, will be managed by Clear Choice Health (referred to as

Clear Choice throughout this document) proposes to add 20 community nursing home beds to Port Charlotte Rehabilitation Center in District 8/Subdistrict 8-1, Charlotte County.

Clear Choice operates eight skilled nursing facilities (SNF) in Florida:

- 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 18,877 gross square feet (GSF) of new construction. The construction cost is \$4,142,369. Total project cost is \$7,150,000. Project cost includes building, equipment and project development costs.

The applicant proposes to condition the project as shown below

- The applicant will continue to provide an array of unique high-intensity sub-acute care rehabilitative programs and services for residents in its nursing homes including the following:
  - Left Ventricular Assist Device (LVAD) Program
  - Lee Silverman Voice Treatment (LSVT) Loud Program
  - Lee Silverman Voice Treatment (LSVT) BIG Program
  - Infusion therapy services including peritoneal dialysis and total peritoneal nutrition
  - Aquatic therapy, through the development of two hydro therapy pools
  - Rehabilitative therapy for patients unable to perform 100% 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 assessment: medication reconciliation and rehabilitative therapy team assessment, as appropriate
  - Transportation program to transport outpatients from their home environment to therapy sessions when medically necessary

- 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 Silverman Treatment (LSVT) Loud certified
  - Lee Silverman 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
- Community give-back program: Annual funding of at least \$200,000 comprised of the following components:
  - Unreimbursed/charity care
  - Donation of goods, services and/or direct funding to local charities selected by the residents
  - Scholarship programs which pay the costs of staff member to enroll in academic programs to further their formal education

**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, Dwight Aldridge 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 20 beds was published for Subdistrict 8-1 for the July 2018 Planning Horizon. Subdistrict 8-1 is comprised of Charlotte County.

After publication of this fixed need pool, zero existing Subdistrict facilities filed exemption requests or filed expedited CON reviews to increase or add community nursing home beds.

As of November 18, 2015, Subdistrict 8-1 had 1,108 licensed and 20 approved community nursing home beds. During the 12-month period ending June 30, 2015, Subdistrict 8-1 experienced 84.49 percent utilization at eight<sup>1</sup> existing facilities. Below is a table illustrating nursing home patient days and occupancy within Subdistrict 8-1.

<sup>1</sup> Douglas Jacobson State Veterans Nursing Home is located in Charlotte County but is excluded from the inventory as the beds are not used in the calculation of the fixed need pool.

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

Facility	Comm. Nursing Home Bed Inventory	Bed Days	Patient Days	Total Occupancy	Medicaid Occupancy
Charlotte Harbor Healthcare	180	65,700	57,572	87.63%	50.24%
Consulate Health Care of Port Charlotte	120	43,800	39,639	90.50%	66.92%
Englewood Healthcare and Rehabilitation Center	120	43,800	40,541	92.56%	58.06%
Harbour Health Center	120	43,800	34,824	79.51%	48.30%
Life Care Center of Punta Gorda	180	65,700	47,097	71.68%	59.86%
Port Charlotte Rehabilitation Center	120	43,800	40,176	91.73%	51.67%
Signature Healthcare of Port Charlotte	164	59,860	50,052	83.62%	72.60%
Village Place Health and Rehabilitation Center	104	37,960	31,810	83.80%	50.31%
<b>Total</b>	<b>1,108</b>	<b>404,420</b>	<b>341,711</b>	<b>84.49%</b>	<b>57.68%</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 8-1 for the planning horizon. The projected population growth, both numerically and by percent are illustrated below.

