STATE AGENCY ACTION REPORT

ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Genesis Rehabilitation Hospital, Inc. d/b/a Brooks Rehabilitation Hospital/CON #10630
3599 University Boulevard South
Jacksonville, Florida 32216

Authorized Representative: Jason Sinclair, Director, Business & Planning
(904) 345-7600

2. Service District

District 4 (Baker, Clay, Duval, Flagler, Nassau, St. Johns and Volusia Counties)

B. PUBLIC HEARING

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

Letters of Support

The application includes eight letters of support. These letters compliment the hospital's 50 years of inpatient rehabilitation services. They cite Brooks Rehabilitation Hospital's high quality of care, high degree of expertise, innovation, wide array and scope of services, collaboration with other facilities, and Brooks' having the best achievable patient outcomes. The letters are also highly supportive of the proposed project. Other noted characteristics of these include:

- All are signed and are individually composed
- Seven of the eight letters indicate a District 4 origin
- Six of the eight letters are dated during February 14 - 27, 2020 (two are not dated)

One of the letters was from a family member of a former patient. Below is a list of seven of the eight support letters that are by area senior executives, three of whom are also physicians:

- Leon L. Haley, Jr., MD, MHSA, CEO, UF Health Jacksonville, Vice President for Health Affairs & Dean, College of Medicine-Jacksonville and Professor of Emergency Medicine, University of Florida
- Kent R. Thielen, MD, Chief Executive Officer and Christina K. Zorn, Chief Administrative Officer, Mayo Clinic in Florida
- Thomas J. VanOsdol, President & CEO, Ascension St. Vincent's
- Mark A. Spatola, MD, Orange Park Neurosurgery, P.L.
- Dr. Christine Cauffield, Chief Executive Officer and Executive Vice President-SAMH, LSF (Lutheran Services Florida)[1]
- Michelle Braun, President and CEO, United Way of Northeast Florida
- Amber Wilson, Executive Director, American Heart Association-First Coast

C. PROJECT SUMMARY

Genesis Rehabilitation Hospital, Inc. d/b/a Brooks Rehabilitation Hospital (CON application #10630), also referenced as Brooks, Brooks Rehab, or the applicant, a not-for-profit Florida corporation, proposes to construct a new 60-bed comprehensive medical rehabilitation (CMR) hospital at its Bartram Campus in southeastern Duval County, Florida. Brooks Rehabilitation Hospital, a Class III 160-bed CMR hospital, began operations in 1970 as Cathedral Rehabilitation Hospital. Brooks indicates the 60-bed facility will be added to its existing license.

The project involves 74,000 gross square feet (GSF) of new construction, at a construction cost of $25,550,000. The total project cost is $45,362,810. Project costs include land, building, equipment, project development and start-up costs.

According to the applicant's Schedule 10, the 60-bed proposal is expected to have issuance of license in November 2021 and initiation of service in January 2022.

[1] LSF Health Systems (LSFHS) works in partnership with the Florida Department of Children and Families managing behavioral health care for people facing poverty who do not have health insurance. District 4 counties are part of LSFHS' 23-county Northeast and North Central Florida region per https://www.lsfnet.org/lsf-health-systems/about-lsf-health-systems/.

Brooks proposes the following conditions on the Schedule C of the application:

1. The proposed site for the new facility is the 115-acre parcel known as Bartram Campus as specified within the application's narrative.
2. Acquisition of the following devices:
    - Tyromotion Diego
    - Tyromotion Amadeo
    - Restorative Therapies Xcite
    - C-Mill Treadmill
    - Restorative Therapy RT300
    - Synchrony

    In the event that later enhancements to the devices above occur, Brook's intention is acquisition of state-of-the art technologies to enhance patients' functional outcomes. Thus, some substitutions may offer improvements to the specific devices above.
3. Three special programs appearing in the application. These are stroke, oncology and neuroscience.
4. Implementation of MediTech's Electronic Medical Record with enhancements as identified within the application.

Furthermore, the applicant understands that should a condition or conditions be imposed, that an annual report to the Agency must be submitted addressing the provisions of Rule 59C-1.103, Monitoring Procedures, Florida Administrative Code with respect to compliance with conditions. Failure to comply with conditions maybe result in a fine as set out in Rule 59C-1.021, Florida Administrative Code.

Measurement of Conditions

With respect to item #1, the site location, conformity with the condition results from the submission of required foundation and commencement of construction documents with the agency's Office of Plans and Construction. The annual compliance report includes the conformation of approval in the letter for the foundation plans.

The acquisition of equipment appearing in item #2 complies with the condition subsequent to the installations, a photograph and device description furnishes the proof of compliance with the condition for each device.

The special programs of stroke, oncology and neuroscience specify employees with advanced credentials in item #3. Annual compliance reporting includes the numbers of staff in each program and the position qualifications. The stroke program has additional accreditation from The Joint Commission that appears on the certificate.

Compliance with the condition in item #4, MEDITECH software installation for the electronic medical record, produces a license agreement, a copy of which establishes conformity with the condition and completes the certificate of need compliance report.

The above proposed conditions are as presented by the applicant. However, pursuant to July 1, 2019, Florida Statute revision, CON regulation and authority sunsets regarding Class II, III and IV hospitals, as defined in Rule 59A-3.252 (1), Florida Administrative Code, effective July 1, 2021. The Agency will have no authority to enforce the applicant's Schedule C conditions.

Total GSF and Project Costs of CON application #10630

Applicant	CON#	Project	GSF	Costs $	Cost Per Bed
Brooks	10630	New 60-Bed CMR Hospital	74,000	$45,362,810	$756,047

Source: CON application #10630, 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, Chapter 59C-1, 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 of the Bureau of Central Services, who reviewed 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 and Chapter 59C-1, Florida Administrative Code.

1. Fixed Need Pool

a. Does the project proposed respond to need as published by a fixed need pool? ss. 408.035(1) (a), Florida Statutes. Rule 59C-1.008(2), Florida Administrative Code and Rule 59C-1.039(5), Florida Administrative Code.

In Volume 46, Number 12 of the Florida Administrative Register, dated January 17, 2020, a fixed need pool of zero beds was published for CMR beds for District 4 for the July 2025 planning horizon. Therefore, the CON application #10630 proposal is outside the fixed need pool.

As of January 17, 2020, District 4 had 252 licensed and zero approved CMR beds. During the 12-month period ending June 30, 2019, District 4's 252 licensed CMR beds experienced 77.27 percent utilization.

b. According to Rule 59C-1.039 (5)(d) of the Florida Administrative Code, need for new comprehensive medical rehabilitation inpatient services shall not normally be made unless a bed need exists according to the numeric need methodology in paragraph (5)(c) of this rule. Regardless of whether bed need is shown under the need formula in paragraph (5)(c), no additional comprehensive medical rehabilitation inpatient beds shall normally be approved for a district unless the average annual occupancy rate of the licensed comprehensive medical rehabilitation inpatient beds in the district was at least 80 percent for the 12-month period ending six months prior to the beginning date of the quarter of the publication of the fixed bed need pool.

As stated earlier, District 4's 252 licensed CMR beds experienced 77.27 percent occupancy during the 12-month period ending June 30, 2019.

CMR Bed Utilization, District 4
July 1, 2018 to June 30, 2019

Facility	Beds	Total Occupancy Percent
Orange Park Medical Center	20	75.45%
Brooks Rehabilitation Hospital	160	84.60%
Florida Hospital-Oceanside*	0	0.00%
AdventHealth Daytona Beach **	32	81.94%
Halifax Health Medical Center***	40	86.19%
District 4 Total	**252**	**77.27%**

Source: Florida Hospital Bed Need Projections & Service Utilization by District, January 2020 Batching Cycle
Notes: * Florida Hospital-Oceanside closed on 1/2/2019.
** AdventHealth Daytona Beach was licensed on 1/2/2019.
*** Brooks states it operates Halifax Health Medical Center's unit.

