

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

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Conway Lakes NC, LLC/CON #10530
d/b/a Conway Lakes Health and Rehabilitation Center
709 S. Harbor City Blvd., Suite 240
Melbourne, Florida 32901

Authorized Representative: Geoff Fraser
Senior Vice President
(321) 288-0171

2. Service District/Subdistrict

District 7/Subdistrict 7-2 (Orange County)

B. PUBLIC HEARING

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

Letters of Support

Conway Lakes NC, LLC d/b/a Conway Lakes Health and Rehabilitation Center (CON application #10530): The applicant submitted 17 letters of support (Appendix F of the application). The reviewer notes the following characteristics of these support letters:

- All 17 support letters are signed, 16 of the 17 letters have a date range from April 30, 2017 to June 7, 2018 but most are dated in May or June 2018 (one letter is not dated)
- Of the 17 support letters, 13 indicate origination in Subdistrict 7-2 (Orange County), three indicate origination in contiguous Subdistrict 7-4 (Seminole County) and one indicates origin in District 6, Subdistrict 6-1 (Hillsborough County)
- Of the 17 support letters, six are from residents at or are family of residents that reside at Conway Lakes Health and Rehabilitation Center (CLHRC)

The 17 support letters are primarily individually composed. The support letters generally have overarching themes, some of which are:

- CLHRC has a good reputation in the community
- CLHRC is a five-star, Governor’s Gold Seal Award recipient¹
- CLHRC’s clinical products, programs and therapy equipment are of the caliber not available or not usually seen in the area
- CLHRC provides amenities and services (such as private rooms², a large high-tech therapy gym with aqua therapy pools, café bistro and a town center feel) that do not exist at other facilities in the community
 - These types of amenities and services are being requested by patients for their post-acute care
- Feedback from hospice patients and their families that utilize CLHRC³ is positive and the facility goes the “extra mile” to make sure patients and families have the best care
- Clear Choice-managed skilled care facilities and nursing homes are very well managed and maintained

C. PROJECT SUMMARY

Conway Lakes NC, LLC d/b/a Conway Lakes Health and Rehabilitation Center (CON application #10530), a Florida for-profit entity, also referenced as Conway Lakes, CLNC or the applicant, with the ultimate parent (ownership) being at 99 percent by SBK Capital, LLC and one percent by SBK, LLC - the sole member for both SBK Capital, LLC and SBK, LLC being Samuel B. Kellett - proposes to add 18 community nursing home beds to CLHRC an existing 120-bed skilled nursing facility (SNF) located in Subdistrict 7-2 (Orange County). The applicant seeks to accomplish this project by aggregating community nursing home beds from the fixed need pool as follows:

- 14 beds – Subdistrict 7-2/Orange County
- 4 beds – Subdistrict 7-3/Osceola County

In addition to the proposed aggregation of 18 additional beds pursuant to this project, the applicant holds exemption #E170022, to add 20 community nursing home beds to CLHRC. Provided that CON application #10530 is approved, the existing

¹ See item E.3.b of this report for a review of CLHRC’s quality awards/ratings.

² The reviewer notes that according to the Agency’s FloridaHealthFinder.gov website at <http://www.floridahealthfinder.gov/facilitylocator/FacilityProfilePage.aspx?id=28903>, CLHRC offers eight private rooms and 56 two-bed rooms to account for its 120 licensed beds.

³ The reviewer notes that according to the Agency’s FloridaHealthFinder.gov website at <http://www.floridahealthfinder.gov/facilitylocator/FacilityProfilePage.aspx?id=28903>, CLHRC’s special programs and services, among others, include hospice care.

CLHRC would go from 120 licensed community nursing home beds to 158 licensed community nursing home beds with the 158 beds all being on the same campus at CLHRC.

The applicant states affiliation with the Florida-based Clear Choice Health Care (CCHC) and states that CCHC is currently and will continue to be the management company that operates CLHRC. The applicant comments that the principals of CCHC are:

- Samuel B. Kellett
- Jeffery E. Cleveland
- Geoffrey R. Fraser
- Deborah P. Kennedy

The applicant states that CCHC manages the following eight SNFs located in Florida:

- Belleair Health Care Center
- Centre Pointe Health & Rehab Center
- Conway Lakes Health & Rehab Center
- East Bay Rehabilitation Center
- Melbourne Terrace Rehabilitation Center
- Port Charlotte Rehabilitation Center
- Spring Lake Rehabilitation Center
- Sun Terrace Health Care Center

The reviewer notes that the following SNFs affiliated with CCHC are approved but not-yet-licensed:

- CON application #10275, Dolphin Pointe Health Care Center approved for a new 120-bed SNF (located in Subdistrict 4-3)
- CON application #10397, Alachua County HRC, approved for a new 103-bed SNF (located in Subdistrict 3-2)

The project involves 5,085 gross square feet (GSF) for the total project⁴. The construction cost is “0” and the renovation cost is “ ” (blank)⁵. However, the total project cost is \$171,365⁶. Project cost includes: land, building, equipment and project development.

⁴ The reviewer notes that on the applicant’s Schedule 9, item 1.A – Total GSF of New Construction is “0”, item 1.B – Total GSF of Renovation is blank and item 1.C – Total GSF of Project is 5,085, identified as “18 rooms at 281 GSF per”. Therefore, the applicant’s Schedule 9 does not categorize the project as new construction or as renovation on the schedule but offers a total project of 5,085 GSF. However, the reviewer notes that $18 \times 281 = 5,058$ not 5,085.

⁵ The reviewer notes that on the applicant’s Schedule 9, item 1.H – New Construction cost is “0” and item 1.J – Renovation Cost is “0”.

⁶ This is the applicant’s Schedule 1, line 50 and Schedule 9, Item 1.R – Total Project Cost.

Notes to the applicant's Schedule 9 indicate that the applicant has a major renovation/expansion project currently underway to expand the facility from 120 to 140 beds and to significantly expand/improve the facility's support infrastructure associated with E170022, issued August 24, 2017. These same notes further state that the 18 private rooms (that will support the proposed new beds) that will be licensed if this CON application is approved are already included in the 120 to 140-bed expansion project currently under development. Per these notes, the only costs associated with licensing the proposed 18 additional beds will be the "FF and E" needed in the new patient rooms to go from 140 licensed beds to 158 licensed beds.

Notes to the applicant's Schedule 10 indicate that, CON application #10530, "is proposing to license 18 private rooms that will be developed as part of the Exemption renovation and expansion project as community nursing home beds". These same notes further state that these beds will be located on the first floor of the new expansion construction area. Per these notes, "No additional construction or renovation will be required to add these 18 community nursing home beds as the rooms are already included/will be part of the exemption expansion/renovation project that is currently under development.

The applicant anticipates issuance of the license in December 2019 and initiation of service in January 2020⁷.

CON application #10530, Schedule C conditions the proposed project as follows:

- Specific site within the subdistrict. The parcel or address is as follows:
Conway Lakes Health and Rehabilitation Center
5201 Curry Ford Road Orlando, FL 32812
- 1. The applicant commits that all of the 18 beds proposed in this project will be housed in private rooms with private bath including shower.
- 2. The applicant will provide an array of unique high-intensity sub-acute rehabilitative programs and services for residents in the proposed 18-bed expansion, including the following:
 - Left Ventricular Assist Device (LVAD) Program
 - Lee Silverman Voice Treatment (LSVT) Loud Program
 - Lee Silverman Voice Treatment (LSVT) BIG Program
 - Infusion Therapy Services

⁷ The reviewer notes that the applicant considers this project as not involving construction or renovation and therefore leaves blank the days required column and the anticipated dates of completion column in phases 1 thru 9 of Schedule 9, CON application #10530.

