

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

**A. PROJECT IDENTIFICATION**

1. Applicant/CON Action Number

**VITAS Healthcare Corporation of Florida/CON #10419**

100 South Biscayne Boulevard, Suite 1300  
Miami, Florida 33131

Authorized Representative: Michael M. Hansen  
Senior Vice President - Facilities  
(305) 350-6969

2. Service District/Subdistrict

Hospice Service Area 7A (Brevard County)

**B. PUBLIC HEARING**

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

**Letters of Support**

The applicant submitted 39 letters of support (many of a form letter variety but a few being individually composed) from area residents/providers. Recurring themes in some of these support letters include:

- The elderly population in Brevard County continues to increase
- Brevard County has an approximate census of 560,000 residents with the segment of this population growing the fastest is over age 85
- There is a limited supply of “home like” hospice houses in the area and need is especially great in South/Central Brevard County

**C. PROJECT SUMMARY**

**VITAS Healthcare Corporation of Florida (CON #10174)**, also referenced as VITAS or the applicant, a Florida for-profit corporation, proposes to establish a new 14-bed freestanding inpatient hospice facility in Hospice Service Area 7A (Brevard County), specifically to be located in the Town of Palm Shores, Florida, along US Highway 1. VITAS believes

that the proposed project location will provide enhanced access from all areas of the county and will additionally enhance the continuum of services available to the terminally ill patients in the intended service area. The reviewer notes that the applicant states that the project “proposes the operation of a freestanding hospice inpatient unit as a replacement for a current 14-bed facility-hosted hospice inpatient unit.” The Agency does not show that VITAS currently has a CON to operate a freestanding inpatient hospice facility in Brevard County, therefore this project will be reviewed pursuant to 408.036 (1) (d), Florida Statutes, “the establishment of a hospice or hospice inpatient facility”.

The applicant indicates that the proposed facility is to be constructed by a third party owner to the applicant’s specifications and then will be leased by the applicant over a 15-year period of time, to provide freestanding inpatient hospice services. The applicant did not include any of the costs of construction of the facility or any terms of the 15-year lease, including options to renew. The applicant did include rent on Schedule 8A of approximately \$50,000 a month for year one of operation and \$51,250 a month for year two of operation but the cost of the facility is not accounted for on Schedule one of CON #10419.

VITAS states that upon the proposed project’s completion and approval for use, it is the applicant’s intention to cease operation of its currently leased 14-bed unit space at Merritt Island, Florida (in the east-central portion of the service area to the east of Indian River). The reviewer notes that while VITAS may be leasing space in the service area for inpatient bed arrangements, Agency records do not indicate that VITAS is licensed to operate a freestanding inpatient hospice facility in the service area and that if approved, the proposed project would, for the first time, establish VITAS as having a freestanding inpatient hospice facility in Hospice Service Area 7A.

VITAS states having provided hospice services in Brevard County since 2002 and that as of December 2015 was serving approximately 660 patients there. The applicant estimates the issuance of license in January 2018 and the initiation of service in February 2018.

The applicant is licensed to operate hospice programs in Hospice Service Areas 4A, 4B, 6B, 7A, 7B, 7C, 8B, 9C, 10 and 11, with one CON approved freestanding inpatient hospice facility in Florida, located in Hospice Service Area 9C (CON #10174).

Total project cost is \$736,921. Costs covered are for equipment, project development and start-up. The project involves 14,837 gross square feet (GSF) of new construction with new construction costs reported as not being applicable, as the planned facility is to be rented from a third-party contractor. The reviewer notes that in the applicant's Schedule 1, total land cost is at \$0.00 and total building cost is at \$0.00. The applicant does not provide enough information for the Agency to determine total costs for the proposed project to establish a hospice inpatient facility.

The applicant does not propose any condition(s) on the proposed project.

**D. REVIEW PROCEDURE**

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes, rules of the State of Florida, and 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 provided in the application and independent information gathered by the reviewer.

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

Section 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, consultant Steve Love analyzed the application in its entirety with consultation from 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 review criteria and application content requirements found in Sections 408.035 and 408.037, and applicable rules of the State of Florida, Chapters 59C-1 and 59C-2, Florida Administrative Code.

**1. Fixed Need Pool**

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

The Agency does not publish need for inpatient hospice beds. Hospice programs are required by federal and state law to provide hospice patients with inpatient care when needed (42 Code of Federal Regulations 418.108) and no more than 20 percent of a hospice's total patient days may be inpatient days per Section 400.609(4), Florida Statutes. Inpatient care may be provided through contractual arrangements in hospitals and nursing homes, and is generally provided on a short-term basis within the total hospice stay.

