

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

**A. PROJECT IDENTIFICATION**

**1. Applicant/CON Action Number**

**Blue Heron Health and Rehabilitation, LLC/CON #10508**

1800 N. Wabash Ave., Suite 300  
Marion, Indiana 46952

Authorized Representative: Ryan Ott  
Director  
(765) 664-5400

**2. Service District/Subdistrict**

District 5/Subdistrict 5-1 (Pasco County)

**B. PUBLIC HEARING**

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

**Letters of Support**

The Agency did not receive any letters of support regarding the proposed project although the Agency did receive a testimonial DVD with the application noting the quality of care patients received at Tender Loving Care (TLC) facilities.

**C. PROJECT SUMMARY**

**Blue Heron Health and Rehabilitation, LLC (CON application #10508)**, hereafter referred as Blue Heron or the applicant, a newly formed entity owned and managed by TLC, proposes to add 42 beds to the approved 64-bed community nursing home (CON application #10403) in Subdistrict 5-1, Pasco County, Florida. The proposed project will result in 106-bed skilled nursing facility (SNF) located in ZIP Code 33544.

CON application #10403 was issued to Pasco SNF Operations, LLC on March 18, 2016, to establish a 64-bed community nursing home in District 5, Subdistrict 5-1 and subsequently transferred via CON application #10492 to Blue Heron Health and Rehabilitation, LLC on August 16, 2017.

TLC manages two SNFs in Florida, listed below.

- Astoria Health and Rehabilitation Center
- Bridgewater Park Health and Rehabilitation Center

TLC also holds CON #10491, approving affiliate Oak Hill Health and Rehabilitation, LLC, to establish a new 109-bed community nursing home in District 3, Subdistrict 3-6, Hernando County, Florida.

The project involves 18,670 gross square feet (GSF) of new construction. The construction cost is \$3,705,000. Total project cost is \$ 6,173,186. Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant does not wish to accept any conditions for the proposed project.

<b>Total GSF and Project Costs of CON application #10508</b>					
<b>Applicant</b>	<b>CON #</b>	<b>Project</b>	<b>GSF</b>	<b>Costs \$</b>	<b>Cost Per Bed</b>
Blue Heron Health and Rehabilitation, LLC	10508	42-bed addition	18,670	\$6,173,186	\$146,980

Source: CON application #10508, Schedules 1 and 9

**D. REVIEW PROCEDURE**

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes; 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, Eric West of the Bureau of Central Services, who evaluated the financial data and Scott Waltz of the Office of Plans and Construction, who reviewed the application for conformance with the architectural criteria.

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

The following indicate the level of conformity of the proposed project with the criteria and application content requirements found in Florida Statutes, sections 408.035 and 408.037; applicable rules of the State of Florida, Chapter 59C-1 and 59C-2, 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 43, Number 189 of the Florida Administrative Register dated September 29, 2017, a fixed need pool of 42 beds was published for Subdistrict 5-1 for the July 2020 planning horizon.

After publication of this fixed need pool, zero existing Subdistrict 5-1 facilities filed exemption requests to increase or add community nursing home beds.

As of November 15, 2017, Subdistrict 5-1 had 1,938 licensed and 74 approved community nursing home beds. During the 12-month period ending June 30, 2017, Subdistrict 5-1 experienced 91.57 percent utilization at 16 existing facilities. Below is a table illustrating nursing home patient days and occupancy within Subdistrict 5-1.

<b>Pasco County Nursing Home Patient Days and Occupancy July 1, 2016 through June 30, 2017</b>					
<b>Facility</b>	<b>Comm. Nursing Home Bed Inventory</b>	<b>Bed Days</b>	<b>Patient Days</b>	<b>Total Occupancy</b>	<b>Medicaid Occupancy</b>
Bear Creek Nursing Center	120	43,800	38,982	89.00%	46.07%
Consulate Health Care and Bayonet Point	120	43,800	41,547	94.86%	54.08%
Consulate Health Care of New Port Richey	120	43,800	42,524	97.09%	59.20%
Heartland of Zephyrhills	120	43,800	37,445	85.49%	66.63%
Heather Hill Healthcare Center	120	43,800	33,744	77.04%	74.18%
Heritage Park Health and Rehabilitation Center	120	43,800	41,461	94.66%	73.09%
Life Care Center of New Port Richey	113	41,245	34,125	82.74%	70.60%
Madison Pointe Rehabilitation and Health Center	119	43,435	52,422	100.00%	34.04%
Orchard Ridge	120	43,800	41,875	95.61%	39.10%
Royal Oak Nursing Center	120	43,800	40,018	91.37%	61.95%
Solaris Healthcare Bayonet Point	180	65,700	59,030	89.85%	53.09%
Southern Pines Healthcare Center	120	43,800	32,105	73.30%	61.92%
Trinity Regional Rehab Center	120	43,800	41,667	95.13%	50.68%
Winsor Woods Rehab and Healthcare Center	103	37,595	34,618	92.08%	63.45%
Zephyr Haven Health & Rehab Center, Inc.	120	43,800	41,154	93.96%	73.50%
Zephyrhills Health & Rehab Center, Inc.	103	37,593	34,992	93.08%	60.55%
<b>Total</b>	<b>1,938</b>	<b>707,370</b>	<b>647,709</b>	<b>91.57%</b>	<b>58.08%</b>

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

The reviewer notes the current and projected population of Subdistrict 5-1 for the planning horizon. The projected population growth, both numerically and by percent are illustrated below.