Brooks Rehabilitation Hospital is District 4's only Class III CMR hospital. The District's CMR utilization for the most recent five year periods ending June 30, 2019 is shown below.

District 4 CMR Utilization
Five-Years Ending June 30, 2019

Facility		Beds	JUL 2014 through JUN 2015	JUL 2015 through JUN 2016	JUL 2016 through JUN 2017	JUL 2017 through JUN 2018	JUL 2018 thru JUN 2019
Orange Park Medical Center*		20	--	--	53.88%	68.16%	75.45%
Brooks Rehabilitation Hospital		160	82.50%	83.26%	82.06%	81.77%	84.60%
Florida Hospital-Oceanside**		0	72.26%	81.41%	81.34%	16.38%	0.00%
AdventHealth Daytona Beach ***		32	--	--	--	--	81.94%
Halifax Health Medical Center		40	55.28%	71.49%	72.23%	74.55%	86.19%
District 4 Total		**252**	**76.17%**	**80.97%**	**78.27%**	**69.55%**	**77.27%**

Source: Florida Hospital Bed Need Projections & Service Utilization by District (2016-2020) Batching Cycles
Notes: * Orange Park Medical Center's 20-bed CMR unit was licensed on 7/1/2016.
** Florida Hospital-Oceanside closed on 1/2/2019.
*** AdventHealth Daytona Beach was licensed on 1/2/2019.

The project will be located on Brooks Rehab's Bartram Campus in southeastern Duval County, adjacent/proximate to the 100-bed community nursing home – Bartram Crossing - 6209 Brooks Bartram Drive, Jacksonville, Florida 32258. The table below shows the project's distances and travel time to existing CMR providers.

District 4 CMR Provider Driving Distance in Miles and Drive Times
Existing Facilities and the Proposed Project

Facility	CON app# 10630	Brooks Rehab. Hospital	Orange Park Medical Center	AdventHealth Daytona Beach	Halifax Health Medical Center
CON app# 10630		13.8 miles 19 minutes	17.5 miles 24 minutes	70.5 miles 1 hr./4 min	76.0 miles 1 hr. 11 min
Brooks Rehab. Hospital	13.8 miles 19 minutes		22.8 miles 28 minutes	81.1 miles 1 hr./14 min	86.6 miles 1 hr./21 min
Orange Park Medical Center	17.5 miles 24 minutes	22.8 miles 28 minutes		84.2 miles 1 hr./18 min	89.7 miles 1 hr./25 min
AdventHealth Daytona Beach	70.5 miles 1 hr./4 min	81.1 miles 1 hr./14 min	84.2 miles 1 hr./18 min		5.3 miles 12 min.
Halifax Health Medical Center	76.0 miles 1 hr. 11 min	86.6 miles 1 hr./219 min	89.7 miles 1 hr./25 min	5.3 miles 12 min	

Source: GoogleMaps website on 4/17/2020.

c. Other Special or Not Normal Circumstances

Brooks indicates that building and equipping a new hospital takes time and resources over a number of years and "given the pressure to respond to the public need and the highest and best use of Brooks resources action sooner than later necessitates" filing this application. The applicant also refers to its support from District 4 hospital executives representing Southern Baptist Health, Ascension St. Vincent's, Mayo Clinic and the University of Florida. The reviewer notes that a summary of Brooks' letters of support is available in item B of this report.

Brooks contends the following six major "special or not normal" circumstances warrant project approval.

- Brooks' current location lacks acreage for expansion and the hospital has capacity constraints within its semi-private and private room allocation. There are only 14 rooms that have flexibility to accommodate single or double occupancy, depending upon the patients' condition, gender and care requirement, which results in bed turnover and delays in admitting patients.

  The applicant contends that the following five factors at its existing location are external influences the impede access and availability to CMR services:
  - Limitations on capabilities for isolation for infection control
  - Cramped space to accommodate therapeutic beds, supportive equipment, and more than one device for rehabilitative needs
  - High demand and lack of beds create placement delays
  - Inability to place patients timely leads to the redirection of patients to other facilities and sometimes out of district placements (This factor was recently noted in CMR projects approved for Health Planning District 6, Hillsborough County)
  - Centralized rather than decentralized inpatient location reduces access and availability within Health Planning District 4

  Brooks Rehab cites the following advantages that the new 115-acre Bartram Campus facility will offer:
  - At 74,000 square feet, the new facility provides ample accommodations for therapy areas and outpatient services, supporting 1,233 square feet per bed and reflects a barrier-free environment
  - Rooms with 327 net square feet accommodate equipment and supportive devices

- All private rooms to remove impediments created by gender, medical diagnosis allowing for enhancements for infection control
- Location off Interstate 95 in southern Duval County improves access and availability to residents residing in St. Johns, Flagler and Volusia Counties. Proximity to Baptist Hospital South allows for enhancements in collaboration and cooperation in patient services and innovation. Roadway access from Interstate Highway 95 exists opening a corridor to residents in the south of the district

CON application #10630 includes aerial photographs of Brooks Rehabilitation Hospital (page 1-4, Figure 1-1) and the proposed location of the 60-bed CMR project (page 1-6, Figure 1-2), with proximity to Baptist Medical Center South and Bartram's Crossing, the site of Brooks' nursing home and assisted living facility.

❖ Rule 59C-1.039, Comprehensive Medical Rehabilitation Inpatient Services, Florida Administrative Code lacks a factor or consideration of in-migration.

Brooks cites AHCA Hospital Inpatient Discharge data for the 12-month period ending June 30, 2019 to indicate the age 18+ patient volume, patient days (age 18+), and patient origin (by district, as well as those out-of-state) for District 4's CMR providers. The reviewer collapses the district and out-of-state totals into the stated grand total. See the table below.

CMR Cases Age 18+ by Patient Origin and Hospital					
Patient Origin by District and Out-of-State	**AdventHealth Daytona Beach**	**Brooks Rehabilitation Hospital**	**Halifax Health Medical Center**	**Orange Park Medical Center**	**Total**
Grand Total	675	3,020	894	400	4,989
In-migration=	56	914	99	64	1,133
Percent	8.3%	30.3%	11.1%	16.0%	22.7%
CMR Patient Days Age 18+ by Patient Origin a64nd Hospital					
Patient Origin by District and Out-of-State	**AdventHealth Daytona Beach**	**Brooks Rehabilitation Hospital**	**Halifax Health Medical Center**	**Orange Park Medical Center**	**Total**
Grand Total	9,582	48,729	12,543	5,484	76,335
In-migration=	772	17,562	1,484	868	20,650
Percent	8.1%	36.0%	11.8%	15.8%	27.1%
ALOS	13.8	19.2	15.0	13.6	18.2
ADC	2	48	4	2	57

Source: CON application #10630, pages 1-9 and 1-10, Table 1-1 (collapsed)

Based on the above table, the applicant points out that for the 12 months ending June 30, 2019:

- Brooks' 3,020 cases age 18+, 2,106 came from within District 4 and that in-migration accounts for 30 percent of the cases

Brooks notes that in-migration accounted for an average ADC of 48 beds at Brooks and 57 beds for all District 4 providers and contends that:

- The proposed project adds 60 CMR beds to the inventory to create parity to offset the occupied beds in use by out-of-district persons
- The outcome's positive benefits make profound improvement through expansion of MR services to residents of District 4

❖ Rule 59C-1.039, Comprehensive Medical Rehabilitation Inpatient Services, Florida Administrative Code favors acute care hospitals to develop CMR units over the freestanding CMR hospitals. Through the years, data established that such units overwhelmingly serve discharges from the hospital's own inpatients.

CON application #10630 emphasizes that the existing rule contains preferences for acute care hospitals when developing CMR units and that the three conditions provide preference for the applicant if a disproportionate share hospital, for service to Medicaid-recipients, and if the hospital is a designated trauma center. CON application #10630 points out that though in the proposal Brooks has no competitor, the preferences are not available to Brooks. The applicant stresses that no preferences exist for proposals from applicants for free-standing hospitals.

