

STATE AGENCY ACTION REPORT ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Premier Living Centers, Inc./CON #10531

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 Agency received numerous letters of support in which the majority were form letters signed by Seminole County residents. Individually composed letters were received from local and state government officials all conveying endorsement and a shared sentiment that the proposed project would benefit the senior (65+) residents of Seminole County.

Letters of support are noted from:

- Scott Plakon, State Representative, House District 29
- Robert "Bob" Cortes, State Representative, District 30
- Jeff Triplett, Mayor, City of Sanford
- Lynne Hebert, Florida Division, LHC Group, Inc.

The individual support letters generally have overarching themes, including:

- Residents wish to seek skilled nursing care outside Seminole County
- Need for a state-of-the art facility within the community
- Desire for choice/options as the senior population ages

C. PROJECT SUMMARY

Premier Living Centers, Inc. (CON application #10531), a newly formed for-profit Florida entity, also referenced as PLC, proposes to add 39 community nursing home beds to a previously approved (CON application #10516) 61-bed skilled nursing facility (SNF) in District 7, Subdistrict 7-4, Seminole County, Florida. The applicant is 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. If approved, the proposed project will result in a new 100-bed community nursing home in Subdistrict 7-4.

CON application #10516 was issued to Premier Living Centers, Inc. on March 13, 2018, to establish a 61-bed community nursing home in Subdistrict 7-4.

The applicant anticipates issuance of license on October 10, 2020 and initiation of services on November 9, 2020.

The project involves 26,164 gross square feet (GSF) of new construction. The construction cost is \$4,809,664. Total project cost is \$6,121,455. Project costs includes: land, building, equipment and project development costs.

The applicant conditions approval of the project as follows:
All beds to be dually certified for both Medicaid and Medicare, as required by CON application #10516 issued to the applicant, Premier.

Total GSF and Project Cost					
Applicant	CON app. #	Project	GSF	Costs \$	Cost Per Bed
Premier Living Centers, Inc.	10531	39-Bed Addition	26,164	\$6,121,455	\$156,960

Source: CON application #10531, 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, Marisol Fitch, 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 44, Number 63 of the Florida Administrative Register dated March 30, 2018, a fixed need pool notice of 39 beds was published for Subdistrict 7-4 for the January 2021 Planning Horizon.

After publication of this fixed need pool, one Subdistrict 7-4 facility filed an exemption request, Exemption 180021 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 the application deadline for the April 2018 Other Beds and Programs Batching Cycle, May 16, 2018, Subdistrict 7-4 had 1,246 licensed and 84 approved community nursing home beds. During the 12-month period ending December 31, 2017, Subdistrict 7-4 experienced 91.13 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 December 31, 2017.

Seminole County (Subdistrict 7-4) 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
Consulate Health Care at West Altamonte	116	42,340	40,571	95.82%	62.83%
Florida Living Nursing Center	202	73,730	70,902	96.16%	63.72%
Healthcare and Rehab of Sanford	114	41,610	36,597	87.95%	77.10%
Island Lake Center	120	43,800	41,318	94.33%	67.35%
Lake Mary Health and Rehabilitation Center	120	43,800	37,930	86.60%	44.74%
Live Care Center of Altamonte Springs	240	87,600	76,845	87.72%	67.18%
Longwood Health and Rehabilitation Center	120	43,800	41,509	94.77%	65.47%
Lutheran Haven Nursing Home	56	20,440	17,471	100.00%	42.10%
Tuskawilla Nursing and Rehab Center	98	35,770	32,294	90.28%	43.89%
Village on the Green	60	21,900	19,022	86.86%	0.00%
Total	1,246	454,790	414,459	91.13%	58.87%

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, April 2018 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 2018 and January 2021						
County/Area	January 1, 2018 Population			January 1, 2021		
	0-64	65+	Total	0-64	65+	Total
Seminole	386,625	67,208	453,833	394,445	74,310	468,755
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
Seminole	7,820	7,102	14,922	2.02%	10.57%	3.29%
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 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 Beds per 1,000	2021 Pop. Aged 65+	2021 Beds per 1,000
Seminole	1,246	67,208	19	74,310	17
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 applicant states its proposed project is being submitted in response to the Agency’s fixed need pool publication of 39 community nursing beds for Subdistrict 7-4.

Premier Living Centers, Inc. (CON application #10531) proposes to add 39 community nursing home beds to its 61-bed SNF (approved through CON application #10516) in ZIP Code 32771 (Sanford, Florida). The applicant has conditioned approval of the project on the dual certification of all proposed bed to allow financial accessibility to the residents of the subdistrict.

