

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Premier Living Centers, Inc./CON #10516

P.O. Box 3376

Ridgeland, Mississippi 39158

Authorized Representative: Donald E. Eicher, III, JD
In-House Counsel
(601) 853-2667

2. Service District/Subdistrict

District 7/Subdistrict 7-4 (Seminole County)

B. PUBLIC HEARING

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

Letters of Support

The applicant submitted four letters of support (Tab 1 of the application). The four support letters are of a form letter variety but have some individual composition within them. The support letters generally have overarching themes with individual comments, some of which are:

- There is a need to bring a state-of-the-art facility to our community
- Seniors in Seminole County need options and choices of where to have their needs met as they age
- Seniors do not want to have to go outside the immediate county (455,000 people with over 69,000 people age 65 or older¹) to find care for loved ones

¹ As indicated in item E.1.a of this report, according to the Florida Agency for Health Care Administration Population Estimates publication, issued February 2015, as of January 1, 2017, Seminole County's total population was 448,686 and the age 65+ population was 64,837.

The reviewer notes that one support letter (President and Partner, Mid Florida Cancer Centers) indicates that this healthcare provider is made aware from its patients from time to time of the scarcity of “...assisted living facilities in our area”. The reviewer notes that the proposed project is for a community nursing home (Chapter 400, Florida Statutes) and is not an assisted living facility (ALF) project.

C. PROJECT SUMMARY

Premier Living Centers, Inc. (CON application #10516), a newly formed for-profit Florida entity, also referenced as PLC (with principals Robert S. Rotolo and David W. Rotolo) and as an affiliate of Briar Hill Management, LLC or BHM (a Mississippi-based integrated health care services management company concentrating on the delivery of comprehensive long-term care services), proposes to establish a new 61-bed community nursing home in District 7, Subdistrict 7-4, Seminole County, Florida. The proposed project is to be located in ZIP Code 32771², the northern most portion of Seminole County. If approved, the proposed project will be operated by BHM. BHM operates eight skilled nursing facilities (SNFs) in Mississippi and Arkansas.

The applicant anticipates issuance of license on April 13, 2020 and initiation of service on May 13, 2020.

The project involves 45,687 gross square feet (GSF) of new construction. The construction cost is \$7,731,520. Total project cost is \$12,717,701. Project cost includes: land, building, equipment, project development, financing and start-up costs.

The applicant does not wish to accept any conditions, pursuant to Schedule C of CON application #10516.

Total GSF and Project Cost					
Applicant	CON app. #	Project	GSF	Costs \$	Cost Per Bed
Premier Living Centers, Inc.	10516	New 61-bed SNF	45,687	\$12,717,701	\$208,487

Source: CON application #10516, Schedules 1 and 9

² According to the United States Postal Service (USPS), Look Up a ZIP Code™ website at <https://tools.usps.com/go/ZipLookupAction!input.action>, the default city for ZIP Code 32771 is Sanford, Florida.

D. REVIEW PROCEDURE

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

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

Rule 59C-1.010(3)(b), Florida Administrative Code, prohibits any amendments once an application has been deemed complete. The burden of proof to entitlement of a certificate rests with the applicant. As such, the applicant is responsible for the representations in the application. This is attested to as part of the application in the Certification of the Applicant.

As part of the fact-finding, the consultant, Steve Love, analyzed the application with consultation from the financial analyst, Everett "Butch" Broussard, 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 notice of 61 beds was published for Subdistrict 7-4 for the July 2020 Planning Horizon. Subdistrict 7-4 is comprised of a single county – Seminole County.

After publication of this fixed need pool, zero existing Subdistrict 7-4 facilities filed exemption requests or filed expedited CON reviews to increase or add community nursing home beds.

As of November 15, 2017 Subdistrict 7-4 had 1,246 licensed and 35 approved community nursing home beds. During the 12-month period ending June 30, 2017 Subdistrict 7-4 experienced 90.08 percent total occupancy at 10 existing facilities. Below is a table illustrating nursing home patient days and occupancy within Subdistrict 7-4, for the 12 months ending June 30, 2017.