As previously stated, the applicant has one CON approved freestanding inpatient hospice facility in Florida, located in Hospice Service Area 9C (Palm Beach County) through CON #10174. Existing freestanding inpatient hospice facilities in Hospice Service Area 7A are as follows: 16 inpatient hospice beds operated in Palm Bay by Hospice of Health First Inc., 12 inpatient hospice beds operated in Titusville by Hospice of St. Frances, Inc. and 12 inpatient hospice beds operated by in Rockledge by Wuesthoff Brevard Hospice and Palliative Care. In total, there are 40 licensed inpatient hospice beds in Hospice Service Area 7A. There are no CON approved inpatient hospice facilities pending licensure in Hospice Service Area 7A.

- b. **If no Agency policy exists, the applicant will be responsible for demonstrating need through a needs assessment methodology, which must include, at a minimum, consideration of the following topics, except where they are inconsistent with the applicable statutory or rule criteria:**
- **Population demographics and dynamics;**
  - **Availability, utilization and quality of like services in the district, subdistrict or both;**
  - **Medical treatment trends; and**
  - **Market conditions.**

***Population demographics and dynamics***

As of January 2015, Hospice Service Area 7A’s total population was 557,035 persons. Brevard County is projected to grow by 5.53 percent, reaching a total population of 587,837 by January 2020, as shown below.

**Hospice Service Area 7A  
Brevard County Population  
January 1, 2015 – January 1, 2020**

<b>Age Group</b>	<b>January 2015</b>	<b>January 2020</b>	<b>Population Increase</b>	<b>Percent</b>
Under 65	437,294	448,872	11,578	2.65%
65+	119,741	138,965	19,224	16.05%
<b>Total</b>	<b>557,035</b>	<b>587,837</b>	<b>30,802</b>	<b>5.53%</b>

Source: Florida Agency for Health Care Administration *Population Estimates 2010 to 2030*, published February, 2015

As shown above, the Hospice Service Area 7A’s population aged 65+ is expected to increase at a much more rapid rate than the under 65 population—16.05 percent compared to 2.65 percent from January 2015 to January 2020.

Using Florida Office of Economic Demographic Research, the applicant indicates service area population growth of 14.1 percent between 2000 and 2010 and forecasts growth of 4.8 percent between 2015 and 2020. The applicant contends that this growth and the aging of the existing population will continue steady demand for hospice services and utilization of inpatient services. VITAS provides a graph of patient census trends for a 13-month period (CON #10403, page 5).

According to VITAS, its nationwide experience indicates that where inpatient units are available, approximately three percent days of care are provided to patients at the inpatient level of care. VITAS maintains that given its average daily census (ADC) of approximately 620 patients, the inpatient capacity required to meet the need is approximately 18 beds. VITAS states that its exiting inpatient arrangement (at its Merritt

Island location) in the east-central portion of the service area, accommodates 14 patients and maintains an occupancy rate of approximately 80 percent. VITAS also states that during times of peak need in the area, patients requiring intensive symptom management are provided care in contract beds or through continuous care delivered in the home setting.

The reviewer notes that while discussing the provision of contract beds, as needed, VITAS previously provided discussion that securing inpatient capacity at facilities such as skilled nursing facilities (SNFs) in the south end of the county has proven problematic. VITAS also indicated previously having no hospital inpatient contracts (in the area) because area hospital (such as Health First and Wuesthoff<sup>1</sup>) have declined to entertain facility-based unit arrangements. According to VITAS, this is because these hospitals cite other priority uses for floor space and that these hospitals have little incentive to entertain a contract with VITAS.

***Availability, utilization and quality of like services***

The applicant states and the Agency confirms that there are three freestanding inpatient hospice facilities in Hospice Service Area 7A. The applicant reiterates intention to cease operation of its currently leased 14-bed unit space in Merritt Island, Florida, if the proposed project is approved. VITAS contends that its Merritt Island bed arrangement location is located in an evacuation zone, prone to adverse effects of tropical storms, resulting in limited access. According to the applicant, relocating to a mainland location will improve the unit's resiliency and accessibility. The reviewer notes that according to the Florida Division of Emergency Management website at <http://www.floridadisaster.org/publicmapping/>, any location along U.S. Highway 1 in the Town of Palm Shores, Florida is in an evacuation zone.

VITAS discusses having engaged the community in providing sustained capacity in the service area and that the included support letters reflect the community's interest in improved choice and access through the proposed facility. The reviewer notes that a recurring theme in the support letters was a limited supply of "home like" hospice houses in the service area, particularly in south/central Brevard County.

The reviewer indicates that the 16-bed freestanding inpatient hospice facility, the William Childs Hospice House, located at 381 Medplex Parkway, Palm Bay, Florida 32907 and operated by Hospice of Health

<sup>1</sup> The reviewer notes that both Wuesthoff and Health First have affiliated inpatient hospice facilities within Brevard County.

First Inc., is the southernmost freestanding inpatient hospice facility in Hospice Service Area 7A. According to Mapquest.com, the Town of Palm Shores, Florida, the planned location of the proposed project, is approximately 21.8 miles north of the William Childs Hospice House. Therefore, if approved, the proposed project would place a second freestanding inpatient hospice facility toward the southern portion of Hospice Service Area 7A.