PLC produces a number of tables, maps and graphs regarding the population of Seminole County and the community nursing home bed inventory. The applicant illustrated projected growth in the elderly cohorts for residents of Seminole County. The reviewer notes that the applicant utilized 2016 as baseline instead of the more up-to-date and appropriate 2017 or 2018 baseline. The reviewer has included the most pertinent tables below.

Beds Per Thousand in the State and Seminole County Age 65+ and 85+ Cohorts CY 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	18.3
2020 Population Projections (85+)	139.6	133.5
2025 Population Projections (65+)	16.0	15.3
2025 Population Projections (85+)	120.7	114.2

Source: Page 14, CON application #10531

Population Projections in Seminole County and Zip Code 32771 Age 65+ and 85+ Cohorts CY 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 Projections (85+)	1,113	10,342
2025 Population Projections (65+)	9,251	90,419
2025 Population Projections (85+)	1,333	12,098

Source: Page 14, CON application #10531

The applicant maintains that the proposed project is needed to meet the predicted growing demand for skilled nursing care in Seminole County. PLC indicates that due to the design of the proposed project, particularly the all private (single occupancy) rooms, the bed addition will efficiently meet the skilled nursing needs of the residents of Seminole County.

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

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

2. Agency Rule Preferences

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

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

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

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

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

The applicant indicates that the proposed facility will be utilized for both short-term and long-term care, with all beds being dually certified for Medicaid and Medicare and projects a payer mix as follows: 61 percent Medicare, 23 percent Medicaid and 16 percent self-pay/private.

PLC anticipates providing full service comprehensive skilled nursing, restorative care and rehabilitation services for both short and long-term residents. The applicant states that the following services and amenities will be provided at the proposed facility:

- 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

PLC notes that all seven (non-Florida) SNFs operated by its affiliates provide a comprehensive team approach in an encouraging atmosphere. The applicant 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 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

The applicant's Schedule 6 indicates 90 full-time employees (FTEs) for year one (year ending 2021) and for year two (year ending 2022). Schedule 6A only illustrates the total staffing pattern for the 100-bed facility and does not illustrate any additional FTEs for the proposed project. The reviewer notes that the difference between CON application #10516 and CON application #10530 is 31 FTEs—23 of these appear in the nursing subsection. Below is the applicant's Schedule 6 staffing pattern.

Premier Living Centers, Inc. (CON application #10531) Projected Year One and Year Two 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	2	2
Other:	3	1
Other: Staff Educator		1
MDS-RN		2
Physician		
Medical Director	Contract	Contract
Nursing		
RNs	6	6
LPNs	10	10
Nurses' Aides	38	38
Ancillary		
Physical Therapist	Contract	Contract
Speech Therapists	Contract	Contract
Occupational Therapists	Contract	Contract
Dietary		
Dietary Supervisor	1	1
Cooks	3	3
Dietary Aides	7	7
Social Services		
Social Service Director	1	1
Activity Director	1	1
Activities Assistant	1	1
Housekeeping		
Housekeeping Supervision	1	1
Housekeepers	6	6
Laundry		
Laundry Aides	3	3
Plant Maintenance		
Maintenance Supervisor	1	1
Total	90	90

Source: CON application #10531 Schedule 6

The applicant's Schedule 7 indicates that the average length of stay will be 33.8 days for year one and 31.8 days for year two of operation.

- 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 in Florida since 2009 and that this criterion does not apply to the applicant. PLC notes that its affiliated facilities (seven SNFs in Arkansas and Mississippi) have not had their licenses denied, revoked or suspended within the 36 months prior to submittal of the application for the proposed project.

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 along with its affiliates (BHM), do not and have not operated in Florida, and therefore the applicant has no operating history in Florida. PLC notes that its affiliated facilities have not been placed into receivership within the 36 months prior to submittal of the application for the proposed project.

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 along with 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 along with 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 along with 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 73 licensed community nursing homes with a total of 9,118 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 and 84 approved community beds as of June 27, 2018. The subdistrict averaged 91.13 percent total occupancy for the 12-month period ending December 31, 2017.

Premier Living Centers, Inc. (CON application #10531) includes volumes of hospital discharges to SNFs by payer source for Seminole County residents and for residents of ZIP Code 32771 aged 65+. PLC predicts a payer mix as follows: 61 percent Medicare, 23 percent Medicaid and 16 percent self-pay/private. The reviewer notes that the applicant does not provide a timeframe for these discharges. See the tables below.