**Seminole County (Subdistrict 7-4) Nursing Home Patient Days and Total Occupancy
July 1, 2016-June 30, 2017**

Facility	Comm. Nursing Home Bed Inventory	Bed Days	Patient Days	Total Occupancy	Medicaid Occupancy
Consulate Health Care at West Altamonte	116	42,340	39,867	94.16%	61.92%
Florida Living Nursing Center	202	73,730	69,636	94.45%	64.77%
Healthcare and Rehab of Sanford	114	41,610	38,100	91.56%	73.73%
Island Lake Center	120	43,800	41,189	94.04%	70.24%
Lake Mary Health and Rehabilitation Center	120	43,800	37,697	86.07%	47.64%
Live Care Center of Altamonte Springs	240	87,600	74,983	85.60%	53.41%
Longwood Health and Rehabilitation Center	120	43,800	41,677	95.15%	66.60%
Lutheran Haven Nursing Home	56	20,440	16,672	100.00%	42.04%
Tuskawilla Nursing and Rehab Center	98	35,770	31,085	86.90%	39.90%
Village on the Green	60	21,900	18,766	85.69%	0.00%
Total	1,246	454,790	409,672	90.08%	56.63%

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

The reviewer notes the current and projected population of Seminole County (Subdistrict 7-4), District 7 and Florida overall for the planning horizon. The projected population growth, both numerically and by percent is illustrated in the table below.

**Current and Projected Population Growth Rate
Seminole County (Subdistrict 7-4), District 7, and Florida
January 2017 and January 2020**

County/Area	January 1, 2017 Population			January 1, 2020		
	0-64	65+	Total	0-64	65+	Total
Seminole	383,849	64,837	448,686	391,982	71,916	463,898
District 7	2,267,442	375,335	2,642,777	2,376,711	420,494	2,797,205
Florida	16,360,629	3,879,874	20,240,503	16,804,097	4,277,046	21,081,143
County/Area	2017-2020 Increase			2017-2020 Growth Rate		
	0-64	65+	Total	0-64	65+	Total
Seminole	8,133	7,079	15,212	2.12%	10.92%	3.39%
District 7	109,269	45,159	154,428	4.82%	12.03%	5.84%
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.

Beds per 1,000 Residents Age 65 and Older

County/Area	Community Beds	2017 Pop. Aged 65+	2017 Beds per 1,000	2020 Pop. Aged 65+	2020 Beds per 1,000
Seminole	1,246	64,837	19	71,916	17
District 7	9,094	375,335	24	420,494	22
Florida	80,416	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

The applicant states its proposed project is being submitted in response to the Agency’s fixed need pool publication dated September 29, 2017.

Premier Living Centers, Inc. (CON application #10516) proposes to construct a new 61-bed SNF in ZIP Code 32771. PLC expects for residents to primarily be residents of northern Seminole County but that the applicant plans to have beds available for all residents in Seminole County who need skilled nursing care. The applicant states that due to the design of the proposed project, especially being all single occupancy rooms, the proposal will be in the best position to meet the skilled nursing needs of the residents of Seminole County.

The applicant proposes to locate the SNF in ZIP Code 32711 (Sanford, Florida). The reviewer confirms that this location is in the northern portion of Seminole County (Subdistrict 7-4).

PLC maintains that all beds will be dually certified for both Medicare and Medicaid allowing financial accessibility to the residents of the subdistrict.

2. Agency Rule Preferences

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

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

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

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

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

The applicant states that PLC intends to have all 61 beds of the proposed all private room SNF to be certified "for either Medicare and Medicaid" to best respond to the growing need for skilled

nursing care for the growing senior population in Seminole County for both short-term and long-term care. PLC expects an equal mix of residents with Medicare and Medicaid as a payor.

PLC anticipates providing full service comprehensive skilled nursing, restorative care and rehabilitation services for both short and long-term residents. The applicant provides a short list of services and amenities expected to be provided at the proposed facility on pages 12 and 13 of the application and reproduced below:

- All private, single occupancy rooms
- Handicapped accessible bathrooms
- Dedicated rehabilitation and therapy rooms with the latest equipment
- Wound care program
- Hospice care
- Respite care
- Stroke rehabilitation
- Physical, speech, occupational and respiratory therapy
- Complex medical and pain management
- Orthopedic rehabilitation and services
- Alzheimer and dementia care
- Surgical recovery
- Pharmacy and laboratory services
- Medical transportation assistance
- 24-hour visitation
- Beauty and barber shop
- Therapeutic pool (hot tub)
- Spa room with walk-in tub
- Full dining with specialized dietary needs of residents
- Courtyards and other outside spaces for residents, employees and visitors
- Full day of calendar activities
- Laundry services
- RN coverage for all shifts (24/7/365)
- In room and common area WiFi for residents and visitors
- Satellite or cable TV with numerous channel selections and programming

The applicant points out that at all eight (non-Florida) SNFs operated by its affiliates provide a comprehensive team approach in an encouraging atmosphere. PLC indicates that the care of

residents is guided by the medical director, primary care physicians and nurses, as well as physical, occupational and speech therapists, psychologists, dietary and geriatric specialists.