<b>Current and Projected Population Growth Rate Pasco County, District 5, and Florida January 2017 and January 2020</b>						
<b>Area</b>	<b>January 1, 2017 Population</b>			<b>January 1, 2020 Population</b>		
	<b>0-64</b>	<b>65+</b>	<b>Total</b>	<b>0-64</b>	<b>65+</b>	<b>Total</b>
Pasco	401,244	110,582	511,826	421,766	121,613	543,379
District 5	1,107,389	332,546	1,439,935	1,115,948	358,787	1,474,735
Florida	16,360,629	3,879,874	20,240,503	16,804,097	4,277,046	21,081,143
<b>Area</b>	<b>2017-2020 Increase</b>			<b>2017-2020 Growth Rate</b>		
	<b>0-64</b>	<b>65+</b>	<b>Total</b>	<b>0-64</b>	<b>65+</b>	<b>Total</b>
Pasco	20,522	11,031	31,553	5.11%	9.98%	6.16%
District 5	8,559	26,241	34,800	0.77%	7.89%	2.42%
Florida	443,468	397,172	840,640	2.71%	10.24%	4.15%

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

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

<b>Beds per 1,000 Residents Age 65 and Older</b>					
<b>Area</b>	<b>Community Beds</b>	<b>2017 Pop. Aged 65+</b>	<b>2017</b>	<b>2020</b>	<b>Beds per 1,000</b>
			<b>Beds per 1,000</b>	<b>Pop. Aged 65+</b>	
<b>Pasco</b>	1,938	110,582	18	121,613	16
<b>District 5</b>	9,617	332,546	29	358,787	27
<b>Florida</b>	80,412	3,879,874	21	4,277,046	19

Source: Florida Agency for Health Care Administration Population Estimates, February 2015 and Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2017 Batching Cycle

Blue Heron states the proposed project responds to the Agency's published fixed need pool and addresses the lack of community nursing homes in the Wesley Chapel area of Subdistrict 5-1 while enhancing access and availability to residents within the surrounding Seven Oaks Community Development District<sup>1</sup>. The applicant states that the area is a desirable location that continues to grow and attract retirees.

Blue Heron points out that presently, there are four assisted living facilities (ALFs) within the Wesley Chapel area and no SNFs. Blue Heron identifies the closest SNF to the east of the proposed site lies within a circumference having a 10-mile radius and the closest SNF to the west lies within a 19.5-mile radius. The applicant states that over the last five fiscal years, Subdistrict 5-1 nursing homes (1,938 beds) averaged overall occupancy rates exceeding 91 percent.

The applicant contends that the proposed project will provide the following benefits:

- Increasing the availability of community nursing home beds in a region of Pasco County that is insufficiently supplied
- Integrates the skilled nursing beds with an ALF, providing SNF residents more amenities and options for care
- Providing a facility managed by a company with a strong quality focus, including the operation of five-star SNFs in Florida and Indiana
- Offers all private rooms and private bathrooms to the bed complement where few currently exist

**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, therefore this criterion is not applicable.

<sup>1</sup> The Seven Oaks Community Development District is an independent special purpose unit of local government established pursuant to and governed by Chapter 190, Florida Statutes. The district encompasses roughly 2.75 square miles of land and is home to over 3,500 people. The Seven Oaks Community Development District is governed by a five seat Board of Supervisors who all reside within Seven Oaks and are elected by voters residing in the community.

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.**

CON application #10508 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.**

Blue Heron states that in order to determine the type of services required at the proposed facility, hospital discharges to nursing homes were examined by Major Diagnostic Categories (MDCs) and Diagnostic Related Groups (DRGs) and that this identifies the

conditions and disorders that nursing home admissions would constitute. The applicant presents a comprehensive review of the MDC diagnoses among some of the large groupings and ranks them from highest to lowest number of cases (CON application #10508, page 2-7). The applicant asserts that the top seven of 25 MDCs categories account for 85 percent of the discharges to SNFs for Pasco County’s elderly. See the table below.