Payer Source for Seminole County Residents Age 65+ Discharged to a Nursing Home Timeframe Unknown		
Payer	Volume	Percent
Commercial Health Insurance	42	1.1%
Commercial Liability Coverage	10	0.3%
Medicaid	3	0.1%
Medicaid Managed Care	11	0.3%
Medicare	2,541	68.4%
Medicare Managed Care	1,059	28.5%
Other	12	0.3%
Other State/Local Government	1	0.0%
Self-Pay	4	0.1%
Tricare/Federal Govt/CHAMPUS	4	0.1%
VA	25	0.7%
Workers Compensation	1	0.0%
Total	3,713	100.0%

Source: Pages 3 and 4, CON application #10531

Payer Source for Seminole County Residents Age 65+ Discharged to a Nursing Home Timeframe Unknown		
Payer	Volume	Percent
Commercial Health Insurance	4	0.8%
Medicare	304	58.6%
Medicare Managed Care	206	39.7%
Other	1	0.2%
Self-Pay	1	0.2%
Tricare/Federal Govt/CHAMPUS	1	0.2%
VA	2	0.4%
Total	519	100.0%

Source: Page 4, CON application #10531

The applicant 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 maintains that the Healthcare and Rehabilitation of Sanford facility had a total occupancy rate of 87.95 percent for CY 2017 (slightly lower than Subdistrict 7-4's overall total occupancy rate of 91.13 percent for the same period) and a Medicaid occupancy rate of 77.10 percent (significantly higher than Subdistrict 7-4's overall Medicaid occupancy rate of 58.87 percent). The applicant asserts 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 39 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 (14 beds), for the January 2021 planning horizon.

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

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.

PLC notes that population in the northern part of Seminole County is currently seeking SNF care in Volusia County. The applicant asserts that the proposed project will result in better care and outcomes for the residents of Seminole County.

Concerning availability, PLC states that it accepts that the Agency's calculation of need 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 #10531, pages 25 through 28).

- 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.**

Premiere Living Centers, Inc. (CON application #10531), 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 seven 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.

PLC maintains that of the seven (non-Florida) SNFs operated by BHM, five are 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). The reviewer notes that the applicant does not name the seven non-Florida SNFs operated by BHM.

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
- 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)

The applicant provides examples that PLC's management will be able to replicate and administer a quality nursing home in Florida as it does with its other seven other SNFs nursing homes with the documents provided in Tab 17 of CON application #10531. The applicant lists these examples:

- Brochures of two nursing homes
- Admissions agreement checklist
- Inservice topic for a complete calendar year
- Vulnerable adults 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
- Care plans policy
- Admission agreement
- Initial care plan
- Admission/readmission UDAs Policy

The reviewer notes that regarding "brochures of two nursing homes", in Tab 17 of the application is a brochure regarding 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.

- 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.

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 \$18,779,656 which includes this project and CON application #10516. In addition, the applicant would have to fund a year one operating loss of \$2,118,343.

The applicant provided a current bank statement dated May 31, 2018 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 \$16 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.**

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	13,751,773	405	2,181	546	309
Total Expenses	12,471,578	367	2,155	541	354
Operating Income	1,280,195	38	182	-10	-492
Operating Margin	9.31%		Comparative Group Values		
	Days	Percent	Highest	Median	Lowest
Occupancy	33,945	93.00%	99.31%	85.90%	37.49%
Medicaid	7,665	22.58%	29.84%	18.62%	0.00%
Medicare	20,805	61.29%	99.59%	30.16%	5.51%

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 this requirement in year one but not in projected year 2. In projected year two, the minimum nurses' aid requirement are 2.5 hours per patient day, while the applicant projects providing 2.33 hours per patient day (2.25 hours per patient day when considering normal vacation days). In projected year two, the minimum licensed nursing staff (RNs and LPNs) is one hour per patient day. The applicant is projecting .98 hours per patient day (.95 hours per patient day when including 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 nursing assistants and licensed nurses 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.**

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 priced-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 Seminole County (Subdistrict 7-4), District 7 and Florida					
Medicaid Patient Days					
Area	CY 2013	CY 2014	CY 2015	CY 2016	CY 2017
Seminole County	235,855	242,611	238,675	230,840	244,008
District 7	1,758,966	1,781,886	1,783,434	1,810,144	1,798,682
Florida	15,700,197	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
Seminole County	60.31%	60.95%	59.46%	55.92%	58.87%
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

Premier Living Centers, Inc. (CON application #10531) states that it has a long history of participation in Medicaid and providing skilled nursing services to the Medicaid population through its affiliates. 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 seven 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 notes that the Agency awarded new contracts for the Statewide Medicaid Managed Care Program for long-term care services on April 24, 2018¹, so that the list presented by the applicant is not the most current available.

The reviewer compiled CON application #10531, Schedule 7 data, to account for Medicaid/Medicaid HMO/Medicaid SMMC and self-pay for year one (ending 2021) and for year two (ending 2022), along with admissions (or admits) for both years. The reviewer notes that the information provided is for the entire 100-bed facility not the 39-bed addition. The applicant expects 24,991 patient/resident days in year one (738 admits) and 33,945 patient/resident days in year two (1,067 admits). See the table below.