***Medical treatment trends***

VITAS contends that its experience indicates that hospice patients are often being referred and admitted to hospice at a very late stage in their disease and that one result of this latent referral practice is that, more patients are being referred and admitted directly from acute care settings and are already “actively dying”. VITAS points out that these conditions can result in an increased need for inpatient levels of care, stressing an already limited resource capacity through Hospice Service Area 7A.

The reviewer notes that District 7 is composed of three hospice subdistricts—7A (Brevard County), 7B (Orange and Osceola County) and 7C (Seminole County). The reviewer provides the following chart to show the freestanding inpatient bed complements in each subdistrict.

<b>Service Area</b>	<b>County(s)</b>	<b>Inpatient Facilities</b>	<b>Inpatient Beds</b>	<b>Reported Hospice Admissions</b>
7A	Brevard	3	40	4,709
7B	Orange, Osceola	0	0	6,103
7C	Seminole	1	16	2,182

Source: *Florida Need Projections for Hospice Programs* published October 2015

***Market conditions***

The applicant again reiterates that there are three existing freestanding inpatient hospice facilities in Hospice Service Area 7A as well as its currently leased 14-bed unit space at Merritt Island (with this inpatient bed arrangement set to be terminated if the proposed project is approved). The applicant states that the existing Brevard County freestanding inpatient hospice facilities are dispersed across the service area. VITAS anticipates its patients to be served in the proposed project will be admitted primarily from its home care census in the immediate area when inpatient care is indicated by the plan of care. The applicant believes that the community’s choice would be for service to be available in a more intimate setting providing a more home-like environment than that which is achievable in the current leased unit in Merritt Island which the applicant asserts has a more institutional feeling environment.

**2. Agency Rule Criteria and Preferences**

- a. Rule 59C-1.0355 (7) Florida Administrative Code states that the Agency will not normally approve a proposal for construction of a freestanding inpatient hospice facility unless the applicant demonstrates that the freestanding facility will be more cost-efficient than contractual arrangements with existing hospitals or nursing homes in the service area. The application shall include the following:**

- (1) A description of any advantages that the hospice program will achieve by constructing and operating its own inpatient beds.**

VITAS contends that there are a number of advantages that will be realized through approval of the proposed project.

- Patients receiving hospice services will have an additional option for home-like inpatient services in a more convenient and accessible location as the currently leased 14-bed unit space at Merritt Island presents access hardship and results in increased exposure due to tropical storm impacts.
- The cost in inpatient unit space within existing facilities has escalated to a level such that “rental” space has become more expensive than the cost of operating a freestanding unit. VITAS contends that higher occupancy rates in healthcare facilities create competition for revenue producing uses which in turn drives up rents. The applicant maintains that its average rental rate across its leased-space inpatient units has increased to approximately \$64.05 per square foot (sq. ft.) and the rate experienced at its currently leased 14-bed unit space at Merritt Island is approximately \$219.35 per sq. ft. VITAS points out that after adjusting for the value of the included dietary, housekeeping and linen services, the rent, based on the alternative revenue stream to the facility, is significantly higher than the anticipated rent for the proposed project, which VITAS estimates to be \$40.00 per sq. ft. The reviewer indicates that based on the information given by applicant regarding rent on the proposed and existing property, the rent would be \$40.43 a sq. ft. for the proposed property and \$214.29 at the existing property. The reviewer notes that the applicant provided no information regarding the lease terms at either facility.
- The currently leased 14-bed unit space at Merritt Island encompasses 4,103 sq. ft. and is composed of semi-private patient bed rooms along with areas for families and staff.



According to VITAS, patients and families find semi-private rooms less desirable and the proposed project is 15,000 sq. ft. in area will include 14 private patient rooms, fully accessible lavatories, improved seating and sleep-over accommodations for family members and expanded family and staff areas.

- The reduction of space cost will allow the redirection of funding into continued enhancement of high-quality patient and family services.

**(2) Existing contractual arrangements for inpatient care at hospitals and nursing homes.**

VITAS states it currently maintains contractual arrangements for contract bed availability for patients requiring the inpatient level of care. The applicant contends that contract bed arrangements are sub-optimal in terms of patient care and hospice program staff productivity. The applicant reports that in the current situation, patients are placed in various locations within a contracted facility and are often cared for by separate clinical teams—often not specifically trained in end of life hospice protocols. VITAS comments that contract bed rates have escalated to a point at which they consume “an inordinate percentage” of Medicare and Medicaid reimbursement rates, creating financial burdens for hospice programs. The applicant continues that dispersion of patients throughout contract bed facilities decreases the efficiency of hospice caregivers attending to those patients.