Brooks next cites AHCA Hospital Inpatient Discharge data for the 12-month period ending June 30, 2019, indicates that acute care hospitals in District 4 with a CMR unit receive the majority of patients for CMR services from their own acute care admissions. The reviewer reproduces in the table below only the admission sources, cases, percent, patient days, average CMI and percent referred by hospital that are highlighted by the applicant but additionally each hospital total. Therefore, the hospital totals on the collapsed table below will not arithmetically total all the admission sources, as shown. See the table below.

Sources of Referral to CMR Programs in District 4 by Hospital
12 Months Ending June 30, 2019

Hospital D4 CMR Patients Age 18+	Admission Source	Cases	Percent	Patient Days	Avg. CMI	Percent Referral By Hospital
AdventHealth Daytona Bch	Transfer from Hospital	446	8.8%	6,420	1.1994	66.1%
Total	--	*675*	*13.3%*	*9.582*	*1.2069*	*100.0%*
Brooks	Transfer from Hospital	3,060	60.2%	49,005	1.3772	98.2%
Total	--	*3,117*	*61.3%*	*50,111*	*1.3745*	*100.0%*
Halifax Health Medical Ctr.	Transfer from Hospital	202	4.0%	3,003	1.2824	22.6%
HHMC	Transfer from Same Hospital	687	13.5%	9,492	1.2106	76.8%
HHMC Total	--	*894*	*17.6%*	*12.543*	*1.2270*	*100.0%*
OPMC	Transfer from Hospital	397	7.8%	5,445	1.2800	99.3%
OPMC	Transfer from Same Hospital	2	0.0%	23	1.1933	0.5%
OPMC Total	--	*400*	*7.9%*	*5,484*	*1.2808*	*100.0%*
Grand Total	**--**	**5,086**	**100.0%**	**77,720**	**1.3190**	**--**

Total by Category	Cases	Percent
Transfer from Hospital	4,105	80.7%
Transfer within Same Hospital	689	13.5%
Transfer from Other	194	3.8%
Non-Health Care Facility	40	0.8%
Clinic/Physician Office	37	0.7%
Transfer from SNF/ICF	14	0.3%
Information Not Available	7	0.1%
Total	**5,086**	**100.0%**

Source: CON application #10630, page 1-11, Table 1-2 (condensed)

Brooks points out that small size units and their relationship to the acute care hospital do not function as options for rehabilitation to competing acute care hospitals, unlike Brooks, which serves all hospital systems. The applicant indicates that regarding the above table, reporting discrepancies appear. Brooks uses AHCA Hospital Inpatient Discharge Data (for the 12-month period ending June 30, 2019) to offer an estimated reconciliation of miscoding at AdventHealth Daytona Beach, Halifax Health Medical Center and Orange Park Medical Center (CON application #10630, page 1-12, Table 1-3). The applicant explains that:

- Access to CMR services depends upon the patient being within the hospital, limiting access to care

- To the point of access and availability to CMR services, locating CMR units in acute care hospitals circumscribe the care to each hospital's respective inpatients, diminishing access to patients of hospitals without CMR units. The result leaves Brooks the sole hospital to accommodate those in need of CMR services.
- The proposal results in no impact on the existing CMR providers in the district as they focus on admissions arising from the acute care inpatients in their respective hospitals, with Brooks as the provider of choice regionally, accepting admissions from a range of other acute care hospitals.

❖ Brooks addresses research in the applied setting which demonstrates superior results in hospital CMR compared to skilled nursing facilities. Overlap exists between the patient subgroups of skilled nursing facilities (SNFs) and CMR patients. However, outcomes may not be as good as those in CMR in short and long-term

CON application #10630 offers narrative discussion and description (pages 1-14 through 1-18 of the application) and several articles to contend that CMR providers produce better patient outcomes than do SNFs. Some of the referenced publications attested to support this contention include:

- *Assessment of Patient Outcomes of Rehabilitation Care Provided in Inpatient Rehabilitation Facilities (IRFs) and After Discharge*, 2014, by Dobson DaVanzo & Associates
- *Comparison of Functional Status Improvements Among Patients with Stroke Receiving Postacute Care in Inpatient Rehabilitation vs Skilled Nursing Facilities,* December 2019, JAMA Network OPEN
- *Breakthrough in Treating Paralysis*, Science Daily

Brooks states that with ongoing development of treatment modalities and innovations in physical medicine, future CMR services will continue to remain in demand as a preferred choice for post-acute care. The applicant further states that "as Brooks decentralizes services into Florida communities, outpatient innovations as treatment centers grow". Brooks indicates that currently, Brooks has 28 outpatient centers serving the greater Jacksonville metropolitan area that includes Duval, St. Johns, and Clay Counties and that additionally, a mobile therapy option also exists that provides services in the area.

- The Centers for Medicare and Medicaid's (CMS) Patient Driven Payment Model (PDPM) replaces the Resource Utilization Groups (RUGs) reimbursement system for SNFs effective October 1, 2019. Among the changes, the Center for Medicare Advocacy (CMA) reports negative effects on nursing home residents with respect to the reduction in reimbursement for therapies.

  CON application #10630 indicates that the CMS PDPM is a concern to several advocacy groups and that among them is the CMA. Page 1-19 of the application includes a mission statement and a description of the CMA. Brooks points out that while the PDPM affects SNFs' care and reimbursement, the impact when viewed from the perspective of CMR provider results in the higher expectation of admission for intensive, individualized therapies.

  The applicant particularly notes the expectation that SNFs will change admitting practices to maximize reimbursement, leaving high-need individuals dependent on rehabilitative services to other providers. Brooks concludes that this outcome will result as a source of medically necessary admissions to CMR providers, like Brooks, where capacity constraints currently exist.

  The applicant uses AHCA Hospital Inpatient Discharge Data for the 12-month period ending June 30, 2019 to indicate that based on a total of 26,818 Medicare discharges in District 4 counties, a 25 percent reduction of those discharges would yield 6,705 discharges (26,818 X .25 = 6,704.5). This would result in a shift of up to 6,705 Medicare beneficiaries away from SNFs to other rehabilitation providers (CON application #10630, page 1-21, Table 1-4). The applicant provides an estimate of occupancy rates at exiting District 4 CMR providers, with percentage shifts from 25.0 percent to 1.0 percent. See the table below.

Illustration of the Impact of Shifting Patients from SNFs to District 4 CMR Hospitals Requiring Rehabilitative Services

Factor	Number	Percent Shift	Shift Cases	Shift Days	Days with Shift	Occupancy (N=252 Beds)
D4 Current Cases	5,086	25.0%	6,705	101,916	179,636	195.3%
D4 Current Days	77,720	24.0%	6,436	97,832	175,552	190.9%
Current ALOS	15.2	23.0%	6,168	93,756	171,476	186.4%
Current Occupancy	84.5%	22.0%	5,900	89,679	167,399	182.0%
Total 25% Shift=	**6,705**	21.0%	5,632	85,603	163,323	177.6%
Discharges to SNF	**26,818**	15.0%	4,023	61,145	138,865	151.0%
		10.0%	2,682	40,763	118,483	128.8%
		5.0%	**1,341**	**20,382**	**98,102**	**106.7%**
		4.0%	1,073	16,305	94,025	102.2%
		3.0%	805	12,229	89,949	97.8%
		2.0%	536	8,153	85,873	93.4%
		1.0%	268	4,076	81,796	88.9%

Source: CON application #10630, page 1-21, Table 1-5

Brooks contends that the utilization at Brooks Rehabilitation Hospital and its' operation of Halifax Health Medical Center's CMR unit (The Center for Inpatient Rehabilitation at Halifax Health), indicates that existing bed supply is at upper limits and shows an inability to accept large numbers of individuals being shifted from SNFs. The applicant asserts that a 25 percent patient shift away from SNFs and compliance under the 60% rule results in impeding patients' access and availability to CMR inpatient care. Brooks also contends that the inadvertent consequence of the PDPM on CMR providers without a concomitant review of the "CMS 60% Rule" places pressures on CMR hospitals.