- Aquatic therapy, through development of two hydrotherapy pools
 - Rehabilitative therapy for patients unable to perform 100 percent weight-bearing ambulation, through purchase and use of an Anti-Gravity treadmill
 - Rehabilitative therapy for patients who would benefit from compressed air equipment designed specifically for the aging population, through purchase and use of HUR Equipment and/or specialized equipment
 - Sunshine Wellness Check Program
 - Home Assessments:
 - Medication Reconciliation; and,
 - Rehabilitation Therapy Team Assessment, as appropriate
 - Transportation Program to transport outpatients from their home environment to therapy sessions when medically necessary. This same transportation program will be utilized for long-term residents' family members without the means to travel to see his/her loved one in the nursing home, as needed.
3. Community Give-Back Programs: Annual Funding of at least \$150,000.

The applicant commits to a total annual Community Give-Back Programs amount of at least \$150,000 comprised of the following components:

- Unreimbursed indigent/charity care provided to patients requiring services at its facility
- Donations of goods, services and/or direct funding to local charities selected by residents
- Scholarship programs, which pay the costs of staff members to enroll in academic programs to further their formal education

Compliance with these conditions will be monitored through notification to AHCA of the provision of each program and service and the provision of identified funding actions, upon implementation of the proposed 18-bed addition project.

NOTE: The applicant does not condition an exact date or target date for when conditions #2 and #3 will be implemented, only that the conditions will be monitored through notification to the Agency, upon implementation of the proposed project. Therefore, the Agency cannot determine whether the proposed programs in conditions #2 and #3 will begin immediately upon licensure or at some unknown date after licensure.

Should the proposed project be approved, the applicant's conditions would be reported in the annual condition compliance report, as required by Rule 59C-1.013(3), Florida Administrative Code. The Agency will not impose conditions on already mandated reporting requirements.

| Total GSF and Project Costs of CON application #10530 | | | | | |
|--|-------------------|--------------------------|------------|-----------------------|---------------------|
| Applicant | CON app. # | Project | GSF | Total Costs \$ | Cost Per Bed |
| Conway Lakes NC, LLC | 10530 | 18-bed Addition to CLHRC | 5,085 | \$171,385 | \$9,521 |

Source: CON application #10530, 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, Steve Love, analyzed the application with consultation from the financial analyst, Eric West, 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 44, Number 63 of the Florida Administrative Register (FAR) dated March 30, 2018, a fixed need pool notice of 14 beds was published for Subdistrict 7-2 for the January 2021 Planning Horizon. Subdistrict 7-2 is composed of a single county – Orange County. Also, per the same FAR notice, a fixed need pool of four beds was published for geographically contiguous Subdistrict 7-3 (Osceola County) for the same planning horizon.

After publication of this fixed need pool, one Subdistrict 7-2 facility filed an exemption request #E180021 was approved on May 16, 2018, to delicense 12 community nursing home beds at Life Care Centers of America d/b/a Life Care Center of Altamonte Springs through a transfer of beds to Life Care Centers of America, Inc. d/b/a Life Care Center of Orlando.

As of May 16, 2018 (the omissions deadline for this batching cycle), Subdistrict 7-2 had 4,154 licensed and 259 approved community nursing home beds.

During the 12-month period ending December 31, 2017, Subdistrict 7-2 experienced 88.67 percent utilization at 34 existing facilities with 4,132 licensed community nursing home beds. Below is a table illustrating the community nursing home bed inventory (count), the bed days, patient days, total occupancy and Medicaid occupancy within Subdistrict 7-2, District 7 and Florida overall, for the 12 months ending December 31, 2017.

| Orange County (Subdistrict 7-2) Nursing Home Patient Days and Total Occupancy January 1, 2017– December 31, 2017 | | | | | |
|---|---|---------------------|-------------------------|----------------------------|-------------------------------|
| Facility | Comm. Nursing Home Bed Inventory | Bed Days | Patient Days | Total Occupancy | Medicaid Occupancy |
| Adventist Care Centers – Courtland, Inc. | 120 | 43,800 | 37,654 | 85.97% | 48.34% |
| Avante at Orlando, Inc. | 118 | 43,070 | 32,476 | 75.40% | 72.40% |
| Colonial Lakes Health Care | 180 | 65,700 | 62,964 | 95.84% | 68.38% |
| Commons at Orlando Lutheran Towers | 71 | 25,147 | 37,480 | 149.04% | 32.92% |
| Conway Lakes Health and Rehabilitation Center | 120 | 43,800 | 39,966 | 91.25% | 30.79% |
| Courtyards of Orlando Health Center | 120 | 43,800 | 37,737 | 86.16% | 79.77% |
| Delaney Park Health and Rehabilitation Center | 60 | 21,900 | 19,935 | 91.03% | 66.75% |
| East Orlando Health and Rehab Center, Inc. | 120 | 43,800 | 38,430 | 87.74% | 51.31% |
| Gardens at DePugh, The | 40 | 14,600 | 13,715 | 93.94% | 62.73% |
| Guardian Care Nursing and Rehabilitation Center | 120 | 43,800 | 40,243 | 91.88% | 75.36% |
| Health Central Park | 228 | 83,220 | 79,604 | 95.65% | 71.13% |
| Hunters Creek Nursing and Rehab Center | 116 | 42,340 | 38,760 | 91.54% | 60.80% |
| Lake Bennett Health and Rehabilitation | 120 | 43,800 | 41,867 | 95.59% | 62.93% |
| Life Care Center of Orlando | 120 | 43,800 | 35,042 | 80.00% | 31.69% |
| ManorCare Nursing and Rehabilitation Center-Winter Park | 138 | 50,370 | 36,027 | 71.52% | 54.58% |
| Mayflower Healthcare Center | 24 | 8,760 | 8,215 | 93.78% | 0.00% |
| Metro West Nursing and Rehab Center | 120 | 43,800 | 38,963 | 88.96% | 73.54% |
| Ocoee Health Care Center | 120 | 43,800 | 39,004 | 89.05% | 56.53% |
| Orlando Health and Rehabilitation Center | 420 | 153,300 | 122,405 | 79.85% | 78.67% |
| Palm Garden of Orlando | 120 | 43,800 | 39,668 | 90.57% | 64.10% |
| Parks Healthcare and Rehabilitation Center | 120 | 43,800 | 41,651 | 95.09% | 75.85% |
| Quality Health of Orange County | 120 | 43,800 | 32,027 | 73.12% | 60.95% |
| Regents Park of Winter Park | 120 | 43,800 | 39,443 | 90.05% | 60.61% |
| Rehabilitation Center of Winter Park, The | 180 | 65,700 | 53,186 | 80.95% | 73.07% |
| Rio Pinar Health Care | 180 | 65,700 | 64,239 | 97.78% | 66.06% |
| Rosewood Health and Rehabilitation Center | 120 | 43,800 | 40,544 | 92.57% | 72.34% |
| Savannah Cove | 39 | 14,235 | 12,596 | 88.49% | 26.69% |
| Solaris Healthcare Windermere | 120 | 43,800 | 42,445 | 96.91% | 49.42% |
| Sunbelt Health and Rehab Center – Apopka, Inc. | 120 | 43,800 | 39,488 | 90.16% | 49.14% |
| Terra Vista Rehab and Health Center | 115 | 41,975 | 36,726 | 87.49% | 74.76% |
| Westminster Baldwin Park | 40 | 2,640 | 0 | 0.00% | 0.00% |
| Westminster Towers | 91 | 33,215 | 28,653 | 86.27% | 59.10% |
| Westminster Winter Park | 69 | 33,465 | 31,448 | 93.97% | 38.44% |
| Winter Park Care and Rehabilitation Center | 103 | 37,595 | 30,695 | 81.65% | 67.16% |
| Orange County (Subdistrict 7-2) | 4,132 | 1,503,732 | 1,333,296 | 88.67% | 62.08% |
| District 7 | 9,096 | 3,315,592 | 2,955,677 | 89.14% | 60.86% |
| Florida | 80,616 | 29,317,474 | 25,310,723 | 86.33% | 63.18% |