**Current and Projected Population Growth Rate  
Charlotte County, District 8, and Florida  
January 2015 and January 2018**

County	January 1, 2015 Population			January 1, 2018 Population		
	0-64	65+	Total	0-64	65+	Total
Charlotte	107,422	58,407	165,829	108,420	62,506	173,926
District 8	1,202,434	453,695	1,656,129	1,250,034	510,200	1,760,234
Florida	16,044,019	3,635,347	19,639,366	16,510,025	4,013,237	20,523,262
County	2015-2018 Increase			2015-2018 Growth Rate		
	0-64	65+	Total	0-64	65+	Total
Charlotte	998	4,099	8,097	1.0%	7.0%	4.9%
District 8	47,600	56,505	104,105	3.9%	12.5%	6.3%
Florida	466,006	37,7890	883,896	2.9%	10.0%	4.5%

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

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

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

County	Community Beds	2015 Pop. Aged 65+	2015 Beds per 1,000	2018 Pop. Aged 65+	2018 Beds per 1,000
<b>Charlotte</b>	1,108	58,407	18	62,506	18
<b>District 8</b>	7,211	453,695	16	510,200	14
<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, December 2015 Batching Cycle

Port Charlotte contends while the projected growth in the total population is important, a more important consideration in the bed need forecast is the projected population of the older age cohorts (65+) of the service area. The applicant notes that the 65+ cohort will experience a

greater percent increase in population than the population as a whole from 2015 to 2018, indicating Subdistrict 8-1 will realize a population increase from 59,045 to 62,506 residents (5.9 percent). During the same period, the 75 and older age population will increase from 27,702 to 28,770 (3.9 percent).

The applicant maintains that its location is within and accessible to the most populated area of Charlotte County and provides maps on pages 37-38 of CON application #10405.

Port Charlotte indicates the proposed project is best positioned to address the community needs of residents in Charlotte County, and provides the following rationale:

- The facility is managed by an experienced, local community nursing home team, with a training facility in Florida
- Comprehensive continuity of care provided for nursing home residents, including the sub-acute level of high-intensity rehabilitative services, provided by certified clinical staff using advanced equipment and facilities to ensure optimal patient outcomes and recovery
- 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' need, all with the goals of ensuring resident choice, independence and dignity
- The proven programs and services to be provided will ensure that the highest quality nursing home services are available to the residents in Charlotte County

- 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:**

The applicant is responding to the Agency's published fixed need pool, so 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.**

The application was not submitted to remedy a geographically underserved area as defined above.

- 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.**

Port Charlotte states that through the management services of Clear Choice, the facility will continue to offer high quality, post-acute care programs and services that are more intensive and serve higher acuity and more medically complex patients than typically provided in other nursing homes. The applicant indicates that Clear Choice has implemented many successful programs at the existing facilities that enable patients to return to health and mobility.

The applicant proposes to offer the following program and services:

- Cardiovascular
- Case management
- Neurological
- Physical, speech and occupational therapy
- Pulmonary care
- Complex wound care
- Peritoneal dialysis
- Infectious disease management
- Palliative care
- Guardian angel program
- 72-hour meeting
- Concierge services
- Fully trained, professional and courteous staff
- Nutritional support and management
- Internet café and library
- Private rooms
- Patient and resident education

Port Charlotte proposes to offer advanced equipment specifically designed for the senior population. Specialized equipment includes but is not limited to the following:

- HydroWorx aquatic therapy pools
- Alter G anti-gravity and underwater treadmill
- HUR equipment
- BIPAP and CPAP
- Portable biosway
- Omni-cycle
- E-stim
- Ultrasound
- Diathermy
- Kinesis pulley system
- NuStep
- Sci-Fit
- Vitalstim
- Left ventricular assist device (LVAD)

The reviewer notes that the applicant did not discuss any specific admission procedures but states it believes in involving patients and families in the care plan process. The applicant provides care plan forms in Appendix I of CON application #10405.



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Port Charlotte states as part of discharge planning, case managers provide each patient with information and education about his or respective disease upon discharge. Staff members contact the patient and/or the patient’s family multiple times following discharge. The applicant indicates three scheduled interactions with the patient, known as the Sunshine/Wellness checks occur within 30 days of discharge.