- The "CMS 60% Rule" requires that providers attain at least 60% of treatment for 13 specific conditions. Failure to conform results in a significant financial penalty. When providers manage to the 60% rule, reduced access to services for patients' with other conditions occurs. Brooks provides the 13 conditions that comprise the compliance threshold for the 60% rule (CON application #10630, page 1-23) and notes that failure to meet the 60% rule on admission allows CMS to remove the provider from reimbursement under the IRF perspective payment system shifting the provider to the acute care hospital inpatient PPS for the subsequent cost reporting period.

Forecast of Demand

The applicant uses Population Estimates issued February 2015, to indicate the age 18+ population for each county in District 4, CY 2020 to CY 2025. Brooks indicates a corresponding net increase and compound annual growth rate (CAGR) for the same CYs. The reviewer reproduces below only the net increase and CAGR columns provided by the applicant. See the table below.

Population Estimates CY 2020 to CY 2025 Net Increase by County in District 4
Persons Age 18+

County/Area	Net Increase	CAGR
Baker	1,795	1.3%
Clay	18,394	1.7%
Duval	30,807	0.7%
Flagler	15,911	2.5%
Nassau	6,806	1.6%
St. Johns	29,338	2.4%
Volusia	17,816	0.7%
District 4	**120,867**	**1.1%**

Source: CON application #10630, page 1-24, Table 1-6 (condensed)

Brooks uses AHCA Hospital Inpatient Discharge data for the 12-month period ending June 30, 2019 to indicate caseload estimates for future years from a baseline. See the table below.

Caseload Estimating Factors for Future Years from Baseline
12 Months Ending June 30, 2019

Factor	Number
D4 Cases	3,902
D4 Days	56,316
D4 ALOS	14.4
In-migration Cases	1,184
In-migration Days	21,404
In-migration ALOS	18.1
Total Cases	5,086
Total Days	77,720
ALOS	15.3
Brooks Cases	3,117
Brooks Days	50,111
Brooks MS Cases	65.0%
Brooks MS Days	64.5%
Brooks ALOS	16.1

Source: CON application #10630, page 1-25, Table 1-7

Brooks indicates that since in-migration accounts for 1,184 admissions to the CMR providers in District 4, adding these cases to those from the district results in a rate of 3.0 per 1,000 persons age 18+ when applying the district population. Per the applicant, the results using the baseline period's factors appear in the table above generate the following estimates for future years. Brooks also contends the shift from the PDPM implementation is a factor in the forecast using the five percent assumption from Table 1-5 (shown earlier in this report).

Brooks Rehab's (220 CMR beds) projected CY 2022 and CY 2023 impact on existing District 4 providers is shown below.

Forecast by Year for Brooks Rehabilitation Hospital (N=220 CMR Beds) and Effect on Other CMR Providers in District 4

Factor	Year 1/CY 2022	Year 2/CY 2023
Total Cases	5,315	5,388
Total Days	81,220	82,332
PDPM Cases @ 5%	**1,341**	**1,341**
PDPM Days	**20,382**	**20,382**
Total Cases	6,656	6,729
Total Days	101,602	102,714
Brooks MS Cases	4,326	4,374
Brooks MS Days	69,554	70,314
Brooks ADC	191	193
Occupancy	86.6%	87.6%
Impact on Other CMR Providers in District 4 (N=92 CMR Beds)		
Cases for Others	2,330	2,355
Baseline Others	1,969	1,969
Baseline Days	27,609	27,609
Increase Cases Baseline	361	386
ALOS Baseline	14.0	14.0
Other Days	32,665	33,022
ADC Others	89	90
Occupancy 92 Beds Others	97.3%	98.3%

Source: CON application #10630, page 1-26, Table 1-8

Brooks states that the model above illustrates the impact of population growth, the effect of in-migration, the effect of hospital-based, CMR units and the impact of the PDMP expected to redirect some proportion of hospital discharges for rehabilitation from SNFs. The applicant also offers an estimated impact of a 1.0 percent shift in SNF discharges to CMR providers in District 4, for the same period (CON application #10630, page 1-27, Table 1-9. Brooks asserts that even a small shift of 1.0 percent redirecting Medicare discharges from nursing homes creates a profound effect.

The applicant contends that factors that the model in Table 1-8 above cannot quantify are:

- The impact of the 60% Rule that continues to suppress admissions
- The inability of Brooks to expand on site
- The slow adoption of policies and procedures reporting better patient outcomes at CMR facilities than in SNFs
- The ramp-up at opening of the new hospital at Bartram Crossing

Brooks Rehab maintains that the four factors above all have the effect of lowering the forecasted admissions, but how much lower is subject to educated opinion. The applicant also maintains that to remain conservative and not overstate the expected admissions, the forecast for years one and two receive a downward adjustment.

Brooks asserts that special or not normal circumstances show external factors for which the CON rule fails to contemplate and the failure to look beyond the limitations of the rule produces unanticipated consequences. These include low bed supply, impediments to access, and lower utilization than would otherwise occur, especially considering that with the PDPM driving hospital discharges away from nursing homes greater demand continues. Brooks' projected patient cases, days and occupancy for year one and for year two, for the proposed 60-bed project, the existing 160-bed facility and the total 220-beds if the project is approved are shown in the table below.

Adjustment to the Forecast for Unquantified Factors Impacting Utilization Years One and Two for Brooks Rehabilitation Hospital

Year	Cases	Days	Occupancy
New Facility 60 Beds			
CY 2022	691	11,133	50.8%
CY 2023	926	14,909	68.1%
Existing Facility 160 Beds			
CY 2022	3,180	51,206	87.7%
CY 2023	3,196	51,462	88.1%
Brooks' Total 220 Beds			
CY 2022	3,872	62,339	77.6%
CY 2023	4,122	66,371	82.7%

Source: CON application #10630, page vi, Table 1-10 and page 1-28, Table 1-10

2. Agency Rule Criteria:

Please indicate how each applicable preference for the type of service proposed is met. Refer to Chapter 59C-1.039, Florida Administrative Code, for applicable preferences.

a. General Provisions:

(1) Service Location. The CMR inpatient services regulated under this rule may be provided in a hospital licensed as a general hospital or licensed as a specialty hospital.

The reviewer notes that the applicant does not respond directly to this rule criterion. The project will be licensed as a Class III specialty hospital on Brooks Rehab's existing license and will be located at the Bartram Campus in southeast Duval County.

(2) Separately Organized Units. CMR inpatient services shall be provided in one or more separately organized unit within a general hospital or specialty hospital.

The reviewer notes that the applicant does not respond directly to this rule criterion. However, the applicant indicates that this second campus allows for further expansion of two specialty services – oncology and neuroscience.

(3) Minimum Number of Beds. A general hospital providing comprehensive medical rehabilitation inpatient services should normally have a minimum of 20 comprehensive rehabilitation inpatient beds. A specialty hospital providing CMR inpatient services shall have a minimum of 60 CMR inpatient beds.

The reviewer notes that the applicant does not respond directly to this rule criterion. Brooks proposes a 60-bed freestanding inpatient CMR hospital, which meets the criterion.

(4) Medicare and Medicaid Participation. Applicants proposing to establish a new comprehensive medical rehabilitation service shall state in their application that they will participate in the Medicare and Medicaid programs.

The reviewer notes that the applicant does not respond directly to this rule criterion. However, Brooks documents its Medicare and Medicaid participation and projects continued participation for years one and two of the project (see item E.3.g of this report).

b. Required Staffing and Services

(1) Director of Rehabilitation. CMR inpatient services must be provided under the medical director of rehabilitation who is a board-certified or board-eligible physiatrist and has had at least two years of experience in the medical management of inpatients requiring rehabilitation services.