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, April 2018 Batching Cycle

As shown in the table above, for the 12 months ending December 31, 2017, Subdistrict 7-2 had a total occupancy rate of 88.67 percent, which was lower than the District 7 total occupancy rate of 89.14 percent but higher than the Florida overall total occupancy rate of 86.33 percent. As indicated, Subdistrict 7-2’s total occupancy rate was 0.47 percent lower than District 7 overall but was 2.34 percent higher than Florida overall.

The reviewer notes the current and projected population of Orange County, 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 Orange County (Subdistrict 7-2), District 7, and Florida January 2018 and January 2021 | | | | | | |
|---|----------------------------|-----------|------------|-----------------------|-----------|------------|
| County/Area | January 1, 2018 Population | | | January 1, 2021 | | |
| | 0-64 | 65+ | Total | 0-64 | 65+ | Total |
| Orange | 1,179,250 | 149,294 | 1,328,544 | 1,247,302 | 168,671 | 1,415,973 |
| District 7 | 2,303,827 | 390,431 | 2,694,258 | 2,410,213 | 436,493 | 2,846,706 |
| Florida | 16,510,025 | 4,013,237 | 20,523,262 | 16,953,840 | 4,399,153 | 21,352,993 |
| County/Area | 2018-2021 Increase | | | 2018-2021 Growth Rate | | |
| | 0-64 | 65+ | Total | 0-64 | 65+ | Total |
| Orange | 68,052 | 19,377 | 87,429 | 5.77% | 12.98% | 6.58% |
| District 7 | 106,386 | 46,062 | 152,448 | 4.62% | 11.80% | 5.66% |
| Florida | 443,815 | 385,916 | 829,731 | 2.69% | 9.62% | 4.04% |

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

The reviewer notes that based on the table above, from January 2018 to January 2021, the Subdistrict 7-2 (Orange County) age 65+ population is expected to grow at a rate of:

- 12.98 percent, which is higher than District 7 overall (11.80 percent) and higher than Florida overall (9.62 percent)

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 | 2018 Pop. Aged 65+ | 2018 | 2021 | 2021 |
|-------------|----------------|--------------------|----------------|---------------|----------------|
| | | | Beds per 1,000 | Pop. Aged 65+ | Beds per 1,000 |
| Orange | 4,132 | 149,294 | 28 | 168,671 | 24 |
| District 7 | 9,096 | 390,431 | 23 | 436,493 | 21 |
| Florida | 80,616 | 4,013,237 | 20 | 4,399,153 | 18 |

Source: Florida Agency for Health Care Administration Population Estimates, February 2015 and Florida Nursing Home Bed Need Projections by District and Subdistrict, April 2018 Batching Cycle

The reviewer notes that based on the table above, by January 2021, the Subdistrict 7-2 (Orange County) community nursing home beds per 1,000 residents age 65+ is expected to be:

- 24 beds, which is more than District 7 overall (21 beds) and more than Florida overall (18 beds)

Conway Lakes NC, LLC d/b/a Conway Lakes Health and Rehabilitation Center (CON application #10530), pursuant to ss. 408.034(6), Florida Statutes and Rule 59C-1.036(3)(e), Florida Administrative Code, proposes to aggregate published need for 14 community nursing home beds in Subdistrict 7-2 (Orange County) and published need for four community nursing home beds in geographically contiguous Subdistrict 7-3 (Osceola County), resulting in a proposal to

add 18 beds to the existing 120-bed SNF CLHRC. Including the addition of 20 beds through E170022, in total, CLNRC would go from a 120-bed SNF to a 158-bed SNF.

CLNC contends that special circumstances exist to warrant project approval, even if there was no Agency-published need. The applicant indicates that the proposed project will meet the needs of the underserved sub-acute care patients within the local market, with high-intensity rehabilitative services that the applicant states is not typically available in SNFs in general and is specifically not offered by any other existing provider in Orange County. CLNC asserts that the project will address an identified need for high-intensity rehabilitative services, programs and equipment in Orange County—need over and above the quantitative bed need for general community nursing home beds published by the Agency.

The applicant maintains that the proposed 18-bed addition at CLHRC are optimally positioned to address the community needs of the residents of Orange and Osceola Counties, as demonstrated by the following:

- 1) Conway Lakes and the proposed project are supported by an experienced, local community nursing home management team with headquarters and a training facility in Florida. This management team is innovative and continues to “raise the bar” on SNF services and facilities in Florida, as illustrated by the following:
 - a) Innovative program offerings, illustrated by university-based intergenerational programs, services and activities available to residents.
 - b) Ever-improving facility design based on resident and families’ needs and expectations for an active life experience and activity-focused community.
 - c) Implementation of Agency-approved projects as proposed and on-schedule.
 - d) Recognition that financial viability for nursing home facilities, in the short- and long-term, is typically best achieved with a minimum-sized 100-bed facility due to the economies of scale and efficiencies gained.
- 2) Comprehensive continuity of care is currently provided for Conway Lakes SNF residents, and will be provided in the proposed expansion, including the sub-acute level of high-intensity rehabilitative services, provided by certified clinical staff using advanced equipment and facilities to ensure optimal patient outcomes and recovery. Specifics include:
 - a) Specialized and high-intensity rehabilitative programs and services available for all residents.
 - b) Advanced rehabilitative equipment necessary for high-intensity rehabilitative care.

- c) Certified staff members ensure high quality, specialized rehabilitative services are provided.
 - d) Low hospital readmission rates document success of sub-acute care services.
 - e) Sub-acute care SNF services are a critical component in the continuity of care.
 - f) The project will address a growing need for advanced rehabilitative services in Orange County.
- 3) Design and management of the existing and proposed facility⁸ is managed and directed by a community-focused organization that tailors its facility, programs and services and community giveback programs to the local communities' needs – all with the goals of ensuring resident choice, independence and dignity.
- 4) The proven programs and services to be provided as part of this proposed bed expansion project will ensure that the highest quality nursing home services are available to the residents in Orange County (and contiguous Osceola County) evidenced by Conway Lakes Governor's Gold Seal rating, its CMS's five-star rating (one of only two such facilities in Orange County) and its Joint Commission accreditation, as well as Clear Choice operating four additional facilities with four or five-star rankings based on the Centers for Medicare and Medicaid Services (CMS) national standards.