The applicant’s Schedule 7 indicates that the average length of stay (ALOS) for the proposed project for the first year of operation is 41.11 days and 41.41 days for the second year of operation. The applicant’s Schedule 7 based this ALOS on a 32-bed addition, not the proposed 20-bed addition requested by the applicant.

Schedule 6A illustrates that FTEs for year one (ending December 31, 2018) total 181.0 and total 187.5 for year two (ending December 31, 2019) for the total facility. Schedule 6A indicates that the applicant proposes to add 25.0 additional FTEs in the first year and 31.5 additional FTEs in the second year of operation for the proposed addition. The proposed project’s year one and year two FTEs for the proposed project are shown in the table below.

<b>Deep Creek RNC, LLC (CON application #10405) Projected Year One and Year Two Staffing</b>		
	<b>Year One</b>	<b>Year Two</b>
<b>Nursing</b>		
RNs	2.0	3.0
LPNs	2.5	2.5
Nurses’ Aides	3.0	4.0
<b>Ancillary</b>		
Physical Therapist	1.5	2.0
Physical Therapist Assistant	1.0	1.5
Occupational Therapist	1.0	
Speech Therapist		1.0
COTA	3.0	4.0
<b>Dietary</b>		
Cooks	2.0	2.0
Food Service Aides	2.0	2.5
<b>Social Services</b>		
Other: Transportation	1.0	1.0
<b>Housekeeping</b>		
Housekeepers	3.0	5.0
<b>Laundry</b>		
Laundry Aides	2.0	2.0
<b>Plant Maintenance</b>		
Maintenance Assistance	1.0	1.0
<b>Total</b>	<b>25.0</b>	<b>31.5</b>

Source: CON application #10405, Schedule 6A

**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 states not having had a nursing home license denied, revoked or suspended.

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

The applicant states not having had a nursing home 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 indicates that this provision is not applicable.

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

The applicant indicates that this provision is not applicable.

- 5. Rule 59C-1.036 (4) (f) Harmful Conditions. The Agency shall question the ability of the applicant to provide quality of care within any nursing facility when the conditions identified in 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 indicates that this provision is not applicable, since there have been no violations.

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

The applicant states that it will provide the required data to the applicable local health council and to the Agency.

**3. Statutory Review Criteria**

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

There are 38 licensed community nursing homes with a total of 7,211 community nursing home beds in District 8. Subdistrict 8-1 is composed of Charlotte County and has eight licensed community nursing homes with a total of 1,108 community nursing home beds. The subdistrict averaged 84.49 percent total occupancy for the 12-month period ending June 30, 2015.

Port Charlotte has 132 licensed community beds which includes 60 private rooms. With the approval of the 20-bed addition, the applicant indicates that through expansion, 32 additional private rooms will be added. The applicant states upon completion of the proposed project and Exemption E150036 (to add 12 beds), Port Charlotte will have 152 beds with 24 semi-private rooms and 104 private rooms. The applicant states the proposed project will increase the availability and access to sub-acute care rehabilitation and recovery services for all patients in the service area, including those who are medically complex and/or require specialized equipment.

The applicant indicates that programs provided by Clear Choice have resulted in quality achievement awards and recognition for its eight managed facilities. The applicant indicates implementation of these same programs and services at Port Charlotte and ensures that residents have local access to high-level intensive post-acute care services.

The applicant maintains that one of the key benefits of the proposed project to local hospitals will be their increased availability of limited hospital bed space for patients with a need for acute care services, resulting from the local area hospital’s ability to timely and appropriately discharge patients requiring intensive, post-acute care services at Port Charlotte. Additionally, the applicant notes that the referral services offered through the many intensive rehabilitation and recovery programs benefit many stakeholders, including area short-term acute care hospitals and physicians. As a result of the programs offered at Port Charlotte, the applicant attests that Clear Choice has established long-term relationships with local hospitals in the many communities it serves.