PLC maintains that its experienced team of therapists will develop an individual plan of care for each resident that may include:

- Physical therapy to increase strength, ambulation, balance as well as gait training and transfer techniques
- Occupational therapy to target activities of daily living (dressing, grooming, hygiene, etc.), community reintegration skills, training in fine motor skills, splinting and positioning
- Speech therapy to enhance communication, cognitive and swallowing skills
- In-home assessment prior to discharge to ensure resident success once returning to home

The applicant asserts that this is the same approach that is planned for the proposed project and that the same successful model for care of residents will be used in the project facility.

The applicant's Schedule 6 illustrates that FTEs for year one total 59 (year ended 2020) and for year two total 59 (year ending 2021). The reviewer notes that the total FTEs remain constant for both years and that the FTEs remain constant for each staffing category for both years (administration, physician, nursing, ancillary and related/support categories). The reviewer also notes that the applicant's Schedule 10 indicates initiation of service on May 13, 2020. The reviewer notes that the applicant's Schedule 6 and Schedule 10 do not agree on when the first 12 months of operation will occur. Below is the applicant's Schedule 6 staffing pattern.

Premier Living Centers, Inc. (CON application #10516) Projected Year One (Ended 2020) and Year Two (Ended 2021) Staffing		
	Year One FTEs	Year Two FTEs
Administration		
Administrator	1	1
Director of Nursing	1	1
Admissions Director	2	2
Bookkeeper	1	1
Secretary	1	1
Medical Records Clerk	1	1
Other: Staff Educator	1	1
MDS-RN	1	1
MDS-LPN	1	1
Physician		
Medical Director	Contract	Contract
Nursing		
RNs	5	5
LPNs	6	6
Nurses' Aides	20	20
Ancillary		
Physical Therapist	Contract	Contract
Speech Therapists	Contract	Contract
Occupational Therapists	Contract	Contract
Dietary		
Dietary Supervisor	1	1
Cooks	2	2
Dietary Aides	5	5
Social Services		
Social Service Director	1	1
Activity Director	1	1
Activities Assistant	1	1
Housekeeping		
Housekeeping Supervision	1	1
Housekeepers	3	3
Laundry		
Laundry Aides	2	2
Plant Maintenance		
Maintenance Supervisor	1	1
Total	59	59

Source: CON application #10516, Schedule 6

The reviewer notes that the year one and year two totals in the applicant's Schedule 6 are arithmetically correct. Additionally, the applicant notes that on page 13 of the application, PLC states that the following services/practitioners will be available but Schedule 6 does not include any FTEs or contract services for the following:

- Respiratory therapy
- Pharmacy and laboratory services
- Medical transportation assistance
- Psychologists
- Geriatric specialists

Regarding a lack of required nursing staff in year two, see item E.3.d of this report. Notes to Schedule 6 indicate that staffing is based on regulatory requirements, applicant's experience and anticipated occupancy of the proposed nursing home.

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

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

The applicant states that PLC has not had operations since 2009 and that this preference does not apply to the applicant. The reviewer notes that it was previously indicated in items C and is indicated in item E.3.b of this report that PLC is a newly formed Florida entity and that PLC as well as its affiliates (BHM), do not and have not operated in Florida and therefore the applicant has no operating history in Florida.

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?

PLC is a newly formed Florida entity that PLC as well as its affiliates (BHM) do not and have not operated in Florida, and therefore the applicant has no operating history in Florida.

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.

PLC is a newly formed Florida entity and that PLC as well as its affiliates (BHM) do not and have not operated in Florida and therefore the applicant has no operating history in Florida.

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.

PLC is a newly formed Florida entity and that PLC as well as its affiliates (BHM) do not and have not operated in Florida and therefore the applicant has no operating history in Florida.