CLNC offers in-depth explanations of the points above throughout CON application #10530, particularly pages seven through 49 of the application. Some of these are further explained in item E.2.b of this report.

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

The applicant is responding to the Agency's published fixed need pool, so this criterion is not applicable.

⁸ The reviewer notes that the application cover for this proposal (AHCA Form 3150-0001 Cover Rev March-09) indicates that CON application #10530 is a bed addition project, not a new or replacement facility project.

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 #10530 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.**

CLNC points out that the proposed project is an 18-bed addition to the existing Florida-licensed, Medicare- and Medicaid-certified and

Joint Commission-accredited CLHRC⁹. The applicant states that CLHRC operates in full compliance with all Federal and State requirements and meets all local, State and Federal rules, conditions and guidelines.

The applicant notes that CLHRC provides a full spectrum of post-acute SNF services and programs, including a strong portfolio of sub-acute rehabilitation and medical services and programs. CLNC indicates that facility staff are trained and credentialed to meet the specialty needs of the patients treated in the SNF's programs and services and the organization's facilities are designed and operated to best meet community needs. CLNC states that the CCHC management staff is experienced providing the support and resources necessary to successfully operate the existing operations as well as the proposed bed expansion.

CLNC states that for ease of review, the comprehensive array of sub-acute care services to be provided by the applicant is grouped into two broad categories and includes the following components:

Primary Diagnosis/Incident-Specific Sub-Acute Rehabilitative Programs and Services

- Cardiovascular patients (e.g., congestive heart failure, Left Ventricular Assist Device) – pages 15 and 16 of the application
- Neurological patients (e.g., stroke, Parkinson's) – pages 16 thru 20 of the application
- Pulmonary care (respiratory) patients (e.g., COPD) – pages 20 and 21 of the application

Advanced Sub-Acute Services that Enhance Patient Care Across Diagnoses

The applicant asserts that CLNC operates a wide range of sub-acute care programs and services that will benefit a cross-section of patients regardless of their primary diagnosis or condition. CLNC maintains that SNF patients often have co-morbidities due to multiple health conditions, often making patients that enter SNFs general sicker, requiring high-intensity sub-acute services, as acute care providers work to discharge patients quicker and sicker in today's health care market than in the past. The applicant offers a discussion (pages 21 to 24 of the application) of some of these services:

- Medication reconciliation
- Complex wound care

⁹ Regarding CLHRC's Joint Commission accreditation documentation, see item E.3.b of this report.

- Peritoneal dialysis
- Total peritoneal nutrition
- Infectious disease management
- ACP synchrony training

The applicant itemizes and describes certain services and accompanying equipment items (pages 24 thru 27 of the application):

- HydroWorx aquatic therapy pools
- Alter-G anti-gravity treadmill
- HUR equipment
- Continuous and bi-level positive airway pressure (BIPAP/CPAP) programming

Other described services and accompanying equipment include (pages 28 and 29 of the application):

- Portable biosway
- Omni-cycle
- E-stim
- Ultrasound
- Diathermy
- Kinesis pulley system
- NuStep
- Sci-Fit
- Vitalstim
- Dolphin Neurostim
- Solo-Step
- Fiberoptic endoscopic swallowing evaluation

Some of the above equipment items and services, along with others not bulleted above, are described in more detail in CON application #10530, Appendix E – Select Equipment Descriptions and Additional Information.

CLNC discusses and describes a sample of numerous staff certifications currently provided and to be provided at the existing facility (pages 30 thru 33 of the application). According to the applicant, this staff training and/or certification ensures the highest quality of care and optimal results to facility residents. The applicant provides a list of staff and certifications at CCHC-managed facilities (Appendix G of the application).

The applicant discusses Sunshine/Wellness Checks, three scheduled interactions/contacts with the patient within 30 days of discharge at the following intervals: the first contact is within seven days of discharge, the second contact is within 15 days of discharge and the third contact is around 26 to 28 days of discharge.

CLNC offers discussion of specialty rehab services as a critical component of the continuity of care. Within this framework, CLNC points out that the existing facility utilizes two to three vehicles at all times to provide transportation for therapy outpatients who otherwise would be unable to continue therapy services. CLNC emphasizes that use of dedicated transport vehicles to transport patients to/from their home to outpatient therapy and family members to/from their home to visit their loved one in a SNF benefits both short-term SNF patients and long-term residents in the proposed expansion project.

The applicant asserts that the proposed 18-bed expansion of Conway Lakes will offer proven, high-quality, post-acute care programs and services (i.e. sub-acute care services) that are much more intensive and serve higher acuity, more medically complex patients than typically provided in SNFs.

CLNC stresses that the current renovation and expansion projects mirrors the design of other CCHC-managed nursing facilities. CLNC also stresses that unlike many SNFs, CLHRC is designed to offer a resort-like setting. CLNC states that the latest design (i.e. Dolphin Pointe) is a resort-style facility which include the following destinations located along the central transport corridor *The City Walk* to engage residents:

- Performing Arts Center
- The Club and Tavern
- The Citrus Café
- The Pelican Room
- Lifestyle enrichment area
- Reflection room
- Media room
- Salon
- Fun 'n Fitness area
- The Seminole Square and Therapy Garden
- The Osceola Plaza
- Staff R 'n R Room

The applicant provides a description of Dolphin Pointe in CON application #10530, Appendix D – Articles and Information on the Dolphin Pointe and Jacksonville University Intergenerational Collaboration.

CLNC points out that policies and procedures at the existing facility will serve as the basis for the policies and procedures utilized to operate the proposed bed addition. The applicant explains that these policies and procedures encompass not only quality of care, patient rights, safety, clinical guidelines and staff competencies but also provide reinforcement of the ethical standards that are part of the CCHC approach to care. CLNC references the CCHC Rehabilitation Guidelines Manual-Table of Contents (CON application #10530, Appendix J – Select Clear Choice Policies, Procedures and Guidelines/Table of Contents). The reviewer notes that this same appendix also includes a table of contents for each of the following CCHC manuals:

- Dietary guidelines
- Clinical operations guidelines
- Staff development

Schedule 6A illustrates that FTEs for year one (ending December 31, 2020) total 44.0 and total 45.5 for year two (ending December 31, 2021). The reviewer notes a 1.5 FTE increase (in total) from year one to year two (a 0.5 FTE increase in the administration category and a 1.0 FTE increase in the dietary category). All other FTEs remain constant from year one to year two. The proposed project's year one and year two FTE staffing pattern is shown in the table below, accounting only for the FTEs added pursuant to the proposed 18-bed addition.

| Conway Lakes NC, LLC/CON application #10530 Proposed 18-Bed Addition at Conway Lakes Health and Rehabilitation Center Projected Year One (Ending 12/31/2020) and Year Two (Ending 12/31/2021) Staffing Pattern | | |
|--|--------------------------|--------------------------|
| | Year One FTEs | Year Two FTEs |
| Administration | | |
| Assistant Administrator | 1.0 | 1.0 |
| Medical Records Clerk | -- | 0.5 |
| Other: Nursing Administration | 1.5 | 1.5 |
| Nursing | | |
| RNs | 6.0 | 6.0 |
| LPNs | 5.5 | 5.5 |
| Nurses' Aides | 6.5 | 6.5 |
| Ancillary | | |
| Physical Therapist | 3.0 | 3.0 |
| PTA | 1.5 | 1.5 |
| Speech Therapist | 1.0 | 1.0 |
| OT | 2.0 | 2.0 |
| COTA | 2.0 | 2.0 |
| Dietary | | |
| Cooks | 3.0 | 3.0 |
| Food Services Aides | 3.0 | 4.0 |
| Social Services | | |
| Social Services Director | 1.0 | 1.0 |
| Activities Assistant | 1.0 | 1.0 |
| Other: Transportation | 1.0 | 1.0 |
| Housekeeping | | |
| Housekeepers | 2.0 | 2.0 |
| Laundry | | |
| Laundry Supervisor | 1.0 | 1.0 |
| Laundry Aides | 1.0 | 1.0 |
| Plant Maintenance | | |
| Maintenance Assistance | 1.0 | 1.0 |
| Total | 44.0 | 45.5 |