Per the applicant, Dr. Trevor Paris is the medical director at Brooks Rehabilitation Hospital, Vice President of Brooks Rehabilitation Medical Group, and Medical Director, Aging Services. Dr. Paris is board certified by both the American Board of Physical Medicine & Rehabilitation and the American Board of Independent Medical Examiners. Florida Department of Health licensure records show

Dr. Paris has a clear and active license to practice medicine in the State of Florida (also in California and Tennessee) and has staff privileges at Brooks Rehabilitation Hospital. Dr. Paris' address of record is 3599 University Blvd. South, Jacksonville, Florida 32216 (Brook Rehab's address).[2]

Brooks points out that in addition to Dr. Paris, 17 other doctors form the medical group. Of those, seven are board-certified physiatrists, two physicians practice internal medicine, and two other physicians direct the Spinal Cord Injury Program and the Brain Injury Program. Dr. Katelyn Jordan directs the Low Vision Program and that others within the group serve the skilled nursing center and assisted living components at Bartram Campus.

Brooks Rehab states that presently the position of medical director for Bartram Campus hospital remains open but with Brooks' reputation and associated physicians, recruitment will be successful.

(2) Other Required Services. In addition to the physician services, CMR inpatients services shall include at least the following services provided by qualified personnel:

1. **Rehabilitation nursing**
2. **Physical therapy**
3. **Occupational therapy**
4. **Speech therapy**
5. **Social services**
6. **Psychological services**
7. **Orthotic and prosthetic services**

Brooks states that specialties above represent the major professional categories of staff at its facilities. Further, care provided by these professionals aim to increase functional independence of Brooks patients. A brief narrative on staff and services (below) is on pages 2-2 through 2-4 of the application:

- Chief Nursing Officer
- Director of Therapy
  - Physical Therapy
- Occupational Therapists
- Speech Therapy
  - Speech Language Pathologists
  - Audiology

[2] Source - Florida's FLHealthSource.gov website at https://appsmqa.doh.state.fl.us/MQASearchServices/HealthcareProviders/LicenseVerification?LicInd=93120&Procde=1501&org=%20,

- Social Services
- Psychological Services
- Orthotics and Prosthetic Services
- Respiratory Therapy Services

c. Criteria for Determination of Need:

(1) Bed Need. A favorable need determination for proposed new or expanded comprehensive medical rehabilitation inpatient services shall not normally be made unless a bed need exists according to the numeric need methodology in Rule 59C-1.039 (5) (c), Florida Administrative Code.

The reviewer notes that the applicant does not respond directly to this rule criterion. As stated earlier, the proposal is outside the fixed need pool and justification for project approval is described in item E.1.a of this report. Brooks Rehab's "not normal or special circumstances" are restated below:

- Brook's current location lacks acreage for expansion
- Rule 59C-1.039, Comprehensive Medical Rehabilitation Inpatient Services, Florida Administrative Code lacks a factor or consideration of in-migration and favors acute care hospitals to develop CMR units—studies show acute care hospital CMR units overwhelmingly serve the acute care hospital's discharges
- Research in the applied setting shows overlap exists between the patient subgroups of skilled nursing facilities (SNFs) and CMR patients. However, outcomes may not be as good as those in SNFs compared to CMR hospitals
- CMS Patient Driven Payment Model replaces the Resource Utilization Groups reimbursement system for SNFs effective October 1, 2019. However, Center for Medicare Advocacy reports negative effects on nursing home residents with respect to the reduction in reimbursement for therapies.
- The "CMS 60% Rule" requires that providers attain at least 60% of treatment for 13 specific conditions. Failure to conform results in a significant financial penalty. When providers manage to the 60% rule, reduced access to services for patients' with other conditions occurs.

(2) Most Recent Average Annual District Occupancy Rate. Regardless of whether bed need is shown under the need formula in Rule 59C-1.039 (5) (c), no additional comprehensive medical rehabilitation inpatient beds shall normally be approved for a district unless the average annual occupancy rate of the licensed comprehensive medical rehabilitation inpatient beds in the district was at least 80 percent for the 12-month period ending six months prior to the beginning date of the quarter of the publication of the fixed bed need pool.

District 4's CMR occupancy was 77.27 percent during the 12-month period ending June 30, 2019.

(3) Priority Consideration for Comprehensive Medical Rehabilitation Inpatient Services Applicants. In weighing and balancing statutory and rule review criteria, the Agency will give priority consideration to:

1. An applicant that is a disproportionate share hospital as determined consistent with the provisions of section 409.911, Florida Statutes.

Brooks Rehabilitation Hospital does not qualify for participation in the disproportionate share hospital program.

2. An applicant proposing to serve Medicaid-eligible persons.

Brooks notes that it serves Medicaid and Medicaid Managed Care recipients and the proposed project at Bartram Campus will share Brooks Medicare and Medicaid provider and license number, making it a seamless access point for these programs.

3. An applicant that is a designated trauma center, as defined in Rule 64J-2.011, Florida Administrative Code.

Brooks states that specialty Class III CMR hospitals do not qualify to be designated trauma centers but it does have two specialty program associated with trauma - the brain injury and spinal cord injury programs.

d. Access Standard. Comprehensive medical rehabilitation inpatient services should be available within a maximum ground travel time of two hours, under average travel conditions, for at least 90 percent of the district's total population.

The reviewer notes that the access standard is currently met for District 4 CMR services. The applicant states that it is apparent from the map (on page 2-5, figure 2-1) that the two hour drive time contour shows the current as well as the proposed location of Brooks being accessible to more than 90 percent of the district's adult population.

e. Quality of Care

(1) Compliance with Agency Standards. Comprehensive Medical Rehabilitation inpatient services shall comply with the Agency standards for program licensure described in section 59A-3, Florida Administrative Code. Applicants who submit an application that is consistent with the Agency licensure standards are deemed to be in compliance with this provision.

The applicant states and the reviewer confirms upon review of CON application #10630, Exhibit 2-1, that Genesis Rehabilitation Hospital, Inc. d/b/a Brooks Rehabilitation Hospital holds the Gold Seal of Approval from The Joint Commission[3]. The reviewer notes that the referenced exhibit includes The Joint Commission Quality Report on Genesis Rehabilitation Hospital, Inc., d/b/a Brooks Rehabilitation Hospital, indicating a Joint Commission accreditation history as follows:

- Last full survey date and last on-site survey date – 9/20/2019
- Effective date – 9/21/2019

The reviewer notes that Brooks Rehab currently holds Agency licensure as a 160-bed Class III hospital and the proposed project adds 60 CMR beds at the Bartram Campus location. If approved, the project would result in a 220-bed freestanding CMR hospital, divided into two physical locations in Duval County.

f. Services Description. An applicant for comprehensive medical rehabilitation inpatient services shall provide a detailed program description in its certificate of need application including:

[3] The applicant's Joint Commission accreditation is further discussed in item E.3.b of this report.

(1) Age group to be served

The applicant indicates that the proposal addresses the CMR needs of adults, age 18+.

(2) Specialty inpatient rehabilitation services to be provided, if any (e.g. spinal cord injury; brain injury)

Brooks maintains that the scope of care at the proposed 60-bed Bartram Campus includes stroke rehabilitation and all conditions under general rehabilitation, including the 13 conditions required to remain an Independent Rehabilitation Facility and receive reimbursement under the prospective payment system. Brooks further maintains that in addition, two specialty programs represent an outgrowth of research and clinical practice at Brooks - the oncology program and the neuroscience program and provides narrative descriptions of its major programs, services and equipment on pages 2-7 to 2-14 of the application:

- Stroke Rehabilitation – CARF Accreditation
- Pain Management – CARF Accreditation
- Inpatient Rehabilitation – CARF and The Joint Commission Accreditation
- Specialty Oncology Program
  - Including a new physical therapist position, with course training from LANA®, Lymphology Association of North America
- Specialty Neuroscience Program – addressing neuro rehabilitation, with various professionals in the program – including neuroscience nurses who hold certification from the American Association of Neuroscience Nurses
- Specialized Equipment (with a photograph provided for each of the following):
  - Tyromotion Diego – a robotics based rehabilitation device the provides interactive therapy for lost function in the arm/shoulder
  - Tyromotion Amadeo – a robotic device that assists patients with hand and individual finger movements

- Restorative Therapies Xcite – an electrical stimulation device that provides neuromuscular re-education for functional ADL movements such as feeding, grasping and eating. This device works on the lower and upper extremity and offers over 40 functional activities
- C-Mill Treadmill – a large treadmill that assists patients with functional balance and gait training – addressing gait obstacles, obstacle avoidance, cognitive dual task and speed adaptation
- Restorative Therapy RT300 – an electrical stimulation bike that provide cyclical movement to help restore muscle mass in the upper and lower extremities, as well as the core and trunk
- Synchrony – The machine also captures the Restorative Therapy RT300 data for documentation and assistance in building treatments for the patient

The six specialized equipment items listed above are conditioned to project approval in Schedule C (see item C).