<b>Pasco County Age 65+ Discharges to Nursing Homes by MDC CY 2016</b>		
<b>MDC</b>	<b>Cases</b>	<b>Percent</b>
08-Musculoskeletal/Conn Tissue	1,959	24.5%
05-Circulatory	1,199	15.0%
04-Respiratory System	879	11.0%
01-Nervous System	805	10.0%
11-Kidney and Urinary Tract	774	9.7%
18-Infectious and Parasitic Diseases	618	7.7%
06-Digestive System	610	7.6%
Subtotal	6,844	85.4%
All other MDCs	1,168	14.6%
<b>Total</b>	<b>8,012</b>	<b>100.0%</b>

Source: CON application #10508, page 3-7

The applicant notes orthopedic conditions (MDC 8), account for 24.5 percent of Pasco County’s elderly SNF admissions, followed by circulatory conditions, respiratory and nervous system categories representing 15 percent, 11 percent and 10 percent respectively, of SNF admissions.

Blue Heron maintains that TLC has a variety of specialized programs and will continue to innovate in order to best meet resident’s needs. The applicant states that the proposed project will include the following services:

- Physical, occupational, speech and respiratory therapy
- Assistive devices /accommodations to amputations or disabilities
- Pain management
- Wound care
- Surgical recovery
- Dysphagia (swallowing techniques)
- IV therapy
- Cardiac rehabilitation
- Complex medical and pain management
- Stroke rehab
- Osteotomy care
- Tracheotomy care
- Tube feeding
- Hospice care
- Alzheimer’s and Parkinson’s disease care

The applicant proposes to provide both short-term and long-term care. Blue Heron plans to be a comprehensive SNF, providing skilled nursing/restorative care and rehabilitation services. The applicant lists special features as follows:

- Private resident rooms
- Private bathrooms with a walk-in shower
- Flat screen TVs
- Bedside telephones
- In-room safes
- Wi Fi throughout the facility
- Custom-designed furnishings
- Push button and audio nurse call system
- Pressure reducing mattresses
- Microfiber linens
- Complimentary in-room coffee, tea and beverage service
- In-room temperature controls
- High ceilings with oversized windows
- Restaurant-style dining
- Beauty salon
- Laundry services
- Medical transportation assistance
- Activities available seven days a week
- 24-hour visitation
- 24-hour RN coverage
- Handicapped accessible van
- State of the art therapy gym and equipment
- Alter G Anti-Gravity Treadmill

Blue Heron states that the overall SNF design features residential amenities with a focus on comfort and safety. The applicant indicates the proposed project will offer the following contracted services:

- Physicians
- X-ray
- Psychiatry
- Laboratory
- Podiatry
- Pharmacy
- Dental
- Optometric and ophthalmic



The applicant states that upon admission, a detailed assessment identifying special needs will be conducted to provide a plan of care. Blue Heron indicates the care plan is a baseline and that changes may occur throughout the resident's stay. The applicant describes the information addressed during the initial evaluation and provides a copy of TLC's Resident Care Plan Policy in Exhibit 2-1 of CON application #10508.

The applicant states that discharge plans begin with the initial assessment and indicates that like the plan of care, changes may occur to address the resident's needs. According to the applicant, at discharge, the case manager presents the previously reviewed discharge plan. The discharge plan includes a record of the resident's care with an appropriate discharge summary of prior treatment, diagnosis, rehabilitation potential, physician orders for immediate care and other pertinent information.

The applicant's Schedule 7 indicates that the average length of stay (ALOS) is 45 days for both years one and two. Schedule 6A illustrates that full-time employees (FTEs) for year one (ending December 31, 2020) total 84.0 and total 114.0 for year two (ending December 31, 2021). Schedule 6A indicates that the applicant propose an additional 32.5 FTEs in the first year and 44.5 FTEs in the second year of operation for the proposed addition. The proposed project's year one and year two FTEs are shown in the table below.

<b>Blue Heron Health and Rehabilitation, LLC Projected Year One (Ending December 31, 2020) and Year Two (Ending December 31, 2021) Staffing</b>		
	<b>Year One FTEs</b>	<b>Year Two FTEs</b>
<b>Administration</b>		
Assistant Administrator	1.0	1.0
Clerical	1.0	1.0
Medical Records	1.0	1.0
MDS Coordinator	1.0	1.0
<b>Nursing</b>		
RNs	2.0	2.0
LPNs	5.0	10.0
Nurses' Aides	12.0	18.0
<b>Dietary</b>		
Cooks	1.0	1.0
Food Service Aides	1.0	2.0
<b>Social Services</b>		
Social Service Director	1.0	1.0
Activities Director	1.0	1.0
<b>Housekeeping</b>		
Housekeepers	3.0	3.0
<b>Laundry</b>		
Laundry Aides	2.0	2.0
<b>Plant Maintenance</b>		
Maintenance Supervisor	0.5	0.5
<b>Total</b>	<b>32.5</b>	<b>44.5</b>

Source: CON application #10508, 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 is a newly created entity and therefore has not had a nursing facility license denied, revoked or suspended within the 36 months prior to the current application.

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

The applicant is a newly created entity and therefore has not had a nursing facility placed into receivership.