Source: CON application #10530, Schedule 6A

- c. **Quality of Care.** In assessing the applicant's ability to provide quality of care pursuant to s. 408.035 (1) (c), Florida Statutes, the Agency shall evaluate the following facts and circumstances:
1. **Whether the applicant has had a Chapter 400, Florida Statutes, nursing facility license denied, revoked or suspended within the 36 months prior to the current application.**

The applicant states that neither CLHRC nor CCHC (the management company) have had a Chapter 400, Florida Statutes, nursing home facility license denied, revoked or suspended within the 36 months prior to the 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 states that neither CLHRC nor CCHC have 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 the current application.

- 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 states that based on 1 and 2 above, this issue is not applicable to this proposed project.

- 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 states that based on 1 and 2 above, this issue is not applicable to this proposed project.

- 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 CLHRC currently meets all Agency data reporting requirements and will continue to do so once the proposed bed addition project is completed.

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)(a) and (b), Florida Statutes.**

There are 73 licensed community nursing homes with a total of 9,096 community nursing home beds in District 7. Subdistrict 7-2 is composed solely of Orange County and has 34 licensed community nursing homes with a total of 4,154 community nursing home beds as of February 16, 2018. The subdistrict averaged 88.67 percent total occupancy for the 12-month period ending December 31, 2017.

CLNC uses the Agency's Florida Population Estimates and Projections by AHCA District 2010 to 2030 publication, issued February 2015, to determine the July 2018 and June 2021 total population, the population change for Subdistricts 7-2 and 7-3 and the 65+ population for the same years and same subdistricts. The applicant's total population table indicates a total service area (Subdistricts 7-2 and 7-3 combined) population of 1,802,942 residents (by June 2021), an increase of 117,883 residents and a percentage increase of 7.0 percent. The applicant's age 65+ population table indicates an age 65+ total service area population of 223,251 residents (by June 2021), an increase of 26,699 age 65+ residents and a percentage increase of 13.6 percent. Again using the same source, the applicant estimates that by June 2021, the total service area's age 65+ population will be 12.4 percent of the total population. The reviewer notes that in the applicant's narrative (page 51 of the application) CLNC states that 2021 is the second year of planned operation which is consistent with the applicant's Schedule 10 (with year two ending December 31, 2021). However, the applicant's three tables below offer population estimates as of "06/21", not through 12/31/2021. See the three population estimate tables below.

**Total Population Estimates and Forecasts for Target Counties
July 2018 and 2021**

| County | NH Subdistrict | 06/18 Total Pop | 06/21 Total Pop | Number Change | Percent Change |
|--------------|----------------|------------------|------------------|----------------|----------------|
| Orange | 7-2 | 1,343,316 | 1,429,632 | 86,316 | 6.4% |
| Osceola | 7-3 | 341,743 | 373,310 | 31,567 | 9.2% |
| Total | | 1,685,059 | 1,802,942 | 117,883 | 7.0% |

**Population Age 65+ Estimates and Forecasts for Target Counties
July 2018 and 2021**

| County | NH Subdistrict | 06/18 Pop 65+ | 06/21 Pop 65+ | Number Change | Percent Change |
|--------------|----------------|----------------|----------------|---------------|----------------|
| Orange | 7-2 | 152,493 | 172,060 | 19,567 | 12.8% |
| Osceola | 7-3 | 44,059 | 51,191 | 7,132 | 16.2% |
| Total | | 196,552 | 223,251 | 26,699 | 13.6% |

Source: CON application #10530, page 51

**Population Age 65+ Percentage of Total Population for Target Counties
July 2018 and 2021**

| County | NH Subdistrict | 06/18 Percent of Total Pop Age 65+ | 06/21 Percent of Total Pop Age 65+ |
|--------------|----------------|------------------------------------|------------------------------------|
| Orange | 7-2 | 11.4% | 12.0% |
| Osceola | 7-3 | 12.9% | 13.7% |
| Total | | 11.7% | 12.4% |

Source: CON application #10530, page 52

The applicant indicates that strong total population growth and the very strong elderly population growth will drive continuing growth in demand for nursing home services overall and subacute care services specifically. CLNC maintains that the propose bed expansion is being developed to meet this growing demand and need for these services and will ensure that local residents have adequate and appropriate access to needed long-term care.

CLNC restates that the proposed project is to increase availability and accessibility to sub-acute care rehabilitation and recovery services for all patients in the service area. The applicant notes that CCHC has developed a unique set of special programs which differentiate their services from those typically offered at other nursing home facilities, including high-intensity/specialty equipment for rehabilitative services. CLNC reiterates that these advanced services and special equipment are available for the proposed 18-bed expansion.

The applicant asserts that CCHC has established long-term relationships with local hospitals in the many communities it serves, including linkages with the two large Central Florida health systems – Florida Hospital and Orlando Health.

Regarding quality of care, see item E.3.b of this report.

Regarding utilization of existing services, CLNC indicates that the site where the proposed 18-bed expansion would occur, is a highly utilized SNF. The applicant maintains that CLHRC’s strong utilization documents the community’s reliance on and preference for high quality and community-focused services and programs.

The reviewer compiled the table below to account for the applicant’s Schedule 7, to indicate the estimated payer mix and expected admits, by payer, for year one (ending December 31, 2020) and for year two (ending December 31, 2021) for the proposed 18-bed expansion. The applicant expects a total of 6,380 patient days (232 admits) in year one and a total of 6,475 patient days (226 admits) in year two, specific to the proposed 18-bed addition. See the table below.

**Forecasted Utilization at Conway Lakes Health & Rehabilitation Center
Proposed 18-Bed Expansion Project
First Two Years of Operation**

| Payer | Year One Patient Days | Year Two Patient Days | Percent of Total Year One | Percent of Total Year Two |
|----------------------|------------------------------|------------------------------|----------------------------------|----------------------------------|
| Medicare | 2,703 | 2,372 | 42.4% | 36.6% |
| Medicare HMO | 0 | 0 | 0.0% | 0% |
| Medicaid | 1,852 | 1,548 | 29.0% | 23.9% |
| Medicaid HMO | 0 | 0 | 0.0% | 0% |
| Commercial Insurance | 0 | 0 | 0.0% | 0% |
| Self-Pay | 0 | 0 | 0.0% | 0% |
| Other Managed Care | 0 | 730 | 0.0% | 11.3% |
| Other Payers | 1,825 | 1,825 | 28.6% | 28.2% |
| Total | 6,380 | 6,475 | 100.0% | 100.0% |
| | | | | |
| Payer | Year One Admits | Year Two Admits | | |
| Medicare | 90 | 79 | | |
| Medicare HMO | 0 | 0 | | |
| Medicaid | 21 | 17 | | |
| Medicaid HMO | 0 | 0 | | |
| Commercial Insurance | 0 | 0 | | |
| Self-Pay | 0 | 0 | | |
| Other Managed Care | 0 | 8 | | |
| Other Payers | 122 | 122 | | |
| Total | 232 | 226 | | |

Source: CON application #10530, Schedule 7

Notes to the applicant’s Schedule 7 indicate that reimbursement levels are based on the applicant’s historical experience and that additionally, “Other Payers” are projected hospice days.