- 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.**

PLC is a newly formed Florida entity and that PLC as well as its affiliates (BHM) do not and have not operated in Florida and therefore the applicant has no operating history in Florida.

- 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 PLC will provide the required data according to the above or the applicable rules and requirements to the Agency or its designee.

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 72 licensed community nursing homes with a total of 9,094 community nursing home beds in District 7. Subdistrict 7-4 is composed of Seminole County and has 10 licensed community nursing homes with a total of 1,246 community nursing home beds. The subdistrict averaged 90.08 percent total occupancy for the 12-month period ending June 30, 2017.

Premier Living Centers, Inc. (CON application #10516) provides several maps of Seminole County:

- Seminole County, proximity to Orlando and Orlando Metropolitan Statistical Area (MSA)
- Seminole County, major cities, roads and physical features (including lakes, etc.)
- Seminole County, major recreational activities (golfing, boating, water recreation, parks and nature areas)
- Seminole County, ZIP Codes
- ZIP Code 32771

The applicant states and the reviewer confirms that through the Agency's FloridaHealthFinder.gov website at <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx>, currently there is one nursing home in ZIP Code 32771 – the 114-bed community nursing home, Healthcare and Rehabilitation of Sanford. The applicant also states that this SNF reported an occupancy of approximately 92 percent from July 1, 2016 to June 30, 2017. The reviewer confirms as previously shown in item E.1.a of this report, for the 12 months ending June 30, 2017 Healthcare and Rehabilitation of Sanford had a total occupancy rate of 91.56 percent (slightly higher than the Subdistrict 7-4 overall total occupancy rate of 90.08 percent for the same period).

The applicant maintains that the proposed project is not anticipated to impact utilization of the existing nursing home.

PLC duplicates the Agency's July 2020 nursing home projections for all of District 7 (including Subdistrict 7-4/Seminole County) to indicate a net need for 61 community nursing home beds. PLC points out and the reviewer confirms that the Agency's need estimate indicates that of all subdistrict's in District 7, Seminole County's net need is greater than any other subdistrict in the district, with Subdistrict 7-2 (Orange County) having the next highest need in District 7 (35 beds).

Stating the utilization of The Florida Legislature, Office of Economic and Demographic Research, Population and Demographic Data, that by 2025, the Seminole County population projection (for residents age 65+) is expected to be 90,419, a 19.80 percent increase from 2020. See the table below.

Population Projections of Elderly 2016, 2020 and 2025

	State of Florida	Seminole County
April 1, 2016 Population Projection (65 and older)	3,866,888	64,646
2020 Population Projection (65 and older)	4,390,790	75,503
Percent Increase from 2016	13.5%	16.8%
2025 Population Projection (65 and older)	5,157,943	90,419
Percentage Increase from 2020	17.5%	19.8%

Source: CON application #10516, page 8, Table 2

The reviewer notes that The Florida Legislature, Office of Economic and Demographic Research website is at <http://edr.state.fl.us/Content/>.

PLC explains that by the time the proposed facility is built, licensed and admitting residents, the Seminole County population age 65+ will have increased by over 10,000 (including an increase of approximately 1,500 persons aged 85+).

PLC indicates that the beds per thousand population (age 65+ and age 85+) was lower in Seminole County when compared to the State of Florida beds per 1,000 for these same age groups. See the table below.

**Beds per 1,000 Population 65 and Over, and 85 and Over
Years 2016, 2020 and 2025**

	State of Florida Beds per 1,000	Seminole County Beds per 1,000
April 1, 2016 Population (65+)	20.8	19.3
April 1, 2016 Population (85+)	151.4	140.6
2020 Population Projection (65+)	18.8	17.8
2020 Population Projection (85+)	139.6	129.8
2025 Population Projection (65+)	16.0	14.8
2025 Population Projection (85+)	120.7	110.9

Source: CON application #1056, page 9, Table 3

PLC cites utilization of the U. S. Census Bureau, American FactFinder, 2012-2016 American Community Survey Five-Year Estimates for ZIP Code 32771, to show the age 65+ population and the 85+ population, for ZIP Code 32771 and for Seminole County overall, for April 1, 2016, for 2020 and for 2025. See the table below.