The reviewer notes the applicant does not offer a side-by-side description or other itemization per cost item of expected savings to be realized from the project but does offer a narrative description of reduced costs per sq. ft. to demonstrate that the proposed freestanding facility will be more cost-efficient than contractual arrangements with existing hospitals or nursing homes in the service area.

The applicant provides a list of 20 SNFs in Hospice Service Area 7A with which VITAS maintains contains its current contract bed arrangements (CON #10419, Appendix B)—the reviewer notes that the list states it was last revised October 22, 2014. VITAS reiterates that nursing home settings tend to be less desirable for delivery of hospice inpatient services.

**(3) Anticipated sources of funds for the construction.**

VITAS indicates that the proposed project will be funded by ongoing operating cash flows of the applicant and if required, its parent organization – VITAS Healthcare Corporation.

- b. Rule 59-1.0355(8) Florida Administrative Code: Semi-Annual Utilization Reports. Each hospice program shall report utilization information to the Agency or its designee on or before July 20<sup>th</sup> of each year and January 20<sup>th</sup> of the following year.**

The applicant does not directly respond to this rule. However, VITAS regularly submits semi-annual utilization reports as required by the above rule. The Agency's semi-annual utilization reports do not require a hospice to report inpatient hospice days.

**3. Statutory Review Criteria**

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

There are three licensed inpatient hospice providers in Hospice Service Area 7A, as follows:

- Hospice of Health First, Inc. (16 beds, Palm Bay)
- Hospice of St. Francis, Inc. (12 beds, Titusville)
- Wuesthoff Health System Brevard Hospice and Palliative Care (12 beds, Rockledge)

VITAS asserts that the hospice inpatient capacity within the service area currently provides a total of 60 beds, including the applicant's currently leased 14-bed unit space at Merritt Island. However, as shown in Item E. 1. a. of this report, Agency records indicate a total of 40 licensed hospice beds in freestanding inpatient hospice facilities in Hospice Service Area 7A. The applicant again contends that the proposed project, if approved, does not increase the total number of beds in the service area. The reviewer notes that project approval would result in the freestanding inpatient hospice bed count rising from 40 to 54, in Brevard County. VITAS further contends that the proposed project does not "significantly impact the competitive market conditions".

VITAS asserts that the proposed project is intended to provide an improved quality of care for its patients, improved resiliency of the unit, improved accessibility by families and staff and improved operational efficiencies by reducing cost of space and redirecting assets into continuous improvement.

The applicant indicates the following “important advantages” to the proposed project as compared with services in a contracted bed:

- Dedicated inpatient units operated by hospice providers embrace the hospice philosophy and approach to patient care
- Acute care hospitals and nursing homes have fundamentally different missions from hospices and those differences are reflected in the skills and approaches of the professionals who staff each type of care setting
- Dedicated inpatient units, especially those that are freestanding, are designed to support family participation and presence in a “home like” comfortable setting

VITAS states having an ADC of over 620 patients in Brevard County. The applicant reiterates that the proposed project demonstrates a lower cost of space versus the escalating rates for facility-based space and will provide improved quality and services to hospice patients and families. According to VITAS, this improved quality of service will induce competition, offering another choice to the community.

The applicant states having contracts for inpatient hospice beds with hospitals and nursing homes throughout the service area; a list of contract providers was discussed in Item E. 2. a. (2) of this report, no hospitals were identified on the list, only SNF facilities. VITAS previously stated having no acute care alternatives to inpatient care, as the hospital systems provide hospice care and therefore have little incentive to entertain a contract with VITAS. The reviewer notes, that in addition to the Brevard County Health First affiliated hospitals (4) and Wuesthoff affiliated hospitals (2), there are two additional hospitals in Brevard County—Parrish Medical Center and Kindred Hospital Melbourne.

**b. Does the applicant have a history of providing quality of care? Has the applicant demonstrated the ability to provide quality care? ss. 408.035(1)(c), Florida Statutes.**

The applicant states its parent, VITAS Healthcare Corporation, was awarded its first Florida license in 1980 and that VITAS Healthcare Corporation of Florida was awarded its license in Hospice Service Area 7A in 2002. The reviewer confirms that the applicant’s current Hospice

Service Area 7A (Brevard County) license was effective June 15, 2015 and expires on December 30, 2016.

According to the application, VITAS serves over 7,000 patients and their families in nine Florida hospice service areas. However, the reviewer notes that VITAS is licensed to operate in 10 Florida hospice service areas. The applicant also reports serving an additional 8,000 patients in other states. VITAS maintains that the parent provides high-quality, comprehensive, standard-setting hospice and palliative care services across the nation, having established a full range of patient care protocols, multi-disciplined team practices and recognized staff training.