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

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

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

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

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

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

There are 86 licensed community nursing homes with a total of 9,617 community nursing home beds in District 5. Subdistrict 5-1 is composed of Pasco County and has 16 licensed community nursing homes with a total of 1,938 community nursing home beds. The subdistrict averaged 91.57 percent total occupancy for the 12-month period ending June 30, 2017. Blue Heron proposes to add 42 beds to CON application #10492, resulting in a 106-bed SNF that the applicant asserts will enhance access and availability in the Wesley Chapel area. The applicant provides an aerial photo (CON application 10508, page 1-1) illustrating the distribution of the 16 Subdistrict 5-1 nursing homes, with 11 clustered along the west coast of Pasco County and five located on the eastern side.

Blue Heron discusses availability as it relates to existing resources, stating that over the last five fiscal years, Subdistrict 5-1 nursing homes averaged overall occupancy rates exceeding 90 percent. The applicant contends that when occupancy rates are high, residents requiring placement may experience delays in finding empty beds, resulting in placement farther from home and establishing new medical relationships that are proximate to the SNF but far away from their residences. Blue Heron asserts that the proposed project enhances the applicant's efforts to provide necessary skilled nursing and supportive care in the south-central region of Pasco County.

To highlight the expected grow for Pasco County's elderly population age 65 +, the applicant provides population estimates by age cohort for 2017 and 2022 by ZIP Code for Subdistrict 5-1. See the table below.

Total Population and Population Age 65 Years and Older, by ZIP Code Subdistrict 5-1, Pasco County									
ZIP Codes	Geography Name	2017 Population Age 65+	2017 Age 65+ Population	2017 Percent 65+	2022 Total Population	2022 Total Population Age 65+	2022 Percent 65+	POP CAGR	65+ CAGR
34638	Land O Lakes	25,950	2,379	9.2%	29,220	3,212	11.0%	2.4%	6.2%
33544	Wesley Chapel	27,125	3,061	11.3%	30,062	4,125	13.7%	2.1%	6.1%
33559	Lutz	16,747	1,915	11.4%	18,624	2,573	13.8%	2.1%	6.1%
34639	Land O Lakes	27,654	3,806	13.8%	30,131	5,036	16.7%	1.7%	5.8%
33545	Wesley Chapel	18,017	1,541	8.6%	20,062	2,007	10.0%	2.2%	5.4%
33576	San Antonio	6,023	2,198	36.5%	6,636	2,799	42.2%	2.0%	5.0%
34637	Land O Lakes	7,500	1,552	20.7%	8,246	1,968	23.9%	1.9%	4.9%
34610	Spring Hill	13,497	2,520	18.7%	14,211	3,139	22.1%	1.0%	4.5%
33543	Wesley Chapel	25,697	3,676	14.3%	28,202	4,573	16.2%	1.9%	4.5%
34654	New Port Richey	24,025	5,451	22.7%	25,556	6,600	25.8%	1.2%	3.9%
34655	New Port Richey	42,864	12,002	28.0%	46,336	14,202	30.7%	1.6%	3.4%
34669	Hudson	13,607	3,108	22.8%	14,395	3,662	25.4%	1.1%	3.3%
33525	Dade City	18,580	4,690	25.2%	19,612	5,467	27.9%	1.1%	3.1%
33523	Dade City	18,626	3,308	17.8%	19,041	3,794	19.9%	0.4%	2.8%
33541	Zephyrhills	22,108	9,911	44.8%	23,635	11,296	47.8%	1.3%	2.7%
34667	Hudson	33,333	13,192	39.6%	34,727	15,028	43.3%	0.8%	2.6%
33540	Zephyrhills	9,450	3,019	31.9%	9,964	3,428	34.4%	1.1%	2.6%
34652	New Port Richey	24,369	6,641	27.3%	24,920	7,522	30.2%	0.4%	2.5%
34653	New Port Richey	31,737	8,546	26.9%	32,932	9,584	29.1%	0.7%	2.3%
34691	Holiday	22,492	5,101	22.7%	23,569	5,714	24.2%	0.9%	2.3%
33542	Zephyrhills	21,291	8,343	39.2%	22,207	9,163	41.3%	0.8%	1.9%
34690	Holiday	13,548	3,080	22.7%	13,923	3,378	24.3%	0.5%	1.9%
34668	Port Richey	43,513	10,722	24.6%	44,989	11,673	25.9%	0.7%	1.7%
<b>Total</b>		<b>507,753</b>	<b>119,762</b>	<b>23.6%</b>	<b>541,200</b>	<b>139,943</b>	<b>25.9%</b>	<b>1.3%</b>	<b>3.2%</b>
<b>Florida</b>		<b>20,748,693</b>	<b>4,166,909</b>	<b>20.1%</b>	<b>22,128,720</b>	<b>4,916,539</b>	<b>22.2%</b>	<b>1.3%</b>	<b>3.4%</b>

Source: CON application #10508, page 1-9

Blue Heron notes that over the five-year period illustrated above, Pasco County’s total population is anticipated to grow by 1.3 percent per year while the age cohort 65+ grows at double the total population rate (3.2 percent per year). The applicant states that by year 2022, compound annual growth rates (CAGR) for the total and elderly population in Wesley Chapel will be 2.1 percent and 6.1 percent, respectively, ranking it second. The applicant indicates that both ZIP Codes experiencing the highest CAGR lie within the south-central region of the county with Interstate 75 providing north passage linking to Hillsborough County and south passage linking to Hernando County.