Population Projections of Elderly 2016, 2020 and 2025

	ZIP Code 32771	Seminole County
April 1, 2016 Population (65+)	6,611	64,646
April 1, 2016 Population (85+)	953	8,864
2020 Population Projection (65+)	7,722	75,503
2020 Population Projection (85+)	1,113	10,342
2025 Population Projection (65+)	9,251	90,419
2025 Population Projection (85+)	1,333	12,098

Source: CON application #1056, page 9, Table 4

The applicant indicates the beds per 1,000 population for the 65+ and 85+ population, for years 2016, 2020 and 2025 for Seminole County and for ZIP Code 32771. The applicant points out that the estimated beds per 1,000 increase in ZIP Code 32771 (from 18.2 on April 1, 2016 to 22.7 by 2020) for the 65+ population but that the countywide estimate is still a net decrease (19.3 to 17.8) due to estimated population growth. The applicant estimates that by 2025, the estimate of 18.9 beds per 1,000 for the 65+ population in ZIP Code 32771 somewhat levels off to the April 1, 2016 estimate of 18.2. See the table below.

**Beds per 1,000 Population 65 and Over, and 85 and Over
Years 2016, 2020 and 2025**

	ZIP Code 32771 Beds per 1,000	Seminole County Beds per 1,000
April 1, 2016 Population (65+)	18.2	19.3
April 1, 2016 Population (85+)	125.9	140.6
2020 Population Projection (65+)	22.7	17.8
2020 Population Projection (85+)	157.2	129.8
2025 Population Projection (65+)	18.9	14.8
2025 Population Projection (85+)	131.2	110.9

Source: CON application #1056, page 10, Table 5

PLC notes that population will grow faster in the northern part of Seminole County, due to ongoing development and lack of property suitable for housing and businesses in the southern portion of Seminole County.

Concerning availability, PLC states that it accepts that forecasted 92 percent occupancy by July 2020 according to the Agency’s calculation is a reasonable balance to achieve availability and accessibility without negatively impacting current providers and future utilization of existing providers.

The applicant discusses conformity with the Health Care Access Criteria (CON application #10516, pages 18 through 21).

- 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.**

Premier Living Centers, Inc. (CON application #10516), a newly formed for-profit Florida entity, as well as its affiliates (BHM), do not and have not operated in Florida and therefore the applicant has no operating history in Florida. BHM operates eight SNFs in Mississippi and Arkansas.

The applicant states that it strives to recognize and meet the needs of the people and families that it serves, as well as those who work with the applicant to achieve PLC's mission, in an atmosphere of kindness, compassion and understanding.

The applicant maintains that of the eight SNFs operated by BHM, five are 60-bed nursing homes that have either a four-star (above average) or a five-star (much above average) quality rating as issued by the Centers for Medicare and Medicaid Services (CMS).

PLC states that its affiliates operate a Quality Assurance Program (QAP). The reviewer notes that a four-page QAP is included in Tab 16 of the application. The reviewer notes that the QAP is indicated as a policy and that some of the major headings in the QAP include:

- Procedure
- Facility QA & A minutes (including a review of prior month's minutes)
- CMS quality measures
 - Seven short-term measures (the reviewer notes that these seven measures mirror seven of the nine quality of resident care measures that appear in the CMS Nursing Home Compare website)
 - Eight long-term measures (the reviewer notes that these eight measures mirror eight of the 15 quality of resident care measures that appear in the CMS Nursing Home Compare website)
- Clinical indicators
- Infection control
- State survey activity
- Consultant reports summary (dietary, pharmacy, etc.)
- Risk management events
- Safety Committee summary
- Recruitment/retention plan
- Hiring/staffing
- Quality improvement
- Department reports
 - Dietary
 - Activities
 - Nursing
 - Social
 - Administration
 - Maintenance

- Laundry/environmental
- MDS
- Medical records

The applicant asserts that its management is able to replicate and administer a quality nursing home in Florida as it does with its other eight SNFs.