The applicant indicates it operates one 14-bed facility-based inpatient unit at Courtenay Springs Village in the east-central portion of Hospice Service Area 7A. According to Agency's [www.floridahealthfinder.gov](http://www.floridahealthfinder.gov) website, Courtenay Springs Village is a 96-bed community nursing home located at 1100 South Courtenay Parkway, Merritt Island, Florida 32952 (Brevard County). The applicant includes Courtenay Springs Village in its October 22, 2014 list of 20 SNFs in Hospice Service Area 7A with which it maintains contract bed arrangements.

Although not discussed by the applicant, the reviewer notes that VITAS Innovative Hospice Care of Brevard County, 4450 W Eau Gallie Boulevard, Suite 250, Melbourne, Florida 32934 appears on the "Find A Member" website of the National Hospices and Palliative Care Association (<http://www.nhpc.org>).

Although not discussed by the applicant, the reviewer notes that VITAS Healthcare Corporation of Florida (Melbourne, Florida) participated in the Agency's Family Evaluation of Hospice Care Satisfaction Survey, January through March 2014, attaining a five-star rating on each of the five questions in the survey. Respondents ranged from a low of 298 to a high of 375. The reviewer notes the applicant had the most respondents for each of the five survey questions, when compared to the respondent count for each of the same five survey questions submitted by the other licensed hospice providers in Brevard County. The five-star rating is the highest attainable and indicates respondents were 90 to 100 percent satisfied with a hospice's performance.

Agency records indicate that VITAS had 15 substantiated complaints statewide (encompassing 10 hospice service areas) during the three-year period ending December 7, 2015. A single complaint can encompass multiple complaint categories. Please see below.

**Substantiated Compliant Categories in the 36 Months Ending December 7, 2015**

<b>Complaint Category</b>	<b>Number Substantiated</b>
Quality of Care/Treatment	9
Nursing Services	5
Resident/Patient/Client Assessment	3
Resident/Patient/Client Rights	3
Administration/Personnel	2

Source: Agency for Health Care 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 benchmarks 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 for the applicant, where the short-term and long-term measures fall on the scale (highlighted in gray) for the most recent year.

<b>Vitas Healthcare Corporation of Florida</b>		
	<b>Dec-14</b>	<b>Dec-13</b>
Current Assets	\$47,315,957	\$34,103,123
Total Assets	\$398,805,398	\$349,631,785
Current Liabilities	\$21,403,924	\$21,545,814
Total Liabilities	\$22,303,930	\$22,614,143
Net Assets	\$376,501,468	\$327,017,642
Total Revenues	\$442,591,108	\$414,075,130
Excess of Revenues Over Expenses	\$49,483,826	\$43,316,805
Cash Flow from Operations	\$38,684,005	\$41,689,250
<b>Short-Term Analysis</b>		
Current Ratio (CA/CL)	2.2	1.6
Cash Flow to Current Liabilities (CFO/CL)	180.73%	193.49%
<b>Long-Term Analysis</b>		
Long-Term Debt to Net Assets (TL-CL/NA)	0.2%	0.3%
Total Margin (ER/TR)	11.18%	10.46%
<b>Measure of Available Funding</b>		
Working Capital	\$25,912,033	\$12,557,309

<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:**

On Schedule 2, the applicant indicates capital projects totaling \$5,761,249 which includes \$671,249 for this project. The applicant indicates on Schedule 3 of its application that funding for the project will be provided by its own operating cash flows and by its parent company. With \$25.9 million in working capital and \$38.7 million in operating cash flow, the applicant has sufficient resources to fund this and all capital projects listed. Operating cash flow is swept to the parent company's central cash management system at the end of the year. The balance due to the applicant was listed in the audit as \$190.5 million.

**Staffing:**

Schedule 6 indicates, ending December 31, 2018 (year one of operation) and ending December 31, 2019 (year two of operation), a total of 16.5 FTEs, respectively, for each of the first two years of planned operation. See the table below.

**VITAS Healthcare Corporation of Florida – CON application #10419  
Proposed 14-Bed Freestanding Inpatient Hospice Facility in  
Hospice Service Area 7A (Brevard County, Florida)**

<b>Staff Position</b>	<b>FTEs for Year One Ending 12/31/2018</b>	<b>FTEs for Years Two Ending 12/31/2019</b>
<b>Administration</b>		
Secretary	2.0	2.0
Unit Manager	1.0	1.0
<b>Physicians</b>		
Medical Director	1.0	1.0
<b>Nursing</b>		
R.N.s	6.0	6.0
L.P.N.s	2.0	2.0
Nurses' Aides	3.0	3.0
<b>Social Services</b>		
MSW	1.0	1.0
Chaplain	0.5	0.5
<b>Total</b>	<b>16.5</b>	<b>16.5</b>

Source: CON application #10419, Schedule 6

Notes to Schedule 6 indicate that staffing levels are based upon the VITAS interdisciplinary model. The applicant also states that staff will be augmented when needed by the existing 250-plus person staff of the hospice program.