Regarding quality, the applicant affirms that TLC is a high quality nursing home provider, operating Astoria Health and Rehabilitation Center, a 120-bed SNF in Polk County (Subdistrict 6-5), which attained an overall four out of five star inspection rating based on the Agency’s Nursing Home and Inspection Ratings. The applicant cites a study published in the *Journal of Nursing Administration, December 2014*, which explores the correlation between the retention of care staff and quality outcomes. The study finds that increases in turnover of certified nursing assistants are associated with poor outcomes among residents.

Blue Heron asserts that all affiliates focus on employees and residents. The applicant expresses the benefit from a TLC sponsorship is the utilization of policies and procedures that equate to high quality care.

The applicant analyzes accessibility as it relates to geographic access, eligibility and payer source for services as well as utilization of services. Blue Heron states that Pasco County’s high nursing home occupancy reflects consistent demand for care, underscoring the importance of the proposed increase in nursing home bed supply. According to the applicant, geographic access within Pasco County is important given the dispersion of the 16 community nursing homes which are located east and west of the proposed facility.

Blue Heron indicates that to the west of the proposed facility, 72,480 elders age 65+ reside within a 19.5 mile radius and east of the proposed site, 27,660 elderly reside within a 10-mile radius. The applicant provides a chart depicting by ZIP Code, Pasco County residents age 65+ residing within a 19.5-mile radius and 10-mile of the proposed site. See the table below.

<b>Population of Elderly Age 65+ by ZIP Code, CY 2017 Proximate to Proposed Site and Existing Nursing Homes</b>		
<b>ZIP Code</b>	<b>19.5 Mile Radius 2017 Age 65+</b>	<b>10.0 Mile Radius 2017 Age 65+</b>
33541	9,911	9,911
33543	3,676	3,676
33544	3,061	3,061
33545	1,541	1,541
33559	1,915	1,915
33576	2,198	2,198
33542	11,362	--
33525	4,690	--
33523	3,308	--
34610	2,520	--
34638	2,379	--
34654	5,451	--
34655	12,002	--
34669	3,108	--
34637	1,552	1,552
34639	3,806	3,806
<b>Total</b>	<b>72,480</b>	<b>27,660</b>

Source: CON application 10508, page 3-4

The applicant includes a map to illustrate the 10-mile and 19.5-mile radii encompassing the proposed site (CON application #10508, page 3-5). Blue Heron indicates that the proposed 106-bed facility has the ability to meet 87 percent of the demand from the elderly residing in the Wesley Chapel area. The applicant reiterates the importance of the

proposed project in meeting future demand, noting that the projected 2022 elderly population increases by 10,705 generating a demand of 57,550 resident days and yielding an average daily census (ADC) of 158 persons.

In addition to providing geographic access, the applicant states that the proposed project will ensure financial access through participating in the Medicare and Medicaid programs, accepting private pay and other insurances. Blue Heron indicates that it will target hospital discharges as the primary source of SNF admissions. Blue Heron provides a table illustrating CY 2016 hospital discharges of Pasco County elders to nursing homes by payer. See the table below.

<b>Elderly Pasco County Residents Aged 65 Years of Age and Older and Payer at Time of Hospital Discharge to Nursing Homes, CY 2016 (N = 76,642)</b>						
<b>Discharge Status to Nursing Homes</b>	<b>Population 65+ Pasco County</b>	<b>Medicaid Managed Care</b>	<b>Medicare</b>	<b>Medicare Managed Care</b>	<b>Subtotal</b>	<b>Percent of Total</b>
03-DC to Medicare SNF	8,005	178	4,495	2,820	7,493	93.5%
64-DC to Medicaid SNF, no Medicare	7	2	3	1	6	0.1%
<b>Total</b>	<b>8,012</b>	<b>180</b>	<b>4,498</b>	<b>2,821</b>	<b>7,499</b>	<b>93.6%</b>
<b>Discharge Status to Nursing Homes</b>	<b>Population 65+ Pasco County</b>	<b>Commercial Health Insurance</b>	<b>Commercial Liability Coverage</b>	<b>Subtotal</b>	<b>Percent of Total</b>	
03-DC to Medicare SNF	8,005	275	15	290	<b>3.6%</b>	
64-DC to Medicaid SNF, no Medicare	7	0	0	0	<b>0.0%</b>	
<b>Total</b>	<b>8,012</b>	<b>275</b>	<b>15</b>	<b>290</b>	<b>3.6%</b>	

Source: CON application #10508, Page 3-6, Data from AHCA Hospital Inpatient Data File for CY 2016

Blue Heron states that 76,642 Pasco County elders account for all hospital discharges, with 8,012 (10.4 percent) requiring nursing home post-acute care. The applicant indicates that Medicare and Medicaid account for 93.6 percent of payers and include managed care plans available from both. The applicant asserts that access addresses SNF providers ability to treat a variety of medical conditions.