(3) Proposed staffing, including qualifications of the medical director, a description of staffing appropriate for any specialty program and a discussion of the training and experience requirements for all staff who will provide comprehensive medical rehabilitation inpatient services.

Brooks includes two Schedule 6A's in CON application #10630 – the existing Brooks Rehabilitation Hospital (160 beds) and the proposed 60-bed Bartram Rehabilitation Hospital, which shows 107.55 year one FTEs and 133.4 year two FTEs, an increase of 25.89 FTEs from year one to year two. See the table below.

CON application #10630
60-Bed Freestanding Bartram Rehabilitation Hospital
Years One & Two (ending December 31, 2022 and 2023)

	Year One FTEs	Year Two FTEs
ADMINISTRATION		
Director of Rehabilitation	0.91	0.91
Director of Nursing	0.91	0.91
Executive/Admin Assistants	1.91	1.92
Nursing Liaison	1.00	2.01
Other Admin Services	3.51	3.51
PHYSICIANS		
Medical Director	Contracted	Not Indicated
NURSING		
Nurse Supervisor/Manager	5.21	6.22
RNs	29.48	37.90
Nurse Aides	16.85	25.27
Clinical Educator	1.82	1.83
Unit Secretary	2.81	2.81
Other Scheduler	1.28	2.19
ANCILLARY		
Therapy Manager	0.91	0.91
Physical Therapy	8.42	8.42
Occupational Therapy	8.42	8.42
Speech Therapy	4.01	4.01
All Other Therapy	10.13	15.15
DIETARY		
Dietician	1.21	1.20
OTHER		
Admissions	1.50	2.01
IRF-PAI Coordinator	0.91	0.91
Central Supply	1.40	2.01
Patient Advocate	0.91	0.91
HOUSEKEEPING	Contracted	Contracted
LAUNDRY	Contracted	Contracted
PLANT MAINTENANCE		
Operation and Maintenance	4.01	4.01
TOTAL	**107.55**	**133.44**

Source: CON application #10630, Schedule 6A

(4) A plan for recruiting staff, showing expected sources of staff.

Brooks addresses recruitment and retention on pages 5-6 through 5-9 of the application. Regarding recruitment, Brooks states it uses many forms for recruitment, including website listings of vacancies with position descriptions, advertisements in publications targeting the professionals where vacancies exist, internal publications, social media and other formats all of which reflect the clinical services and the program's needs. The applicant states that some include LinkedIn job postings and I-Hire - a site for recruitment of registered nurses and therapists.

Regarding retention, Brooks states employee benefits include:

- Medical insurance through Blue Plus
- Prescription coverage through Express Scripts

- Dental Plans-two from which to choose. One "PPO active" with annual maximum of $1,000 and one "PPO passive" with annual maximum of $1,500. MetLife provides both options
- The MetLife PPO Vision Plan Network
- Choice of three Flexible Spending Accounts
- Paid Leave based on hours worked and six holidays
- MetLife Basic Life and Accidental Death and Dismemberment with additional coverage for spouse or dependents
- Option of two retirement accounts
- MetLife short term or long term disability plans and employees may buy additional coverage
- Three voluntary plans available to employees for accident insurance, critical illness insurance, and hospital indemnification insurance
- Legal insurance through U.S. Legal
- A no-cost Employee Assistance Program through Life Works
- Be Well for Life-sponsored events and wellness programs

The applicant also cites its Brooks Care Team Fund, tuition reimbursement and other benefits which include:

- Relocation assistance
- Sign-on bonus
- Preceptor program
- Mentor program

Brooks has employee service recognition dinners in five year increments, and merit pay and bonuses based on performance.

(5) Expected sources of patient referrals.

Brooks notes that approximately 98 percent of its admissions are transfers from acute care hospitals and contends that its freestanding facility enhances access to all hospital systems and upon discharge, patients return to their primary care physicians. Brooks explains that the new hospital will utilize the same patient referral sources and discharge practices.

(6) Projected number of comprehensive medical rehabilitation inpatient services patient days by payer type, including Medicare, Medicaid, private insurance, self-pay and charity care patient days for the first two years of operation after completion of the proposed project.

Brooks Rehabilitation Hospital at Bartram Campus' Forecast of CMR
First Two Years of Operation

Payer	CY 2022 Days	Percent of Days	CY 2023 Days	Percent of Days
Medicare	5,566	50.0%	7,455	50.0%
Medicare MC	1,336	12.0%	1,789	12.0%
Medicaid	111	1.0%	149	1.0%
Medicaid MC	334	3.0%	447	3.0%
Other (TriCare & WC)	779	7.0%	1,044	7.0%
Commercial & BCBS	2,672	24.0%	3,578	24.0%
Self/Charity	334	3.0%	447	3.0%
Total	**11,132**	**100.0%**	**14,909**	**100.0%**
Occupancy of 60 Beds	**50.8%**			**68.1%**

Source: CON application #10630, page ix, Table 2-2, page 3-10, Table 3-6 and page 9-2, Table 9-2

(7) Admission policies of the facility with regard to charity care patients.

In response to this criterion, Brooks references its Exhibit 2-2 – Financial Assistance Policy. The purpose of the policy is stated to define a fair and comprehensive system of distributing free or discounted care to qualifying financially disadvantaged patients.

(g) Utilization Reports. Facilities providing licensed comprehensive medical rehabilitation inpatient services shall provide utilization reports to the Agency or its designee, as follows:

(1) Within 45 days after the end of each calendar quarter, facilities shall provide a report of the number of comprehensive medical rehabilitation inpatient services discharges and patient days which occurred during the quarter.

Brooks states it reports quarterly to the Health Council of N. E. Florida, Inc. and to AHCA's quarterly online submission of certified inpatient and outpatient data and provides its annual cost report to AHCA's Office of Medicaid Finance. Brooks states it will continue to do so with the addition of the 60 beds at the Bartram Campus site.

3. Statutory Review Criteria:

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

As stated previously, District 4 had 252 licensed CMR beds and 77.27 percent occupancy during the 12-month period ending June 30, 2019.

Regarding availability, the applicant states that availability refers to how much of a resource exists. Brooks states use of the Agency's Florida Hospital Bed Need Projections & Service Utilization by District to provide the table below for the five-year period 2015 through 2019.

Historical Availability of CMR Beds in District 4
2015 – 2019

FY	CMR Beds	Population 18+	Beds/1,000	Patient Days	Days/1,000
2015	237	1,575,483	0.15	68,895	41.8
2016	240	1,602,288	0.15	70,366	43.9
2017	260	1,629,446	0.16	74,275	45.6
2018	260	1,656,229	0.16	66,007	39.9
2019	252	1,682,558	0.15	72,219	42.9
CAGR	**1.2%**	**1.3%**	**-0.1%**	**1.8%**	**0.5%**

Source: CON application #10630, page 3-1, Table 3-1

Based on the table above, Brooks explains that the availability of CMR reflects decline at -0.1 percent, per year, when measuring the beds per 1,000 persons, age 65+, in District 4, for the five-year period referenced. Further, Brooks emphasizes it is apparent when viewing the information in the above table that low bed supply reduces access to care and that more beds—and increase in availability—leads to more services.