- 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.**

CLNC states that as evidenced by the Governor’s Gold Seal Award, the 5-Star CMS Quality Rating and Joint Commission accreditation (at CLHRC), the proposed bed expansion will offer proven, high quality services to area residents through the implementation of proven programs, services and processes.

The applicant creates a table using the Governor’s Panel on Excellence in Long Term Care list of Governor’s Gold Seal facilities (as of June 2018) and CMS (as of June 2018), to indicate the Governor’s Gold Seal (if applicable) designation and its CMS star rating of the eight facilities it operates in Florida. The reviewer combines these tables below, with the SNF shaded that is proposed for the 18-bed expansion. See the table below.

Florida Nursing Home Facilities Operated by Clear Choice Health Care

| Facility Name | Quality Ratings | | Location | |
|---|----------------------|-----------------|-----------------|--------------|
| | Governor’s Gold Seal | CMS Star Rating | City | County |
| Belleair Health Care Center | | 5-star | Clearwater | Pinellas |
| Centre Pointe Health & Rehab Center | | 5-star | Tallahassee | Leon |
| Conway Lakes Health & Rehab Center | Yes | 5-star | Orlando | Orange |
| East Bay Rehabilitation Center | | 2-Star | Clearwater | Pinellas |
| Melbourne Terrace Rehabilitation Center | | 2-star | Melbourne | Brevard |
| Port Charlotte Rehabilitation Center | | 5-star | Port Charlotte | Charlotte |
| Spring Lake Rehabilitation Center | | 2-star | Winter Haven | Polk |
| Sun Terrace Health Care Center | | 5-star | Sun City Center | Hillsborough |

Source: CON application #10530, pages 8 and 47

The reviewer confirms that according to the Agency’s FloridaHealthFinder.gov website, CLHRC is a current Governor’s Gold Seal recipient (7/1/2017-6/30/2020).

The reviewer notes that a perusal of the CMS Nursing Home Compare website indicates that of the eight SNFs listed in the table above, five of the reported CMS star ratings are correct. The reviewer generates the table below to indicate the star ratings that differ from what was reported in the table above by the applicant. The reviewer notes that for each of the three SNFs shown in the table above, the CMS rating was one star less than what had been reported by the applicant.

Florida Nursing Home Facilities Operated by Clear Choice Health Care

| Facility Name | Quality Ratings | | Location | |
|---|----------------------|-----------------|-----------------|--------------|
| | Governor's Gold Seal | CMS Star Rating | City | County |
| Belleair Health Care Center | -- | 4-star | Clearwater | Pinellas |
| Melbourne Terrace Rehabilitation Center | -- | 1-star | Melbourne | Brevard |
| Sun Terrace Health Care Center | -- | 4-star | Sun City Center | Hillsborough |

Source: <https://www.medicare.gov/nursinghomecompare/search.html>, as of July 26, 2018

According to the CMS Nursing Home Compare website, a five-star rating is “much above average”, a four-star rating is “above average”, a two-star rating is “below average” and a one-star rating is “much below average”.

The reviewer compiled the following Agency Nursing Home Inspection Ratings website results for the eight facilities listed above. For the rating time period of October 2015 – March 2018, the rating results were last updated May 2018. The shaded SNF is the existing facility proposing to add 18 beds. See the table below.

Agency Inspection Ratings for SNFs Operated by Clear Choice Health Care

| Facility Name | Agency Inspection Star Rating (Overall) | On Agency Watch List? |
|---|---|-----------------------|
| Belleair Health Care Center | ***** (5-star) | No |
| Centre Pointe Health & Rehab Center | ***** (5-star) | Yes |
| Conway Lakes Health & Rehab Center | ***** (5-star) | No |
| East Bay Rehabilitation Center | * (1-star) | Yes |
| Melbourne Terrace Rehabilitation Center | * (1-star) | Yes |
| Port Charlotte Rehabilitation Center | *** (3-star) | No |
| Spring Lake Rehabilitation Center | *** (3-star) | No |
| Sun Terrace Health Care Center | **** (4-star) | No |

Source: Agency’s FloridaHealthCare.gov website at <http://www.floridahealthfinder.gov/index.html>, as of July 26, 2018

Below is the Agency’s FloridaHealthFinder.gov website explanation of the Agency’s performance measures (stars) and Watch List information:

★★★★★ Means that for this measure this facility ranked better than 81 percent to 100 percent of the facilities in its region. That is, five stars means that the facility ranked in the top 20 percent of facilities in its region.

★★★★ Means that for this measure this facility ranked better than 61 percent to 80 percent of the facilities in its region.

★★★ Means that for this measure this facility ranked better than 41 percent to 60 percent of the facilities in its region.

★★ Means that for this measure this facility ranked better than 21 percent to 40 percent of the facilities in its region.

★ Means that for this measure this facility ranked better than 0 percent to 20 percent of the facilities in its region. That is, a single star means that the facility ranked in the bottom 20 percent of facilities in its region.

The Watch List identifies nursing homes that are operating under bankruptcy protection or met the criteria for a conditional status during the past 30 months. A conditional status indicates that a facility did not meet, or correct upon follow-up, minimum standards at the time of an inspection. Immediate action is taken if a facility poses a threat to resident health or safety. Under Florida law, nursing homes have a right to challenge state sanctions. Facilities challenging a conditional license are noted as "under appeal." Watch List information is subject to change as appeals are processed.

Agency complaint records indicate that Conway Lakes Health and Rehabilitation Center had zero substantiated complaints for the three-year period ending May 14, 2018.

Agency complaint records indicate that the applicant's affiliate and management company, Clear Choice, had 30 substantiated complaints, spread among the eight facilities for the same time period. A single complaint can encompass multiple complaint categories. The substantiated complaint categories are listed below.

| Clear Choice Health Care Affiliated Facilities Substantiated Compliant History May 14, 2015 - May 14, 2018 | |
|---|-----------------------------|
| Complaint Category | Number Substantiated |
| Quality of Care/Treatment | 15 |
| Resident/Patient/Client Rights | 8 |
| Administration/Personnel | 2 |
| Admission, Transfer & Discharge Rights | 2 |
| Dietary Services | 1 |
| Infection Control | 1 |
| Resident/Patient/Client Assessment | 1 |

Source: Agency for Healthcare Administration Complaint Records

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

Analysis:

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

Historically we have compared all applicant financial ratios regardless of type to benchmarks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities.