VITAS indicates that dietary counseling is a key part of service such that registered nurses are trained to work with patients and their families on dietary/nutritional issues. VITAS maintains that dietary services are included within the nursing category of the schedule and not separately listed. VITAS also states that included in the proposed budget is a provision for contracting services from a registered dietitian/nutritionist when needed to augment the services provided by staff RNs.

The reviewer notes that wages, salary costs and fringe benefits are not discussed in Schedule 6 or in the Schedule 6 notes. Additionally, there is no discussion of staff recruitment and retention mechanisms or practices.

**Conclusion:**

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

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

**Analysis:**

The immediate and long-term financial feasibility of the project is tied to expected profitability. Profitability for hospice is driven by two factors, volume of patients and length of stay/condition of the patient. A new hospice program in a service area with published need is more likely than not to be financial feasible since patient volume and mix is presumed to be available in sufficient amounts to sustain a new program. The focus of our review will be on the reasonableness of projections, specifically the revenue.

The vast majority of hospice days are paid by Medicare (Medicaid is the next largest payer with similar reimbursement rates). As such, revenue is predictable by day and service type. Schedule 7 includes revenue by service type. We have divided the applicant's projected revenues by the estimated Medicare reimbursement rates for each level of service in year two to estimate the total patient days that would be generated by that level of revenue. The results were then compared to the applicant's estimated number of patient days. Calculated patient days that approximate the applicant's projected patient days are considered reasonable and support the applicant's assumptions of feasibility. Calculated patient days that vary widely from the applicant's projected patient days call into question the applicant's profitability assumptions and feasibility. The results of the calculations are summarized below.



**HOSPICE REVENUE (Year 2) TABLE 1**

**CON 10419**

**Vitas Healthcare Corporation of Florida**

**County: Brevard**

**Year Two: Dec-19**

CON 10419	Vitas Healthcare Corporation of Florida				
Brevard	Wage Component	Wage Index	Adjusted Wage Amount	Unadjusted Component	Payment Rate
Base Rate Calculation					
Routine Home Care	\$111.23	0.8971	\$99.78	\$50.66	\$150.44
Continuous Home Care	\$649.17	0.8971	\$582.37	\$295.62	\$877.99
Inpatient Respite	\$90.64	0.8971	\$81.31	\$76.81	\$158.12
General Inpatient	\$460.94	0.8971	\$413.51	\$259.17	\$672.68
Year Two Comparison	Inflation Factor Year Two	Inflation Adjusted Payment Rate	Schedule 7 Revenue Year 2	Continuous Service Hours Provided	Calculated Patient Days
Routine Home Care	1.115	\$167.79	\$0		0
Continuous Home Care	1.115	\$979.20	\$0	24	0
Inpatient Respite	1.115	\$176.35	\$0		0
General Inpatient	1.115	\$750.22	\$3,092,270		4,122
		<b>Total</b>	<b>\$3,092,270</b>		<b>4,122</b>
			Days from Schedule 7		4,599
			<b>Difference</b>		<b>477</b>
			<b>Percentage Difference</b>		<b>10.38%</b>

The applicant’s projected patient days are 10.38 percent or 477 days more than the calculated patient days. Operating profits from this project are expected to increase from \$2,784,797 for year one to an operating profit of \$3,002,062 for year two.

**Conclusion:**

This project appears to be financially feasible; however, operating profit may be overstated.

- 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 in general and in hospice specifically. 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 hospice, price-based competition is almost non-existent. With 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. Since applicant is seeking to relocate a leased space in a skilled nursing unit to a freestanding facility there is no impact due to 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**

A review of the architectural plans, narratives and other supporting documents did reveal deficiencies that are likely to have significant impact on either construction costs or the proposed completion schedule.

Deficiencies noted include:

- Schedule 9 is incomplete. Required cost information has been omitted. Required items H, I, L, M, N, O, and P are indicated as not applicable
- Schematic drawings do not include typical room plan at 1/4" = 1-0" scale as required in part 6 of Schedule 9
- Insufficient information was provided relating to proposed building materials and building systems as required by part 3 of Schedule 9. The applicant does not explain how these design elements will satisfy building code and life safety code requirements
- The proposed construction classifications types for the Florida Building Code and Life Safety Code (NFPA 101) are not indicated in the application or schematic drawings
- Required smoke compartmentation of the facility is not indicated in the schematic plans as required in part 6 of Schedule 9
- The applicant does not identify the rules and codes that will apply to the design and construction of this facility as required in part 6 of Schedule 9
- Based on the limited information provided regarding the proposed methods and materials of construction and the incompleteness of Table A, it is not possible to determine if the projected construction costs are reasonable

The plans submitted with this application were schematic in detail. 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. Inpatient hospice facilities that receive a CON are not required to submit additional plans to the Agency, unless changes alter the condition of the CON approval. The final plans must be submitted to the local authority having jurisdiction for approval prior to commencement of construction. The applicant may submit plans to the Agency's Office of Plans and Construction for an informal review to assist the facility in complying with applicable rules, codes and standards prior to construction. The Agency charges fees for this service commensurate with the cost of the review.