**Forecast Utilization at Proposed Premier Living Centers, Inc.
100 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	14,189	20,805	56.78%	61.29%
Medicare HMO	0	0	0.0%	0.0%
Medicaid	5,777	7,665	23.11%	22.58%
Medicaid HMO	0	0	0.0%	0.0%
Self-Pay	5,025	5,475	20.11%	16.13%
Other Managed Care	0	0	0.0%	0.0%
Other Payers	0	0	0.0%	0.0%
Total	24,991	33,945	100.0%	100.0%

Payer	Year One Admits	Year Two Admits
Medicare	676	991
Medicare HMO	0	0
Medicaid	32	41
Medicaid HMO	0	0
Self-Pay	30	35
Other Managed Care	0	0
Other Payers	0	0
Total	738	1,067

Source: CON application #10531, Schedule 7

¹ Simply Health Care Plans, Wellcare of Florida d/b/a Staywell Health Plan of Florida, Sunshine State Health Plan, Humana Medical Plan, Coventry Health Care of Florida d/b/a Aetna Better Health of Florida and Florida Community Care were awarded new contracts for the Statewide Medicaid Managed Care Program.

The reviewer notes that while the applicant indicates in this section 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 30 self-pay patient admits for year one and 35 for year two). PLC does not state that self-pay is synonymous with charity care.

Based on the applicant's total patient/resident day estimates in the applicant's Schedule 7, PLC's Medicaid and self-pay represent 23.11 percent and 20.11 percent, respectively, of year one (year ending 2021) and 22.58 percent and 16.13 percent of year two (year ending 2022), respectively, annual total patient days.

CON application #10531 does not condition any Medicaid/Medicaid managed care 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 #10531), a newly formed for-profit Florida entity, proposes to add 39 community nursing home beds to a previously approved (CON application #10516) 61-bed SNF in Subdistrict 7-4 (Seminole County). If approved, the proposed project will result in a new 100-bed community nursing home in Subdistrict 7-4.

The applicant anticipates issuance of license on October 10, 2020 and initiation of services on November 9, 2020.

The project involves 26,164 GSF of new construction. The construction cost is \$4,809,664. Total project cost is \$6,121,455. Project costs includes: land, building, equipment and project development costs.

The applicant conditions approval of the project as follows:
All beds to be dually certified for both Medicaid and Medicare, as required by CON application #10516 issued to the applicant, Premier.

Need:

In Volume 44, Number 63 of the Florida Administrative Register dated March 30, 2018, a fixed need pool notice of 39 beds was published for Subdistrict 7-4 for the January 2021 Planning Horizon.

As of the application deadline for the April 2018 Other Beds and Programs Batching Cycle, May 16, 2018, Subdistrict 7-4 had 1,246 licensed and 84 approved community nursing home beds. During the 12-month period ending December 31, 2017, Subdistrict 7-4 experienced 91.13 percent total occupancy at 10 existing facilities.

PLC notes that population in the northern part of Seminole County is currently seeking SNF care in Volusia County. The applicant asserts that the proposed project will result in better care and outcomes for the residents of Seminole County.

Concerning availability, PLC states that it accepts that the Agency's calculation of need is a reasonable balance to achieve availability and accessibility without negatively impacting current providers and future utilization of existing providers.

The applicant maintains that the proposed project is needed to meet the predicted growing demand for skilled nursing care in Seminole County. PLC indicates that due to the design of the proposed project, particularly the all private (single occupancy) rooms, the bed addition will efficiently meet the skilled nursing needs of the residents of Seminole County.

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

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—although, profitability may be less than projected due to the insufficient number of nursing assistants and licensed nurses in year two
- This project is not likely to have a material impact on priced-based 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 managed care or charity care days
- Based on the applicant's total patient/resident day estimates in the applicant's Schedule 7, PLC's Medicaid and self-pay represent 23.11 percent and 20.11 percent, respectively, of year one (ending 2021) and 22.58 percent and 16.13 percent of year two (ending 2022), respectively, annual total patient days

Architectural:

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

G. RECOMMENDATION

Approve CON #10531 to add 39 community nursing home beds to a previously approved (CON #10516) 61-bed skilled nursing facility (SNF) in District 7, Subdistrict 7-4, Seminole County, Florida. The total project cost is \$6,121,455. The project involves 26,164 GSF of new construction and a construction cost of \$4,809,664.

CONDITION: All beds to be dually certified for both Medicaid and Medicare, as required by CON application #10516 issued to the applicant, Premier.

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