Brooks contends that the referenced expansion and contraction occurs in part when providers manage to meet the requirements of the 60% rule. However, with the CMR beds at Orange Park and AdventHealth, the presented analysis (Item E.1.a of this report) shows that the beds serve inpatients from each respective hospital and thus, availability to CMR services is through the conduit of being an inpatient – showing that availability becomes restricted to other referral sources.

Brooks asserts that the re-location of the 40-bed CMR unit from AdventHealth Oceanside to establish a 32-bed CMR unit at AdventHealth Daytona Beach, a hospital with higher admission rates, resulted in more inpatients receiving care. See the table below.

Impact of Move of CMR Beds to AdventHealth Daytona Beach – Persons Age 18+
District 4 Residents
12 Months Ending June 30, 2019

Admission Source to CMR	Cases
Information Not Available	7
Non-Health Care Facility	27
Transfer from Hospital	**446**
Transfer from other	194
Transfer from SNF/ICF	1
Total District 4	**675**

Source: CON application #10630, page 3-2, Table 3-2

Brooks comments that the move to the Daytona hospital improves the availability of care as the sources of the admissions include others than from inpatients within the facility. However, Brooks further comments that 66 percent of the admissions come from the hospital's own inpatients. Brooks again states that hospital-based CMR units afford limited availability to CMR services for residents of the district.

Brooks Rehab's quality of care is addressed in item E.3.b of this report.

Regarding access, Brooks states that access refers to the population's ability to get to the services and includes factors such as: geographic impediments, distance, travel time, qualifying eligibility criteria and payer sources. Brooks again cites expansion challenges at its current site and that the project would accommodate expansion and support innovation and other advantages for establishing the proposed project at the Bartram Campus.

Regarding extent of utilization, Brooks again points to external factors and unintended consequences of the existing rule that impact utilization. CON application #10630, page 3-4, Figure 3-1 is a bar chart that reflects CMR occupancy rates, for each of the 11 districts, for the five-year period between FY 2015 and FY 2019. Brooks' Figure 3-1, show occupancy rates over the five-year period vary markedly, but that year-to-year, there is a constriction of bed supply. Brooks notes that during the five-year period, District 4's occupancy rates are second only to that of District 3.

The applicant restates that that Brooks drives the CMR occupancy rates in District 4 and that as the district's only specialty hospital, it receives 31 percent of the cases from outside the district. Brooks again comments that with demand for care beyond the district's borders, district residents compete for beds with those from outside the district. Brooks asserts that this "push-pull" for beds underscores the necessity to expand the capacity to offer a plethora of inpatient rehabilitation programs now and into the future. Brooks also responds to the Health Care Access Criteria on CON application #10630, pages 3-5 to 3-10.

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

The applicant indicates that in 2020 Brooks Rehabilitation Hospital celebrates 50 years of care. Brooks' mission, vision and values, which it states demonstrate "patients remain at the center of care" are cited below:

- Mission - To empower people to achieve their highest level of recovery and participation in life through excellence in rehabilitation
- Vision - To be the recognized leader in providing a system of world-class rehabilitation solutions advancing the health and well-being of our communities
- Values - Excellence in care, as demonstrated through innovation, integrity, service, compassion, teamwork, accountability, and continuous learning

Brooks indicates and the reviewer confirms (CON application #10630, Exhibit 4-1) three-year CARF accreditation (through December 31, 2020) in the following program-specific areas:

Brooks Rehabilitation Hospital
CARF-Certified Inpatient Programs

Program	Population
Rehabilitation	Children and adolescents
Rehabilitation	Adult
Brain injury and specialty program	Children and adolescents
Brain injury and specialty program	Adult
Spinal cord and specialty program	Children and adolescents
Spinal cord and specialty program	Adult
Stroke	Adult
Pain management	Adult

Source: CON application #10630, page 4-2, Table 4-1

Brooks Rehab indicates on CON application #10630, Exhibit 4-1 that it holds Magnet Recognition® from The Commission on Magnet Recognition®, granted by the American Nurses Credentialing Center in 2016. Brooks Rehab states it is the only rehabilitation hospital in Florida to achieve this distinction and research demonstrates the following outcomes occur when a hospital achieves Magnet Recognition:

- lower registered nurse turnover
- higher nurse job satisfaction
- lower nurse burnout
- higher support for evidence-based practice implementation
- higher patient ratings of their hospital experience

- lower mortality rates
- lower hospital-acquired pressure ulcer rates.
- lower patient fall rates lower nosocomial infection

The applicant provides a diagram of the Magnet Recognition program (page 4-3 of the application).

CON application #10630, Exhibit 1-4 includes a copy of the Genesis Rehabilitation Hospital, Inc. Brooks Rehabilitation Hospital accreditation by The Joint Commission, which is customarily valid for up to 36 months. The accreditation is dated September 21, 2019.

CON application #10630 maintains that the proposed 60-bed project will:

- Obtain Joint Commission accreditation
- Seek CARF accreditation inpatient for:
  - Adult rehabilitation
  - Adult stroke
- Seek Magnet Recognition® when fully eligible

The applicant comments that according to eRehabData, Brooks treats more medically complex individuals than other rehabilitation hospitals and states that, as an example, in 2019, the facility's Case Mix Index (CMI) was 1.78, compared to a national value of 1.4. Further, Brooks Rehab functions within the top one percent of rehabilitation hospitals nationally treating the most complex patients.

Brooks Rehab states that it facilitates a collaborative, interdisciplinary systematic approach to continuously improve patient safety and quality care. Further, the way to accomplish this lies in a blame free framework with mechanisms that support effective responses to actual occurrences and "near-misses". The integration of surveillance into the design and redesign of all relevant processes, improves services and functions by reducing medical errors and fosters the integration of patient safety and performance improvement priorities. Brooks provides a narrative of its electronic medical records (EMR) by MEDITECH. MEDITECH's Expanse is stated to surpass other EMR systems – Cerner Millennium and Epic. MEDITECH Expanse is further described including survey results on page 4-5 of the application.

Brooks states "a focus of prevent, detect and correct" and cites its annual Quality Assurance and Performance Improvement Plan (QAPI) used to establish priorities for performance improvement, specify the strategies to achieve the targeted goal, and measure the extent to which the facility met each goal. The applicant offers a sample of areas of focus in the facility's 2020 QAPI, which include:

- ✓ Falls
- ✓ Catheter associated urinary tract infection (CAUTI)
- ✓ Acute care transfers
- ✓ Hospital-acquired pressure ulcers
- ✓ Community discharge
- ✓ Medication errors
- ✓ Black light surveillance
- ✓ Care Tool (wheel and walk)
- ✓ C. difficile infection

Brooks briefly discusses improvement efforts regarding community discharge and successful return to home and community from the hospital. Brooks notes that it serves higher acuity patients, creating challenges for discharges to home but that it continues to monitor and implement new strategies to increase the number of its patients discharged to home. Patient satisfaction survey results are cited - over 95 percent of Brooks patients would recommend Brooks and gave a 94 percent rating of care they received. No additional information was provided on the survey.

The applicant comments that until recently, rehabilitation facilities used the Functional Independence Measure (FIM) to determine a patient's progress during rehabilitation and further comments that Brooks reports for the most recent year for which data are available a lower FIM score for patients upon admission (47.81) than the national average (48.41), meaning they had less functional independence than other patients. However, Brooks' patients experienced a higher FIM at discharge than the national average, indicating increased independent functioning, with a 24.90 FIM change from admission to discharge.

Brooks points out that facilities now use the *CareTool*, and that Brooks uses both the wheel and walk *CareTool* scores as an area of emphasis on improvement in the coming year, improving patient functioning. Brooks Rehab's Utilization Management Program, which requires prospective, concurrent and retrospective reviews of services to assure compliance with Medicare Conditions of Participation. Retrospective reviews are stated to include such factors as:

- Average length of stay
- Numbers and percent of patients discharged to the community
- Numbers and percent of patients discharged to acute care hospitals
- Numbers and percent of patients discharged to nursing homes
- *CareTool* scores
- Documentation to support continued stays

Agency complaint records indicate that Brooks Rehabilitation Hospital had two substantiated complaints during the three-year period ending April 8, 2020. A single complaint can include multiple complaint categories. The categories cited were billing/refund and infection control.