In addition to the wide array of required medical and nursing services provided to residents upon hospital discharge to SNFs, Blue Heron states the focus will be on the medically intensive short-term services covered by Medicare. The applicant acknowledges that for some patients, either private funds or Medicaid may be utilized in cases where long-term care occurs. Blue Heron asserts that their proposal addresses the needs and requirements of Pasco County’s elderly residents, maintaining that the medical and nursing services address the requirements of all payer types, particularly Medicare and Medicaid programs.

Regarding the extent of utilization within the service area, the applicant states that the current supply of 1,938 Pasco County nursing home beds yields 707,370 bed days. The applicant provides nursing home utilization data (CON application #10508, page 3-8 through 3-10) including population estimates by ZIP Code and CAGR, highlighting the persistent high occupancy rates with a five-year average above 90 percent among the sixteen Pasco County nursing homes. Blue Heron maintains that Pasco County will continue to experience high utilization and reaffirms that the proposed project will enhance the availability and access to nursing home services.

- 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.**

As a newly formed entity, the applicant cannot attest to having a quality of care history. The applicant states that controlling interest, TLC, is family-owned and has been in business for over 25 years, employing over 2,500 individuals. Blue Heron further comments that TLC owns and operates 16 SNFs, six ALFs and five independent living communities in Indiana and Florida.

Blue Heron maintains that in order to assure competencies, employees receive training that inspires them to exceed expectations. According to the applicant, education and time management leads to employees who can direct resources to deliver high quality care to residents. Blue Heron provides TLC's mission statement (CON application #10508, page 4-2) and indicates that TLC aspires to recognize and reward employees for their efforts to ensure the provision of high quality care. The applicant states that TLC demonstrates this by giving awards for performance, teamwork, perfect surveys and others. The applicant lists these awards:

- TLC Gold, Silver and Bronze Awards
- TLC Chairman Award
- Twelve-Month Overall Census Development Award
- Operations Award Most Improved

The applicant notes that all of the SNF's managed by TLC are included in the *U.S. News & World Report's Best Nursing Homes* list, specifically noting that six facilities are listed as five-star rated in the report. Blue Heron states that Florida affiliate, Astoria Health and Rehabilitation, received a four-star overall rating.



Blue Heron states that the proposed facility will utilize the on-line quality management system-Abaqis Providigm which promotes conformity with the Centers for Medicare and Medicaid Services (CMS) quality of care guidelines. The applicant describes the functionality of Abaqis (CON application #10508, page 4-3) and highlights that the utilization of this system identifies the root cause of issues allowing managers to direct resources to specific areas requiring improvement. As a testament to the ability to provide quality care, the applicant notes that affiliate Astoria Health and Rehabilitation Center earned the 2014 Providigm Quality Assurance and Performance Improvement (QAPI) accreditation as a SNF.

Blue Heron indicates that it will adopt TLC's process and procedures regarding the Providigm QAPI Accreditation Program and further discusses and describes quality measures/quality related themes including readmissions, consumer satisfaction, Providigm QAPI accreditation program, QAPI, resident rights and activities (CON application #10508, pages 4-4 through 4-7).

Agency records indicate that the applicant's controlling interest, TLC, operates two SNF in Florida:

- Astoria Health and Rehabilitation Center
- Bridgewater Park Health and Rehabilitation Center (licensed November 3, 2017)

According to Agency website FloridaHealthFinder.gov, Astoria Health and Rehabilitation Center achieved an overall nursing home inspection rating of four stars for the time period April 2015 through September 2017. The Agency's Nursing Inspection Ratings were last updated November 2017. According to the same source, Astoria Health and Rehabilitation Center is not a Gold Seal facility and is not on the Agency's Nursing Home Watch List.

Agency complaint records indicate that the affiliated nursing home associated with controlling interest TLC Management had four substantiated complaints at Astoria Health and Rehabilitation Center for the three-year period ending December 27, 2017. A single complaint can encompass multiple complaint categories. The substantiated complaint categories are listed below:

<b>Nursing Home Affiliated with TLC Management                      Astoria Health and Rehabilitation Center                      Three Years Ending December 27, 2017</b>	
<b>Complaint Category</b>	<b>Number Substantiated</b>
Dietary Services	1
Infection Control	1
Quality of Care/Treatment	3
Resident/Patient/Client Assessment	1
Resident/Patient/Client Rights	1

Source: Florida Agency for Healthcare Administration Complaint Records

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

**Analysis:**

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

Historically we have compared all applicant financial ratios regardless of type to bench marks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities. The applicant provided audited financial statements for Blue Heron Health and Rehabilitation, LLC, a development stage company.