PLC notes that examples are provided in Tab 17 of the application to support that management is able to replicate and administer a quality SNF in Florida, including:

- Brochures of two nursing homes
- Admissions agreement checklist
- In-service topics for a complete calendar year
- Vulnerable adult forms and reporting in Mississippi
- Vulnerable adults reporting and investigation procedures
- Ethics committee policy
- Privacy and confidentiality policy
- Posting of direct care daily staffing numbers policy
- Accidents and incidents investigating and reporting procedure
- Abuse program
- Discharge plan/summary policy and procedures
- Discharge and transfer policies involuntary
- Pre-admission policy
- Admission/readmission orders policy
- Admission policy
- Interdisciplinary care plan meeting policy

The reviewer notes that all the above materials are included in Tab 17 of the application. The reviewer also notes that one of the materials not listed by the applicant in item E.3.b of the application but included in Tab 17 of the application is the sample 10-page Admission Agreement. The reviewer further notes that regarding “brochures of two nursing homes”, in Tab 17 of the application is a brochure regarding the Carrington Nursing and Rehabilitation Center, 307 Reed Road, Starkville, MS 39759 and the River Place Nursing and Rehabilitation Center, 1126 Earl Frye Blvd., Amory, MS 38821.

The reviewer notes that the applicant’s Admission/Readmission UDAs Policy includes sample assessment forms for the following:

- Bowel and bladder assessment
- Fall risk assessment
- Hot liquid assessment
- Resident lift/transfer assessment

- Pain assessment
 - Restraint necessity assessment
 - Restraint reduction assessment
 - Self-administration of medication assessment
 - Side rail assessment
 - Safe smoking assessment
- 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.**

Premier Living Centers, Inc. (CON application #10516):

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.

However, in this instance, the applicant is a start-up company with no assets and an accumulated deficit of \$523,683 at December 31, 2016.

Capital Requirements and Funding:

The applicant indicates on Schedule 2 capital projects totaling \$12,717,701, which includes this project, CON application #10516. In addition, the applicant would have to fund a year one operating loss of \$1,207,727. This projected year one loss is materially more the \$667,182 loss projected by the applicant. Staff notes that this difference is due to the applicant projecting net revenue of \$5,200,340 on Schedule 7 and \$5,740,886 on Schedule 8. Given the two conflicting amounts for net revenue, staff took the conservative approach and used the lower amount.

The applicant provided a current bank statement dated December 21, 2017 indicating an unreconciled bank balance of \$50,000. In addition, the applicant also provided a letter of interest from Trustmark bank

indicating the project would require loans totaling \$12 million. Staff notes that while the applicant and others refer to the above letter as a loan “commitment”, the letter in fact states it is a letter of interest. A letter of interest is not a commitment to lend and if the applicant were not approved for the loan it would have to seek financing elsewhere to fund the project.

Last, the applicant provided a letter from Curtis L. King, Jr., CFO of Briar Hill Management who states Briar Hill has an unused line of credit with Trustmark National Bank to draw \$3,750,000. Mr. King states this money would be available to the applicant if necessary, but does not anticipate that it will be. Staff further notes that Mr. King/Briar Hill Management did not provide any substantive evidence from Trustmark bank to substantiate the claim of the line of credit or its available balance.

Conclusion:

Funding for this project is not guaranteed and is dependent on obtaining the Trustmark bank loan and amounts from Briar Hill Management.

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

Premier Living Centers, Inc. (CON application #10516):

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	7,805,160	382	2,056	447	293
Total Expenses	7,678,255	376	1,874	446	276
Operating Income	126,905	6	151	6	-206
Operating Margin	1.63%		Comparative Group Values		
	Days	Percent	Highest	Median	Lowest
Occupancy	20,440	91.80%	97.74%	88.99%	45.15%
Medicaid	9,490	46.43%	49.90%	40.46%	30.14%
Medicare	10,950	53.57%	56.86%	37.12%	5.72%

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 in year one but not in projected year two. In projected year two, the minimum nurses’ aid requirement are 2.5 hours per patient day, while the applicant projects providing 2.04 hours per patient day (1.96 hours per patient day when considering normal vacation days).

Conclusion:

This project appears to be financially feasible based on the projections provided by the applicant; however, profitability may be less than projected due to the insufficient number of nurse’s aides in year two.

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

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.**

Premier Living Centers, Inc. (CON application #10516): 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 significant impact on either construction costs or the proposed completion schedule.

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

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

A five-year history of Medicaid patient days and Medicaid occupancy for the subdistrict, district and state (for the five-year period ending June 30, 2017) is provided in the table below.