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

Hospice programs are required by federal and state law to provide hospice patients with inpatient care when needed (42 Code of Federal Regulations 418.108). Hospice care also must be provided regardless of ability to pay and regardless of age, race, religion, sexual orientation, diagnosis, payer source or financial status.

VITAS states it has consistently admitted and provided care to patients irrespective of their ability to pay. According to the applicant, on a national scale, VITAS has provided for the medically indigent in excess of \$8,967,000 in patient care on a year to date basis in 2015 and \$325,000 of that amount was provided within Hospice Service Area 7A in charitable assistance for care of Medicaid and medically indigent patients.

VITAS expects total patient days of 4,343 in year one (ending December 31, 2018) and 4,599 in year two (ending December 31, 2019), per Schedule 7A. The majority of patient days, both years, are attributed to Medicare patient days. See the table below.

**CON Action Number: 10419**

**VITAS Healthcare Corporation of Florida - CON application #10419  
Medicaid, Medicare, Commercial Insurance and Other Revenue Patient Days  
Year One (ending 12/31/2018) and Year Two (ending 12/31/2019)**

<b>Payer Source</b>	<b>Year One Patient Days</b>	<b>Year One Percentage*</b>	<b>Year Two Patient Days</b>	<b>Year Two Percentage**</b>
Medicare	3,750	86.35%	3,957	86.04%
Medicaid	392	9.03%	406	8.83%
Commercial Insurance	159	3.66%	171	3.72%
Other Revenue	42	0.97%	65	1.41%
<b>Total Patient Days/Percentage</b>	<b>4,343</b>	<b>100.01%</b>	<b>4,599</b>	<b>100.00%</b>

Source: CON application #10419, Schedule 7A.

Note: \* , \*\*, The applicant does not offer a patient day percentage calculation for year one or for year two in Schedule 7A. The reviewer includes these year one and year two percentage columns and calculations utilizing the applicant's proposed patient days. Additionally, the applicant's Schedule 7A does not indicate a charity patient day category or count.

Notes to Schedule 7A indicate that revenues related to the operations of the proposed project reflect the extension of the utilization forecast from Schedule 5. Further, Schedule 7A notes state that hospice inpatient reimbursement from projected payor sources are based upon fixed per diem rates which are adjusted annually by CMS or in accordance with underlying payor agreements. Schedule 7A notes also state that VITAS experience includes the following mix of payor sources:

<b>VITAS Historical Payor Experience</b>	
Medicaid	9.0%
Medicare	85.4%
Commercial Insurance	3.5%
Other Revenue	2.1%

Source: CON application #10419, Schedule 7A Notes

The reviewer notes that the percentage difference for each payor source, between the applicant's Schedule 7A table and the Schedule 7A notes table, is 0.69 percent (0.0069) or less.

Schedule 7A for year one ending December 31, 2018, shows the applicant projects patient days by payer as follows: Medicare 86.35 percent, Medicaid 9.03 percent, commercial insurance 3.66 percent and "other revenue" 0.97 percent. For year two ending December 31, 2019, the estimated patient payer mix is: Medicare 86.04 percent, Medicaid 8.83 percent, commercial insurance 3.72 percent and "other revenue" 1.41 percent.

**F. SUMMARY**

**VITAS Healthcare Corporation of Florida (CON #10419)**, a Florida for-profit corporation, proposes to establish a new 14-bed freestanding inpatient hospice facility in Brevard County. The proposed freestanding inpatient hospice facility is to be located in the Town of Palm Shores, Florida, along US Highway 1.

The reviewer notes that the applicant states that the project “proposes the operation of a freestanding hospice inpatient unit as a replacement for a current 14-bed facility-hosted hospice inpatient unit.” The Agency does not show that VITAS currently has a CON to operate a freestanding inpatient hospice facility in Brevard County, therefore this project will be reviewed pursuant to 408.036 (1) (d), Florida Statutes, “the establishment of a hospice or hospice inpatient facility”.

The proposed facility is to be constructed by a third-party owner to the applicant’s specifications and then will be leased by the applicant over a 15-year period of time, to provide freestanding inpatient hospice services. The applicant did not include any of the costs of construction of the facility or any terms of the 15-year lease, including options to renew. The applicant did include rent on Schedule 8A of approximately \$50,000 a month for year one of operation and \$51,250 a month for year two of operation but the cost of the facility is not accounted for on Schedule one of CON #10419.

Total project cost is \$736,921. Costs covered are for equipment, project development and start-up. The project involves 14,837 GSF of new construction with new construction costs reported as not being applicable, as the planned facility is to be rented from a third party contractor. The reviewer notes that in the applicant’s Schedule 1, total land cost is at \$0.00 and total building cost is at \$0.00.