**Capital Requirements and Funding:**

The applicant indicates on Schedule 2 capital projects totaling \$31,751,087, which includes this project (\$6,223,186), CON application #10475, and an assisted living facility. The applicant states on Schedule 3 that funding for this project will come from cash on hand and non-related company financing. The applicant provided a letter of interest from Regions Bank. However, a letter of interest is not a commitment to lend.

**Conclusion:**

Funding for this project is in question.

- 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 skilled nursing facilities as reported on Medicaid cost reports (2015, 2016, and 2017 cost report years). For our comparison group, we selected skilled nursing facilities with similar Medicaid utilizations to the utilization projected by the applicant on a per patient day basis (PPD). Comparison group data was adjusted for inflation to match the second year projection (inflation factor was based on the New CMS Market Basket Price Index as published in the 3rd Quarter 2017, Health Care Cost Review).

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

	PROJECTIONS PER APPLICANT		COMPARATIVE GROUP VALUES PPD		
	Total	PPD	Highest	Median	Lowest
Net Revenues	12,908,755	407	2,054	446	293
Total Expenses	10,970,672	346	1,871	445	275
Operating Income	1,938,083	61	151	6	-206
Operating Margin	15.01%		<b>Comparative Group Values</b>		
	Days	Percent	Highest	Median	Lowest
Occupancy	31,726	82.00%	97.74%	88.99%	45.15%
Medicaid	15,863	50.00%	49.90%	40.46%	30.14%
Medicare	11,739	37.00%	56.86%	37.12%	5.72%

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

**Staffing:**

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

**Conclusion:**

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

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

**Analysis:**

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

**Conclusion:**

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

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

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

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

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

The reviewer provides a five-year history of Medicaid patient days and occupancy for the subdistrict, district and state by fiscal calendar year in the table below.

<b>Medicaid Patient Days and Medicaid Occupancy Subdistrict 5-1, District 5 and Florida Five-Year Period Ending June 30, 2017</b>					
<b>Medicaid Patient Days</b>					
<b>Area</b>	<b>JUL 2012- JUN 2013</b>	<b>JUL 2013- JUN 2014</b>	<b>JUL 2014- JUN 2015</b>	<b>JUL 2015 JUN 2016</b>	<b>JUL 2016- JUN 2017</b>
Subdistrict 5-1	386,863	371,669	378,846	381,644	376,180
District 5	2,011,567	1,988,920	1,998,184	2,018,900	1,985,889
Florida	15,676,855	15,837,261	15,875,092	16,097,612	16,077,665
<b>Medicaid Occupancy</b>					
<b>Area</b>	<b>JUL 2012- JUN 2013</b>	<b>JUL 2013- JUN 2014</b>	<b>JUL 2014- JUN 2015</b>	<b>JUL 2015 JUN 2016</b>	<b>JUL 2016- JUN 2017</b>
Subdistrict 5-1	60.23%	58.06%	58.62%	59.41%	58.08%
District 5	63.89%	63.06%	63.32%	64.09%	63.75%
Florida	61.58%	62.05%	61.88%	62.73%	63.34%

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2013-October 2017 Batching Cycles

The reviewer compiled the following Medicaid occupancy data for TLC operated Florida facilities for July 1, 2016 to June 30, 2017. See the table below.

<b>TLC Operated Facilities, Florida Medicaid Occupancy July 1, 2016 to June 30, 2017</b>			
<b>Facility</b>	<b>Total Days</b>	<b>Medicaid Days</b>	<b>Medicaid Occupancy</b>
Astoria Health and Rehabilitation Center	40,785	20,224	49.59%

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, September 29, 2017

Blue Heron is a newly formed entity and has no history of providing care to Medicaid recipients. The applicant states the Medicaid enrollment reflects state-mandated care plans for residents of long-term care facilities, a change that shifts all recipients into managed care plans with those plans bearing the financial risk for reimbursing SNFs. Blue Heron explains that the impact of managed care in the long-term care setting results in some residents being moved from SNFs to community options, placing residents needing more care in nursing homes with higher acuity. The applicant maintains that the proposed project will maintain services for both short and long-term care.

The applicant provides a forecast by payor for the proposed project for year one (ending December 31, 2021) and year two (ending December 31, 2022). The reviewer notes that applicant’s forecasted Medicaid data below designates the first two years of operations as CY 2021 and CY 2022 however, the applicant’s Schedules five through eight convey that the first two years of operation are CY 2020 and CY 2021 respectively.