In regards to quality, Port Charlotte highlights that the unique architectural design of the facility supports the intensive, high quality rehabilitation and recovery programs and culture of Clear Choice as well as includes a significant number of private rooms. The applicant maintains that the proposed project will offer proven, high quality services to area residents through the implementation of established programs, services and management acumen currently in place at Clear Choice managed facilities. Port Charlotte indicates that Clear Choice has a history of quality of care as evidenced by CMS quality ratings and facilities receiving the Governor’s Gold Seal Award for nursing homes.

Port Charlotte states that the proposed project will be developed successfully and that ongoing operations will be maintained through the implementation of proven programs, services and processes.

The reviewer prepared the following table from the applicant’s Schedule 7, illustrating the projected total admissions, patient days and occupancy for the first two years of the 152-bed facility. See table below.

**Port Charlotte Forecasted Utilization**

	<b>Year One 2018</b>	<b>Year Two 2019</b>
Total Admissions	1,223	1,280
Total Patient Days	50,366	52,925
Occupancy	90.8 %	95.4%

Source: CON application #10405, Schedule 7

- 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.**

Port Charlotte attests that its experienced management team has a history of providing quality care in patient-focused nursing homes. The applicant states the investment in high intensity progressive therapy services, state-of-the-art equipment and advanced facility design are the primary differentiators for Clear Choice, leading to reduced acute care readmissions and a greater percentage of patients experiencing restored health and a return to the highest level of independence possible. The applicant affirms that substantial resources both financial and managerial will be invested in the proposed expansion of Port Charlotte Rehabilitation Center to ensure the facility can continue to provide the growing community need by providing both exceptional rehabilitation services and high-quality recovery care. The applicant provides the table below illustrating the eight facilities in Florida managed by Clear Choice.

<b>Florida Nursing Home Facilities Managed By Clear Choice Health Care</b>					
<b>Facility</b>	<b>Quality Ratings</b>			<b>City</b>	<b>County</b>
	<b>Governor's Gold Seal</b>	<b>CMS Star Rating</b>	<b>AHCA Star Rating</b>		
Belleair Health Care Center		5	5	Clearwater	Pinellas
Centre Pointe Health and Rehab Center	✓	5	5	Tallahassee	Leon
Conway Lakes Health and Rehab Center	✓	5	5	Orlando	Orange
East Bay Rehabilitation Center		4	2	Clearwater	Pinellas
Melbourne Terrace Rehabilitation Center	✓	5	5	Melbourne	Brevard
Port Charlotte Rehabilitation Center		3	2	Port Charlotte	Charlotte
Spring Lake Rehabilitation Center		2	1	Winter Haven	Polk
Sun Terrace Health Care Center		5	5	Sun City Center	Hillsborough

Source: CON application #10405, page 42

The applicant indicates that 63 percent of Clear Choice facilities achieved a five-star rating by the Agency. Port Charlotte affirms that Clear Choice utilizes both CMS and the Agency star ratings for internal benchmarking purposes, and works continuously to improve upon the quality of care and overall delivery of services to residents. Clear Choice affirms that prior to the inception of operational management, each of the eight facilities managed by Clear Choice had a CMS star rating of one or two with the exception of East Bay Rehabilitation (four stars). The reviewer added the Agency star ratings to the above chart and verified CMS and Agency quality ratings on [medicare.gov](http://medicare.gov) and [floridahealthfinder.gov](http://floridahealthfinder.gov).

Port Charlotte indicates this dramatic improvement at each facility is a testament to efforts of Clear Choice management to provide superior quality care. The applicant attests that three SNFs managed by Clear

Choice are Gold Seal facilities, serving as a testament to the proven quality of Clear Choice’s management team and the unique programs and services offered. The reviewer confirms that Centre Pointe Health and Rehab Center, Conway Lakes Health and Rehab Center and Melbourne Terrace Rehabilitation Center are Gold Seal Award recipients.

Port Charlotte is not a Gold Seal Program nor is it on the Agency Nursing Home Watch List. The most recent Agency inspection indicates Port Charlotte received an overall two-star rating out of a possible five stars. The Agency’s Nursing Home Guide was last updated November 2015.