The applicant does not propose any condition(s) on the proposed project.

**Need/Access:**

- The Agency does not publish need for inpatient hospice beds. There are three facilities with a cumulative total of 40 licensed inpatient hospice beds and no CON approved freestanding hospice facilities or beds pending licensure in Hospice Service Area 7A.
- VITAS asserts that that population growth and the aging of the existing population in the area will continue steady demand for hospice services and utilization of inpatient services.

**CON Action Number: 10419**

- VITAS indicates serving an ADC of approximately of 620 patients in Brevard County and estimates that based on its national experience, three percent of its hospice patients will need inpatient services at some point in their hospice services tenure – this generates an inpatient capacity required to meet inpatient hospice facility need of approximately 18 beds but VITAS’ existing contract arrangement with the 96-bed SNF Courtenay Springs Village is for 14 beds.
- VITAS maintains that currently, during times of peak need in the area, patients requiring intensive symptom management are provided care in contract beds or through continuous care provided in the home setting.
- The applicant maintains that inpatient capacity at facilities such as SNFs in the south end of the county has proven problematic—due to their lack of nursing coverage on a full time basis. The reviewer notes that the applicant provided a list showing that it contracts with all 20 SNFs in Brevard County for inpatient beds.
- Inpatient capacity in area hospitals is not available due to Health First and Wuesthoff having affiliated hospice programs.
- The existing contract bed arrangement with Courtenay Springs Village (in the east/central portion of Brevard County) is in an evacuation zone, prone to adverse effects of tropical storms, resulting in limited access and placing the proposed project at a mainland location will improve resiliency and accessibility. The reviewer notes than according to the Florida Division of Emergency Management, any location in the Town of Palm Shores, Florida, long US Highway 1, is in an evacuation zone.
- VITAS contends that medical trends indicate patients are often referred or admitted into hospice at later stages of their disease, often calling for more inpatient services.
- VITAS believes that the community’s choice would be all private patient rooms and for service to be available in a more intimate setting providing a more home-like environment than that which is achievable in the existing facility (Courtenay Springs Village) which has a more institutional feeling environment, in semi-private room arrangements.
- VITAS maintains that its average rental rate across its leased-space inpatient units is approximately \$219.35 per sq. ft. while the proposed facility estimates are \$40.00 per sq. ft., indicating that the proposed project will be more cost-effective than its existing inpatient contract arrangements in Brevard County. The reviewer indicates that based on the information given by applicant regarding rent on the proposed and existing property, the rent would be \$40.43 a sq. ft. for the proposed property and \$214.29 at the existing property. The reviewer notes that the applicant provided no information regarding

the lease terms at either facility—hampering the Agency’s ability to analyze the cost-effectiveness of the facility except through the square footage analysis.

- The applicant asserts that dedicated inpatient units operated by hospice providers embrace the hospice philosophy and approach to patient care. Acute care hospitals and nursing homes have fundamentally different missions from hospices and those differences are reflected in the skills and approaches of the staff.
- VITAS indicates that dedicated inpatient units, especially those that are freestanding, are designed to support family participation and presence in a “home like” comfortable setting

**Quality of Care:**

The applicant described its ability to provide quality of care.

- VITAS maintains hospice programs nationally and in Florida, in Hospice Service Areas 4A, 4B, 6B, 7A, 7B, 7C, 8B, 9C, 10 and 11. The applicant was first licensed in Brevard County in 2002, with its current license effective June 15, 2015 and set to expire on
- Agency records indicate that VITAS had 15 substantiated complaints statewide (encompassing 10 hospice service areas) during the three-year period ending December 7, 2015. A single complaint can encompass multiple complaint categories.

**Financial Feasibility/Availability of Funds:**

- Funding for this project and the entire capital budget should be available as needed
- This project appears to be financially feasible; however, operating profit may be overstated
- This project is not likely to have a material impact on competition to promote quality and cost-effectiveness

**Medicaid/Indigent/Charity Care:**

- Hospice programs are required by law to provide services to all who seek them.
- The applicant’s Schedule 7A indicates that Medicaid will account for 9.03 percent and 8.83 percent of the project’s total annual patient days in years one and two, respectively. Schedule 7A and notes to this schedule do not offer a charity care patient day estimate or an indigent care patient day estimate.

**Architectural:**

- A review of the architectural plans, narratives and other supporting documents revealed seven deficiencies that are likely to have significant impact on either construction costs or the proposed completion schedule
- The Agency finds that the applicant did not meet the statutory requirements of 408.035 (1) (h) and that it did not provide the Agency with enough information in which to conduct a thorough review of the costs and methods of the construction of the proposed facility. The applicant also neglected to provide the information provided for in 59C-1.008 (1) (f).

**G. RECOMMENDATION**

Deny CON #10419.



**AUTHORIZATION FOR AGENCY ACTION**

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

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

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