**Medicaid Patient Days and Medicaid Occupancy
in Seminole County (Subdistrict 7-4),
District 7 and Florida**

Medicaid Patient Days					
Area	JUL 2012- JUN 2013	JUL 2013- JUN 2014	JUL 2014- JUN 2015	JUL 2015- JUN 2016	JUL 2016- JUN 2017
Seminole County	236,299	237,482	238,675	241,078	231,992
District 7	1,750,964	1,776,171	1,774,373	1,814,280	1,806,594
Florida	15,676,855	15,837,261	15,875,092	16,097,612	16,077,665
Medicaid Occupancy					
Area	JUL 2012- JUN 2013	JUL 2013- JUN 2014	JUL 2014- JUN 2015	JUL 2015- JUN 2016	JUL 2016- JUN 2017
Seminole County	60.52%	60.15%	59.46%	58.85%	56.63%
District 7	59.83%	60.79%	59.99%	60.98%	60.92%
Florida	61.58%	62.05%	61.88%	62.73%	63.34%

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, September 2013 – September 2017 Batching Cycle

Premier Living Centers, Inc. (CON application #10516) states that PLC and its affiliates have a long history of participation in Medicaid and providing skilled nursing services to the Medicaid population. PLC indicates having provided care to Medicaid eligible residents in Arkansas Louisiana and Mississippi in the past and currently provides care to Medicaid-eligible residents in its eight SNFs in Arkansas and Mississippi.

PLC states having reviewed Florida’s Statewide Medicaid Managed Care (SMMC) long-term care program. PLC indicates an anticipation to contract with the providers in District 7: Aetna, Humana, Sunshine and United. The application provides a table to account for these plans that the applicant states were drawn from, “A Snapshot of the Florida Medicaid Long-Term Care Program, Agency for Health Care Administration, March 7, 2017”. The reviewer presents only the Region 7 Medicaid providers, as indicated in the applicant’s table. See below.

What Long-Term Care Plans Are Available in My Region

Region	Amerigroup	Aetna	Humana	Molina	Sunshine	United
7		X	X		X	X

Source: CON application #10516, page 28, Table 9

The reviewer notes that the applicant does not provide any sample contracts with any of the Medicaid contract providers listed above and does not include any letters of support from any of said providers. PLC maintains having forecasted both Medicaid and charity care in CON application #10516.

The reviewer compiled CON application #10516, Schedule 7 data, to account for Medicaid/Medicaid HMO/Medicaid SMMC and self-pay for year one (ending 2020) and for year two (ending 2021), along with admissions (or admits) for both years. The applicant expects 13,717 patient/resident days in year one (388 admits) and 20,440 patient/resident days in year two (544 admits). See the table below.

**Forecast Utilization at Proposed Premier Living Centers, Inc.
61 Community Nursing Home Bed Project
First Two Years of Operation**

Payer	Year One	Year Two	Percent of Total Year One	Percent of Total Year Two
Medicare	7,795	10,950	57.43%*	53.57%
Medicare HMO	0	0	0.0%	0.0%
Medicaid	5,779	9,490	42.57%**	46.43%
Medicaid HMO	0	0	0.0%	0.0%
Self-Pay	143	0	0.0%***	0.0%
Other Managed Care	0	0	0.0%	0.0%
Other Payers	0	0	0.0%	0.0%
Total	13,717	20,440	100.0%	100.0%%
Payer	Year One Admits	Year Two Admits		
Medicare	371	521		
Medicare HMO	0	0		
Medicaid	15	24		
Medicaid HMO	0	0		
Self-Pay	2	0		
Other Managed Care	0	0		
Other Payers	0	0		
Total	388	544		

Source: CON application #10516, Schedule 7

- Note: * Based on the year one patient/resident day total (13,717), this percentage should be 56.83 percent, to reach a total of 100.0 percent.
 ** Based on the year one patient/resident day total (13,717), this percentage should be 42.13 percent, to reach a total of 100.0 percent.
 *** Based on the year one patient/resident day total (13,717), this percentage should be 1.04 percent, to reach a total of 100.0 percent.

The reviewer confirms that the year one and year two patient/resident day totals and the year one and year two admit totals are arithmetically correct. Also the year two patient/resident day percentages are arithmetically correct. However, the reviewer notes that the schedule indicates 143 self-pay patient/resident days in year one and two self-pay admits in year one. Therefore, the applicant’s year one patient/resident day percentages are not arithmetically correct as shown in the applicant’s Schedule 7 (for year one ending 2020).