<b>Forecasted Payer Mix for Blue Heron Health and Rehabilitation, LLC</b>					
<b>Payer</b>	<b>Year One 2021</b>	<b>Year Two 2022</b>	<b>Percent of Days</b>	<b>Year One ADC</b>	<b>Year Two ADC</b>
Self-Pay	3,528	6,028	4.0%	10	17
Medicaid HMO	3,343	5,711	50.0%	9	16
Medicare	9,286	15,863	19.0%	25	43
Medicare HMO	1,486	2,538	18.0%	4	7
Commercial	743	1,269	8.0%	2	3
Other	186	317	1.0%	1	1
<b>Total</b>	<b>18,571</b>	<b>31,726</b>	<b>100.0%</b>	<b>51</b>	<b>87</b>
<b>Occupancy</b>				<b>48%</b>	<b>82%</b>

Source: CON application #10508, page 9-2

The reviewer notes that the table above does not match projected revenues/patient days by payer type represented by the applicant on Schedule 7 for either the proposed project, the existing approved-facility or the combined proposed facility. The reviewer has composed a table based on Schedule 7 for the proposed project only. See the table below.

<b>Forecasted Payer Mix Blue Heron Health and Rehabilitation, LLC First Two Years of Operation (January 1, 2020-December 31, 2021)</b>				
<b>Payer</b>	<b>Year One 2020</b>	<b>Percent of Days</b>	<b>Year Two 2021</b>	<b>Percent of Days</b>
Self-Pay	295	4.0%	503	4.0%
Medicaid HMO	3,689	50.0%	6,285	50.0%
Medicare	1,402	19.0%	2,388	19.0%
Medicare HMO	1,328	18.0%	2,263	18.0%
Commercial Insurance	590	8.0%	1,006	8.0%
Other Managed Care	74	1.0%	126	1.0%
<b>Total</b>	<b>7,379</b>	<b>100.0%</b>	<b>12,571</b>	<b>100.0%</b>

The applicant’s Schedule 7 indicates that Medicaid HMO and self-pay represent 50.0 percent and 4.0 percent, respectively, of year one and year two, annual total patient days.

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

**F. SUMMARY**

**Blue Heron Health and Rehabilitation, LLC (CON application #10508)**, a newly formed entity owned and managed by TLC, proposes to add 42 beds to the approved 64-bed community nursing home (CON application #10403) in Subdistrict 5-1 (Pasco County). The proposed project will result in 106-bed SNF located in ZIP Code 33544.

CON application #10403 was issued to Pasco SNF Operations, LLC on March 18, 2016, to establish a 64-bed community nursing home in District 5, Subdistrict 5-1 and subsequently transferred via CON application #10492 to Blue Heron Health and Rehabilitation, LLC on August 16, 2017.

TLC manages two SNFs in Florida.

The project involves 18,670 GSF of new construction. The construction cost is \$3,705,000. Total project cost is \$6,173,186. Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant does not wish to accept any conditions for the proposed project.

**Need:**

In Volume 43, Number 189 of the Florida Administrative Register dated September 29, 2017, a fixed need pool of 42 beds was published for Subdistrict 5-1 for the July 2020 planning horizon.

As of November 15, 2017, Subdistrict 5-1 had 1,938 licensed and 74 approved community nursing home beds. During the 12-month period ending June 30, 2017, Subdistrict 5-1 experienced 91.57 percent utilization at 16 existing facilities.

The applicant contends that the proposed project will provide the following benefits:

- Increasing the availability of community nursing home beds in a region of Pasco County that is insufficiently supplied
- Integrates the SNF with an ALF, providing skilled nursing residents more amenities and options for care
- Providing a facility managed by a company with a strong quality focus, including the operation of five-star SNFs in Florida and Indiana
- Offers all private rooms and private bathrooms to the bed complement where few currently exist

The applicant indicates that on its Schedule 7 that the ALOS will be 45 days for both year one and year two of operation.

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



**Quality of Care:**

Blue Heron Health and Rehabilitation, LLC described its ability to provide quality care. The applicant's affiliates are not Gold Seal facilities nor are they on the Nursing Home Watch List.

The applicant's controlling interest (TLC) had four substantiated complaints at one of its Florida SNF during the three-year period ending December 27, 2017.

**Financial Feasibility/Availability of Funds:**

- Funding for this project is in question
- Based on the information provided in Schedule 6, the applicant's projected nursing staffing meets statutory requirements
- This project appears to be financially feasible based on the projections provided by the applicant.
- This project is not likely to have a material impact on competition to promote quality and cost-effectiveness.

**Medicaid/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 HMO and self-pay represent 50.0 percent and 4.0 percent, respectively, of year one and year two, annual total patient days.

**Architectural:**

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

**G. RECOMMENDATION**

Approve CON #10508 to add 42 community nursing home beds. The total project cost is \$6,173,186. The project involves 18,670 GSF of new construction. The construction cost is \$3,705,000.

**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**