Below is an analysis of the audited financial statements for the parent, where the short-term and long-term measures fall on the scale (highlighted in gray) for the most recent year.

| Conway Lakes NC LLC | | |
|---|--------------------|--------------------|
| | Dec-16 | Dec-16 |
| Current Assets | \$3,051,857 | \$2,934,641 |
| Total Assets | \$3,343,037 | \$3,450,510 |
| Current Liabilities | \$972,087 | \$911,873 |
| Total Liabilities | \$1,093,742 | \$1,022,523 |
| Net Assets | \$2,249,295 | \$2,427,987 |
| Total Revenues | \$18,564,268 | \$18,006,446 |
| Excess of Revenues Over Expenses | \$1,287,771 | \$1,511,987 |
| Cash Flow from Operations | \$2,278,975 | \$1,208,984 |
| Short-Term Analysis | | |
| Current Ratio (CA/CL) | 3.1 | 3.2 |
| Cash Flow to Current Liabilities (CFO/CL) | 234.44% | 132.58% |
| Long-Term Analysis | | |
| Long-Term Debt to Net Assets (TL-CL/NA) | 5.4% | 4.6% |
| Total Margin (ER/TR) | 6.94% | 8.40% |
| Measure of Available Funding | | |
| Working Capital | \$2,079,770 | \$2,022,768 |

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

Capital Requirements and Funding:

On Schedule 2, the applicant indicates capital projects totaling \$10,846,385, which comprises a facility expansion and renovation (\$10,500,000), routine capital expenditures (\$175,000) and this project (\$171,385). The applicant indicates on Schedule 3 of its application that funding for the project will be provided by operating cash flows.

Conclusion:

Funding for this project should be available. Funding for the whole capital budget has been funded by the applicant’s owner, SBK Capital, according to the notes to Schedule 2.

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

Analysis:

The immediate and long-term financial feasibility of the project is tied to expected profitability. The purpose of our analysis for this section is to evaluate the reasonableness of the applicant’s profitability projections and, ultimately, whether profitability is achievable for this project. Our analysis includes an evaluation of net revenue per patient day (NRPD), cost per patient day (CPD), nurse staffing ratios and profitability. We compared the NRPD, CPD and profitability to actual operating results from SNFs as reported on Medicaid cost reports (2015, 2016, and 2017 cost report years). For our comparison group, we selected SNFs with similar Medicaid utilizations to the utilization projected by the applicant on a per patient day basis (PPD). Comparison group data was adjusted for inflation to match the second year projection (inflation factor was based on the New CMS Market Basket Price Index as published in the 3rd Quarter 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 | 24,208,760 | 439 | 2,038 | 486 | 322 |
| Total Expenses | 22,130,647 | 401 | 1,857 | 471 | 340 |
| Operating Income | 2,078,113 | 38 | 151 | 6 | -64 |
| Operating Margin | 8.58% | | Comparative Group Values | | |
| | Days | Percent | Highest | Median | Lowest |
| Occupancy | 55,203 | 95.72% | 97.74% | 89.04% | 70.53% |
| Medicaid | 17,369 | 31.46% | 40.02% | 30.55% | 21.38% |
| Medicare | 24,908 | 45.12% | 67.52% | 39.97% | 8.40% |

The projected NRPD, CPD and profit fall within the group range and are considered reasonable. 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 the requirements for the skilled nursing staff. However, the applicant only meets the staffing requirement in the first year for certified nursing assistants if the licensed nursing staff is used to cover the staffing shortfalls. The applicant does not meet the requirement for certified nursing assistants in year two.

Conclusion:

This project appears to be financially feasible based on the projections provided by the applicant; however, likely not as profitable given the applicant’s staffing shortage.

- 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.

Conclusion:

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

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

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

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

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

A five-year history of Medicaid patient days and Medicaid occupancy for the subdistrict, district and state (for the five-year period ending December 31, 2017) is provided in the table below.

| Medicaid Patient Days and Medicaid Occupancy Orange County (Subdistrict 7-2), District 7 and Florida | | | | | |
|---|----------------|----------------|----------------|----------------|----------------|
| Medicaid Patient Days | | | | | |
| Area | CY 2013 | CY 2014 | CY 2015 | CY 2016 | CY 2017 |
| Orange County | 826,827 | 838,644 | 831,704 | 858,869 | 827,679 |
| District 7 | 1,758,966 | 1,781,886 | 1,783,434 | 1,810,144 | 1,798,682 |
| Florida | 15700197 | 15,932,613 | 15,959,939 | 16,144,618 | 15,990,448 |
| Medicaid Occupancy | | | | | |
| Area | CY 2013 | CY 2014 | CY 2015 | CY 2016 | CY 2017 |
| Orange County | 62.09% | 62.98% | 62.64% | 63.68% | 62.08% |
| District 7 | 60.04% | 60.43% | 60.28% | 60.71% | 60.86% |
| Florida | 61.66% | 62.17% | 62.18% | 63.13% | 63.18% |

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, April 2014 – April 2018 Batching Cycle

Conway Lakes NC, LLC d/b/a Conway Lakes Health and Rehabilitation Center (CON application #10530) states that CCHC, in all of its managed SNFs, including Conway Lakes, provides care on a non-discriminatory basis, accepting all SNF-appropriate patient referrals without regard to race, religion, national origin, age, disability, marital status or source of payment. CLNC indicates that CCHC instills a culture of caring and giving back to the community.

CLNC provides a table for CLHRC’s year one and year two total Medicaid percent of patient days for the entire facility (after completion of the proposed project). The year one and year two percentage is proposed at 49 percent (total Medicaid). See the table below.

Proposed Project will Serve Significant Amount of Medicaid Patients

| Medicaid Patient Type | Percent of Patient Days | |
|--|--------------------------------|-------------------------|
| | Project Year One | Project Year Two |
| “Residential” Medicaid | 32% | 32% |
| “Community/Skilled” Dual-Eligible Medicaid | 17% | 17% |
| Total Medicaid Percent of PT Days | 49% | 49% |

Source: CON application #10530, pages 67 and notes to Schedule 7

For the total/combined facility, Schedule 7 of the application indicates for year one, Medicaid/Medicaid HMO and self-pay are estimated at 31.8 percent and 2.8 percent, respectively, total annual patient days. Again, for the total/combined facility, the same schedule indicates for year two, Medicaid/Medicaid HMO and self-pay are estimated at 31.5 percent and 2.6 percent, respectively, total annual patient days.

For the proposed 18-bed addition, Schedule 7 of the application indicates for year one, Medicaid/Medicaid HMO and self-pay are estimated at 29.0 percent and 0.0 percent, respectively, total annual patient days. Again, for the proposed 18-bed addition, the same schedule indicates for year two, Medicaid/Medicaid HMO and self-pay are estimated at 23.0 percent and 0.0 percent, respectively, total annual patient days.

The applicant indicates that Conway Lakes and CCHC have a culture of giving back to the local community, stated as evidenced in the company's mission statement (page 67 of the application):

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

The applicant offers examples of CCHC's give-back activities (CON application #10530, Appendix I – Examples of the Clear Choice Community Give-Back Program).

CON application #10530 does not condition any Medicaid/Medicaid HMO total annual patient days or percentage, pursuant to this proposal. However, the applicant's Condition #3 indicates:

Community Give-Back Programs: Annual Funding of at least \$150,000. The applicant commits to a total annual Community Give-Back Programs amount of at least \$150,000 comprised of the following components:

- Unreimbursed indigent/charity care provided to patients requiring services at its facility
- Donations of goods, services and/or direct funding to local charities selected by residents
- Scholarship programs, which pay the costs of staff members to enroll in academic programs to further their formal education

F. SUMMARY

Conway Lakes NC, LLC d/b/a Conway Lakes Health and Rehabilitation Center (CON application #10530), a Florida for-profit entity, proposes to add 18 community nursing home beds to an existing 120-bed SNF, CLHRC, in District 7, Subdistrict 7-2, Orange County, Florida. CLHRC is affiliated with and managed by CCHC.