The applicant had two substantiated complaints during November 18, 2012 to November 18, 2015 in the complaint categories of administration/personnel and quality of care/treatment.

Agency complaint records indicate, for the three-year period ending November 18, 2015, Clear Choice had 21 substantiated complaints at eight facilities. A single complaint can encompass multiple complaint categories. The substantiated complaint categories are listed below:

<b>Clear Choice Substantiated Complaint Categories for the Past 36 Months</b>	
<b>Complaint Category</b>	<b>Number Substantiated</b>
Quality of Care/Treatment	9
Nursing Services	4
Physical Environment	1
Dietary Services	2
Resident Abuse	1
Resident Assessment	1
Administration/Personnel	1
Physical Services	1

Source: Agency for Healthcare Administration Complaint Records

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

**Analysis:**

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

be achieved if necessary to fund the project. We also calculate working capital (current assets less current liabilities) a measure of excess liquidity that could be used to fund capital projects.

Historically we have compared all applicant financial ratios regardless of type to bench marks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities. 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>Deep Creek RNC, LLC</b>		
	<b>Dec-14</b>	<b>Dec-13</b>
Current Assets	\$1,816,771	\$1,706,058
Total Assets	\$2,309,654	\$2,321,727
Current Liabilities	\$1,882,024	\$1,772,326
Total Liabilities	\$1,919,209	\$1,772,326
Net Assets	\$390,445	\$549,401
Total Revenues	\$14,205,167	\$14,480,126
Excess of Revenues Over Expenses	\$132,711	\$629,208
Cash Flow from Operations	\$539,593	\$620,878
<b>Short-Term Analysis</b>		
Current Ratio (CA/CL)	1.0	1.0
Cash Flow to Current Liabilities (CFO/CL)	28.67%	35.03%
<b>Long-Term Analysis</b>		
Long-Term Debt to Net Assets (TL-CL/NA)	9.5%	0.0%
Total Margin (ER/TR)	0.93%	4.35%
<b>Measure of Available Funding</b>		
Working Capital	(\$65,253)	(\$66,268)

<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 \$7,300,000, which includes this project (\$7,150,000) and routine capital expenditures (\$150,000). 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.**

**Analysis:**

The immediate and long-term financial feasibility of the project is tied to expected profitability. The purpose of our analysis for this section is to evaluate the reasonableness of the applicant's profitability projections and, ultimately, whether profitability is achievable for this project. Our analysis includes an evaluation of net revenue per patient day (NRPD), cost per patient day (CPD), nurse staffing ratios and profitability. We compared the NRPD, CPD and profitability to actual operating results from SNFs as reported on Medicaid cost reports (2012 and 2013 cost report years). For our comparison group, we selected SNFs with similar Medicaid utilizations to the utilization projected by the applicant on a per patient day basis (PPD). Comparison group data was adjusted for inflation to match the second year projection (inflation factor was based on the New CMS Market Basket Price Index as published in the 3rd Quarter 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	22,416,500	424	461	364	288
Total Expenses	21,106,405	399	456	358	290
Operating Income	1,310,095	25	29	10	-29
Operating Margin	5.84%		<b>Comparative Group Values</b>		
	Days	Percent	Highest	Median	Lowest
Occupancy	52,925	95.39%	99.48%	88.96%	62.35%
Medicaid/MDCD HMO	21,052	39.78%	50.03%	45.97%	30.87%
Medicare	25,668	48.50%	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 is projecting 1.97 direct care hours for certified nursing assistants per patient in year 1 and 1.91 in year 2. As such, the applicant is not projecting sufficient certified nursing assistant as staffing required by the statute.

The projected NRPD, CPD and profit fall within the group range and are considered reasonable. While total cost does not appear to include at least the minimum staffing required, 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.**

**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.**

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

The plans submitted with this application were schematic in detail with the expectation that they will be necessarily revised and refined prior to being submitted for full plan review. The architectural review of this application shall not be construed as an in-depth effort to determine complete compliance with all applicable codes and standards. The final responsibility for facility compliance ultimately rests with the applicant 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 Port Charlotte, the subdistrict, district and state is provided in the table below by CY.