The reviewer notes that while the applicant indicates in this section (E.3.g of this report) having forecasted for Medicaid and charity care, the applicant's Schedule 7 does not indicate charity care patient/resident days or admits (though PLC does indicate 148 self-pay patient/resident days and two self-pay admits for year one). PLC does not state that self-pay is synonymous with charity care.

The reviewer notes that in section E.2.b of this report, PLC had indicated an expectation of an equal mix of residents of Medicare and Medicaid. The reviewer notes that in CON application #10516, Schedule 7, year one and year two, the proposed project has an unequal mix of residents of Medicare and Medicaid, with patient/resident days but especially admits clearly more heavily weighted toward Medicare.

Based on the applicant's total patient/resident day estimates in the applicant's Schedule 7, PLC's Medicaid and self-pay represent 42.13 percent and 1.04 percent, respectively, of year one (ending 2020) and 46.43 percent and 0.00 percent of year two (ending 2021), respectively, annual total patient days.

CON application #10516 does not condition any Medicaid/Medicaid HMO/Medicaid SMMC total annual patient days or percentage or any charity care total annual patient days or percentage, pursuant to this proposal.

F. SUMMARY

Premier Living Centers, Inc. (CON application #10516), a newly formed for-profit Florida entity, an affiliate of BHM, proposes to establish a new 61-bed community nursing home in Subdistrict 7-4. The proposed project is to be located in ZIP Code 32771 (Sanford), the northern most portion of Seminole County.

If approved, the proposed project will be operated by BHM. BHM operates eight SNFs in Mississippi and Arkansas.

The project involves 45,687 GSF of new construction. The construction cost is \$7,731,520. Total project cost is \$12,717,701. Project cost includes: land, building, equipment, project development, financing and start-up costs.

The applicant does not wish to accept any conditions, pursuant to Schedule C of CON application #10516.

Need:

In Volume 43, Number 189 of the Florida Administrative Register dated September 29, 2017, a fixed need pool notice of 61 beds was published for Subdistrict 7-4 for the July 2020 Planning Horizon. Subdistrict 7-4 is comprised of a single county – Seminole County.

As of November 15, 2017 Subdistrict 7-4 had 1,246 licensed and 35 approved community nursing home beds. During the 12-month period ending June 30, 2017 Subdistrict 7-4 experienced 90.08 percent total occupancy at 10 existing facilities.

The applicant provides the following four points to justify project approval indicating:

- The elderly population in Subdistrict 7-4 (Seminole County) is growing faster, as a percentage, than the state as a whole, at least through 2025
- The beds per 1,000 for the elderly population in Subdistrict 7-4 is lower than the state overall, at least through 2025
- The elderly population in ZIP Code 32771 is growing, at least through 2025

Additionally the applicant notes that the proposed facility will:

- Have all private rooms for the 61-bed project
- Be located in ZIP Code 32771 in northern Seminole County, in the Sanford area—which currently only has one SNF in the ZIP Code
- The population will grow faster to the northern part of Seminole County, due to ongoing development and a lack of property suitable for housing and businesses in the southern portion of Seminole County

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

Quality of Care:

- The applicant describes the ability to provide quality care
- The applicant provides QAP guidelines and indicates that its management is able to replicate and administer a quality SNF in Florida as it does with its other eight SNFs

Financial Feasibility/Availability of Funds:

- Funding for this project is not guaranteed and is dependent on obtaining the Trustmark bank loan and amounts from Briar Hill Management

- The applicant meets the minimum nurse staffing requirement for year one but not for projected year two, pursuant to ss. 408.23(3)(a)(1), Florida Statutes
- This project appears to be financially feasible based on the projections provided by the applicant. However, profitability may be less than projected due to the insufficient number of nurse's aids in year two
- 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/Medicaid HMO or charity care days
- Based on the applicant's total patient/resident day estimates in PLC's Schedule 7, the applicant's Medicaid and self-pay represent 42.13 percent and 1.04 percent, respectively, of year one (ending 2020) and 46.43 percent and 0.00 percent of year two (ending 2021), respectively, annual total patient days

Architectural:

The cost estimate and the project completion forecast 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 #10516 to establish a 61-bed community nursing home. The total project cost is \$12,717,701. The project involves 45,687 GSF of new construction and a construction cost of \$7,731,520.

CONDITION: All beds will be dually certified for both Medicaid and Medicare

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