The project involves 5,085 GSF for the total project. The construction cost is “0” and the renovation cost is “0”. However the total project cost is \$171,365. Project cost includes: land, building, equipment and project development.

The applicant proposes three conditions in Schedule C of the proposal (see item C of this report).

Need:

In Volume 44, Number 63 of the FAR, dated March 30, 2018, a fixed need pool notice of 14 beds was published for Subdistrict 7-2 and a fixed need pool notice of four beds was published for geographically contiguous Subdistrict 7-3 (Osceola County) for the January 2021 Planning Horizon.

As of May 16, 2018, Subdistrict 7-2 had 4,154 licensed and 259 approved community nursing home beds. During the 12-month period ending December 31, 2017, Subdistrict 7-2 experienced 88.67 percent utilization at 34 existing facilities.

Conway Lakes NC, LLC d/b/a Conway Lakes Health and Rehabilitation Center (CON application #10530): Pursuant to ss. 408.034(6), Florida Statutes and Rule 59C-1.036(3)(e), Florida Administrative Code, the applicant proposes to aggregate published need for 14 community nursing home beds in Subdistrict 7-2 (Orange County) and published need for four community nursing home beds in geographically contiguous Subdistrict 7-3 (Osceola County), resulting in a proposal to add 18 beds to the existing 120-bed SNF CLHRC. Including the addition of 20 beds through #E170022, in total, CLNRC would go from a 120-bed SNF to a 158-bed SNF.

The applicant contends that special circumstances exist to warrant project approval, even if there was no Agency-published need. CLNC maintains that the proposed project will meet the needs of the underserved sub-acute care patients within the local market, with high-intensity rehabilitative services that are not typically available in SNFs in general and is specifically not offered by any other existing provider in Orange County.

CLNC maintains that the proposed 18-bed addition is optimally positioned to address the community needs of the residents of Orange and Osceola Counties, as demonstrated by the following:

- 1) CLHCR is supported by an experienced, local SNF management team – with headquarters and a training facility in Florida. This management team is innovative and continues to “raise the bar” on SNF services and facilities in Florida.

- 2) Comprehensive continuity of care is currently provided and will be provided in the proposed expansion, including the sub-acute level of high-intensity rehabilitative services, provided by certified clinical staff using advanced equipment and facilities to ensure optimal patient outcomes and recovery.
- 3) Design and management of the existing and proposed facility is managed and directed by a community-focused organization that tailors its facility, programs and services and community giveback programs to the local communities' needs – all with the goals of ensuring resident choice, independence and dignity.
- 4) The proven programs and services to be provided as part of the proposed bed expansion project will ensure that the highest quality nursing home services are available to the residents in Orange County (and contiguous Osceola County), evidenced by CLHCR's Governor's Gold Seal rating, its CMS's five-star rating (one of only two such facilities in Orange County) and its Joint Commission accreditation.

The Agency notes that need was found to exist as determined by the bed need formula, pursuant to 408.034 (6) Florida Statutes and 59C-1.036 (4) Florida Administrative Code, in geographically contiguous Subdistricts 7-2 and 7-3 for the January 2021 planning horizon for community nursing home beds—with the greater need published in Subdistrict 7-2.

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 is an existing quality SNF provider.

The applicant's controlling interest (affiliate and management company), CCHC, had 30 substantiated complaints, spread among eight of its eight Florida SNFs during the three-year period ending May 14, 2018. The applicant had no substantiated complaints for the same three-year period.

Financial Feasibility/Availability of Funds:

- Funding for this project should be available.
- The applicant meets the staffing requirements for 400.23(3)(a)(1), Florida Statutes, in year one for certified nursing assistants, if licensed nursing staff is used to cover staffing shortfalls. The requirement for certified nursing assistants is not met in year two. The applicant meets the skilled nursing staff requirements in both year one and year two.
- The project appears to be financially feasible based on the projections provided but likely will not be as profitable given the applicant's staffing shortage.
- Based on analysis solely of the financial schedules, this project is not likely to have a material impact on price-based competition to promote quality and cost-effectiveness.

Medicaid/Charity Care:

The applicant does not condition any Medicaid/Medicaid HMO total annual patient days or percentage, pursuant to this proposal. However, the applicant's conditions approval of the proposed addition on annual funding of at least \$150,000 through its community give-back programs.

For the total/combined facility, Schedule 7 of the application indicates

- Year one (ending December 31, 2020), total annual patient days
 - Medicaid/Medicaid HMO is estimated at 31.9 percent
 - Self-Pay is estimated at 2.8 percent
- Year two (ending December 31, 2021), total annual patient days
 - Medicaid/Medicaid HMO is estimated at 31.5 percent
 - Self-pay is estimated at 2.6 percent

For the proposed 18-bed addition, Schedule 7 of the application indicates

- Year one (ending December 31, 2020), total annual patient days
 - Medicaid/Medicaid HMO is estimated at 29.0 percent
 - Self-Pay is estimated at 0.0 percent
- Year two (ending December 31, 2021), total annual patient days
 - Medicaid/Medicaid HMO is estimated at 23.0 percent
 - Self-pay is estimated at 0.0 percent

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 #10530 to add 18 community nursing home beds to Conway Lakes Health and Rehabilitation Center in District 7, Subdistrict 2, Orange County. The total project cost is \$171,365. The project involves 5,085 GSF and no construction or renovation cost.

CONDITIONS:

- Specific site within the subdistrict. The parcel or address is as follows:
Conway Lakes Health and Rehabilitation Center
5201 Curry Ford Road Orlando, FL 32812
 1. The applicant commits that all of the 18 beds proposed in this project will be housed in private rooms with private bath including shower.
 2. The applicant will provide an array of unique high-intensity sub-acute rehabilitative programs and services for residents in the proposed 18-bed expansion, including the following:
 - Left Ventricular Assist Device (LVAD) Program
 - Lee Silverman Voice Treatment (LSVT) Loud Program
 - Lee Silverman Voice Treatment (LSVT) BIG Program
 - Infusion Therapy Services
 - Aquatic therapy, through development of two hydrotherapy pools
 - Rehabilitative therapy for patients unable to perform 100 percent weight-bearing ambulation, through purchase and use of an Anti-Gravity treadmill
 - Rehabilitative therapy for patients who would benefit from compressed air equipment designed specifically for the aging population, through purchase and use of HUR Equipment and/or specialized equipment
 - Sunshine Wellness Check Program

- Home Assessments:
 - Medication Reconciliation; and,
 - Rehabilitation Therapy Team Assessment, as appropriate
 - Transportation Program to transport outpatients from their home environment to therapy sessions when medically necessary. This same transportation program will be utilized for long-term residents' family members without the means to travel to see his/her loved one in the nursing home, as needed.
3. Community Give-Back Programs: Annual Funding of at least \$150,000.
- The applicant commits to a total annual Community Give-Back Programs amount of at least \$150,000 comprised of the following components:
- Unreimbursed indigent/charity care provided to patients requiring services at its facility
 - Donations of goods, services and/or direct funding to local charities selected by residents
 - Scholarship programs, which pay the costs of staff members to enroll in academic programs to further their formal education

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