**Medicaid Patient Days and Medicaid Occupancy in Charlotte County, District 8 and Florida**

<b>Medicaid Patient Days</b>					
<b>Facility/Area</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Port Charlotte	18,657	24,008	21,801	20,290	20,757
Charlotte	177,214	182,616	190,540	193,152	197,092
District 8	1,184,832	1,198,660	1,212,391	1,207,330	1,266,701
Florida	15,530,575	15,612,015	15,733,318	15,700,197	15,870,092
<b>Medicaid Occupancy</b>					
<b>Facility/Area</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Port Charlotte	52.51%	60.26%	54.61%	52.44%	51.67%
Charlotte	52.90%	54.93%	56.32%	56.17%	57.68%
District 8	56.92%	57.18%	57.39%	56.43%	57.54%
Florida	61.33%	61.56%	61.85%	61.66%	61.88%

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

The reviewer compiled the following Medicaid occupancy data for Clear Choice 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>
Belleair Health Care	21,005	41,191	52.62%
Centre Pointe Health	21,036	40,690	51.29%
Conway Lakes Health	12,091	39,653	30.49%
East Bay Rehab	19,039	40,220	47.34%
Melbourne Terrance Rehab	12,756	43,475	29.34%
Port Charlotte Rehab	20,757	40,176	51.67%
Spring Lake Rehab	10,507	41,798	25.14%
Sun Terrace Health	8,330	35,688	23.34%
<b>Total</b>	<b>125,521</b>	<b>322,891</b>	<b>38.90%</b>

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

Port Charlotte notes it provides care on a non-discriminatory basis, accepting all SNF appropriate patient referrals without regard to race, religion, national origin, age disability, marital status or source of payment. Clear Choice attests that it instills a culture of caring and giving back to the community and notes the it expects to write-off over \$1,000,000 in unreimbursed care to Medicaid and medically indigent

residents in the current fiscal year. The applicant states all Florida nursing home facilities managed by Clear Choice are dually certified (Medicare and Medicaid).

The applicant states that the care model of Clear Choice is a cost effective model for residents and their families as well as the state Medicaid and federal Medicare programs. The applicant expresses that anytime an individual can regain some aspects of his or her independence or move home, or to a more independent environment (e.g. assisted living facility) the state Medicaid program ultimately saves significant dollars and the individual’s quality of life improves as well.

Port Charlotte provides the projected year one and year two percentage of total Medicaid patient days. Clear Choice notes that these projects demonstrate the level of care and commitment provided by Clear Choice to Medicaid residents, including patients who utilize high intensity rehabilitative services as well as residential care. See table below.

**Projected Medicaid Patient Days  
Years One and Two of Operation**

<b>Medicaid Patient Type</b>	<b>Percent of Patient Days</b>	
	<b>Year One</b>	<b>Year Two</b>
Residential Medicaid	43%	44%
Community/Skilled Dual-Eligible Medicaid	13%	13%
<b>Total Medicaid Percent of Patient Days</b>	<b>56%</b>	<b>57%</b>

Source: CON application #10405, page 47

The applicant maintains that Clear Choice meets the needs of its communities through a combination of community give back programs and specific to the proposed project, commits a total annual community give back program of at least \$200,000.

The applicant’s Schedule 7 indicates that Medicaid and self-pay represent 38.7 percent and 2.2 percent of year one and 39.8 percent and 2.1 percent of year two annual total patient days.

**F. SUMMARY**

**Deep Creek RNC, LLC d/b/a Port Charlotte Rehabilitation Center (CON application #10405)** proposes to add 20 community nursing home beds to Port Charlotte Rehabilitation Center in Subdistrict 8-1, Charlotte County that will be managed by Clear Choice Health.

Clear Choice operates eight SNFs in Florida.

The project involves 18,877 GSF of new construction. The construction cost is \$4,142,369. Total project cost is \$7,150,000. Project cost includes building, equipment and project development costs.

The applicant proposes to condition the project as shown of 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 20 beds was published for Subdistrict 8-1 for the July 2018 Planning Horizon. Subdistrict 8-1 is comprised of Charlotte County.

As of November 18, 2015, Subdistrict 8-1 had 1108 licensed and zero approved community nursing home beds. During the 12-month period ending June 30, 2015, Subdistrict 8-1 experienced 84.49 percent utilization at nine existing facilities.

Port Charlotte indicates the proposed project is best positioned to address the community needs of residents in Charlotte County, and provides the following rationale:

- The facility is managed by an experienced, local community nursing home team, with a training facility in Florida
- Comprehensive continuity of care provided for nursing home residents, including the sub-acute level of high-intensity rehabilitative services, provided by certified clinical staff using advanced equipment and facilities to ensure optimal patient outcomes and recovery
- 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' need, all with the goals of ensuring resident choice, independence and dignity
- The proven programs and services to be provided will ensure that the highest quality nursing home services are available to the residents in Charlotte County

The applicant's Schedule 7 indicates that the ALOS for the proposed project is 41.11 days and 41.41 days for years one and two, respectively. The applicant's Schedule 7 based this ALOS on a 32-bed addition, not the proposed 20-bed addition requested by the applicant.

**Quality of Care:**

The applicant described its ability to provide quality care.

For the most recent rating period, the applicant had two out of a possible five-star quality inspection rating. Port Charlotte had two substantiated complaints during November 18, 2012 to November 18, 2015. Port Charlotte is not a Gold Seal facility nor is it on the Nursing Home Watch List. The applicant's controlling interest had 21 substantiated complaints at its eight Florida SNFs during November 18, 2012 to November 18, 2015.

**Financial Feasibility/Availability of Funds:**

Funding for this project is likely but not guaranteed. This project appears to be financially feasible based on the projections provided by the applicant. Based on the information provided in Schedule 6, the applicant is projecting 1.97 direct care hours for certified nursing assistants per patient in year 1 and 1.91 in year 2. As such, the applicant is not projecting sufficient certified nursing assistant staff as required by statute.

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

**Medicaid/Charity Care:**

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

The applicant's Schedule 7 indicates that Medicaid and self-pay represent 38.7 percent and 2.2 percent of year one and 39.8 percent and 2.1 percent of year two annual total patient days.

**Architectural:**

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

**G. RECOMMENDATION**

Approve CON #10405 to add 20 community nursing home beds in District 8, Subdistrict 1, Charlotte County. The total project cost is \$7,150,000. The project involves 18,877 GSF of new construction and a construction cost of \$4,142,369.

**CONDITIONS:**

- The applicant will continue to provide an array of unique high-intensity sub-acute care rehabilitative programs and services for residents in its nursing homes including the following:
  - Left Ventricular Assist Device (LVAD) Program
  - Lee Silverman Voice Treatment (LSVT) Loud Program
  - Lee Silverman Voice Treatment (LSVT) BIG Program
  - Infusion therapy services including peritoneal dialysis and total peritoneal nutrition
  - Aquatic therapy, through the development of two hydro therapy pools
  - Rehabilitative therapy for patients unable to perform 100% 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 assessment: medication reconciliation and rehabilitative therapy team assessment, as appropriate
  - Transportation program to transport outpatients from their home environment to therapy sessions when medically necessary
- 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 Silverman Treatment (LSVT) Loud certified
  - Lee Silverman 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
- Community give-back program: Annual funding of at least \$200,000 comprised of the following components:
  - Unreimbursed/charity care
  - Donation of goods, services and/or direct funding to local charities selected by the residents
  - Scholarship programs which pay the costs of staff member to enroll in academic programs to further their formal education

**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**