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.

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

Historically we have compared all applicant financial ratios regardless of type to bench marks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities. The below is an analysis of the audited financial statements of Genesis Health, Inc. and Affiliates d/b/a Brooks Rehabilitation (Parent) where the short term and long term measures fall on the scale (highlighted in gray) for the most recent year.

Genesis Health, Inc. and Affiliates d/b/a Brooks Rehabilitation		
	Dec-18	**Dec-17**
Current Assets	$43,901,573	$37,235,873
Total Assets	$527,472,338	$560,013,170
Current Liabilities	$69,277,019	$67,792,791
Total Liabilities	$281,159,394	$284,110,115
Net Assets	$246,312,944	$275,903,055
Total Revenues	$240,493,357	$232,238,323
Excess of Revenues Over Expenses	($30,690,214)	$38,174,315
Cash Flow from Operations	$15,867,495	($4,576,456)
Short-Term Analysis		
Current Ratio (CA/CL)	0.6	0.5
Cash Flow to Current Liabilities (CFO/CL)	22.90%	-6.75%
Long-Term Analysis		
Long-Term Debt to Net Assets (TL-CL/NA)	86.0%	78.4%
Total Margin (ER/TR)	-12.76%	16.44%
Measure of Available Funding		
Working Capital	($25,375,446)	($30,556,918)

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:

The applicant indicates on Schedule 2 capital projects total $57,085,969, which consists of the CON currently under review, Capital Budget FY 2020, Capital Budget FY 2021, Capital Budget FY 2022, and Capital Additions – Bartram Campus. These statements were analyzed for the purpose of evaluating the applicant's ability to provide the capital and operational funding necessary to implement the project.

Conclusion:
Funding for this project is provided by related company financing. A letter of commitment was provided by the parent company pledging support. The parent stated that sufficient cash and cash equivalents and investments are on hand to fund the project. Funding should be available as necessary. It should be noted that the parent company has insufficient cash to fund the project and would have to liquidate some investments to meet the total required funding.

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

This project is for a standalone comprehensive medical rehabilitation hospital. The applicant will be compared to currently operating CMR hospitals in the State of Florida as reported in the most recent filings with the Florida Hospital Uniform Reporting System (FHURS) reports and inflated to the projected years. Inflation adjustments were based on the new CMS Market Basket, 2nd Quarter, 2019.

	Projected	Highest	Median	Lowest
NRPD	1,788	2,525	1,692	1,343
CAPD	1,487	2,346	1,324	1,171
OMPD	301	520	307	78
Medicare	62%	91%	83%	56%
Medicaid	4%	12%	2%	0%
Total	69%	96%	75%	60%

Conclusion:
The net revenue per patient day (NRPD), cost per patient day (CPD), and operating margin per patient day (OMPD) are all within the control group. Because of this, revenues and expenses appear reasonable.

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

Strictly from a financial perspective, the type of competition that would result in increased efficiencies, service, and quality is limited in health care. Cost-effectiveness through competition is typically achieved via a combination of competitive pricing that forces more efficient cost to remain profitable and offering higher quality and additional services to attract patients from competitors. In addition, competitive forces truly do not begin to take shape until existing business' market share is threatened. The existing health care system's barrier to price-based competition via fixed price payers limits any significant gains in cost-effectiveness and quality that would be generated from competition.

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

f. Are the proposed costs and methods of construction reasonable? Do they comply with statutory and rule requirements? ss. 408.035(1)(h), Florida Statutes.; Ch. 59A-3, 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 these applications 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 providing health services to Medicaid patients and the medically indigent? Does the applicant propose to provide health services to Medicaid patients and the medically indigent? ss. 408.035(1)(i), Florida Statutes

The applicant states that "Brooks' mission, vision and values continue to direct care and transfer to the proposed 60-bed Bartram Campus". Further, that "through the years, its mission remains unchanged to provide open access to all persons, including those who lack a payer".

Brooks uses AHCA Hospital Inpatient Data to show patient days and average length of stay for the five-year period ending June 30, 2019 (the most recent five-year period available), by payer source (including Medicaid, Non-Payment and Self-Pay, among other payer sources) in CON application #10630, page 9-1, Table 9-1. The chart shows Brooks Rehabilitation Hospital provided from 3.0 to 5.8 percent of its annual patient days to Medicaid patients and from 1.7 to 2.4 percent of its annual patients were non-payment.

Below is the applicant's estimate in days and percent of days for each payer source for CY 2022 and CY 2023. As previously noted Schedule 10, shows issuance of license is expected in November 2021, with initiation of service in January 2022. See the table below.

Forecast of Cases* and Days Age 18+ by Payer at the Bartram Campus First Two Years of Operation

Payer	CY 2022 Days	Percent of Days	CY 2023 Days	Percent of Days
Medicare	5,566	50.0%	7,455	50.0%
Medicare MC	1,336	12.0%	1,789	12.0%
Medicaid	111	1.0%	149	1.0%
Medicaid MC	334	3.0%	447	3.0%
Other (TriCare & WC)	779	7.0%	1,044	7.0%
Commercial & BCBS	2,672	24.0%	3,578	24.0%
Self/Charity	334	3.0%	447	3.0%
Total	**11,132**	**100.0%**	**14,909**	**100.0%**
Occupancy of 60 Beds	**50.8%**			**68.1%**

Source: CON application #10630, page ix, Table 2-2, page 3-10, Table 3-6 and page 9-2, Table 9-2

The reviewer notes that CON application #10630, Schedule 7B and the tables above show that in both years one and two, Medicaid/Medicaid Managed Care accounts for 4.0 percent and self-pay/charity accounts for 3.0 percent of total annual patient days.

Schedule 7B's notes indicate that self-pay/charity includes self-pay and charity patients based on Brooks Rehabilitation Hospital's and the service area's experience. Brooks maintains that it will accept all patients regardless of ability to pay, including non-pay and charity patients and that charges for these patients are written off in total.

F. SUMMARY

Genesis Rehabilitation Hospital, Inc. d/b/a Brooks Rehabilitation Hospital (CON #10630) proposes to construct a new 60-bed comprehensive medical rehabilitation hospital at the Bartram Campus in southeastern Duval County, Florida. The proposed project adds 60 CMR beds to the existing Class III hospital's 160 licensed beds for a total of 220 CMR beds.

The project involves 74,000 GSF of new construction, at a construction cost of $25,550,000. The total project cost is $45,362,810. Project costs include land, building, equipment, project development and start-up costs.

Brooks' Schedule C has four conditions to project approval, which will not be enforceable or included on the issued CON.

Need

In Volume 46, Number 12 of the Florida Administrative Register, dated January 17, 2020, a fixed need pool of zero beds was published for CMR beds for District 4 for the July 2025 planning horizon. Therefore, the CON application #10630 proposal is outside the fixed need pool.

As of January 17, 2020, District 4 had 252 licensed and zero approved CMR beds. During the 12-month period ending June 30, 2019, District 4's 260 licensed CMR beds experienced 77.27 percent utilization.

The applicant maintains the following "not normal or special circumstances" as major reasons to warrant project approval:

- Brook's current location lacks acreage for expansion
- Rule 59C-1.039, Florida Administrative C lacks a factor or consideration of in-migration
- Research in the applied setting shows overlap exists between the patient subgroups of skilled nursing facilities and CMR hospitals. However, short and long-term outcomes may not be as good in SNFs compared to those in CMR facilities
- CMS Patient Driven Payment Model replaces the Resource Utilization Groups reimbursement system for SNFs effective October 1, 2019, and the CMA reports negative effects on nursing home residents with respect to the reduction in reimbursement for therapies
- The "CMS 60% Rule" requires that providers attain at least 60% of treatment for 13 specific conditions. Failure to conform results in a significant financial penalty. When providers manage to the 60% rule, reduced access to services for patients' with other conditions occurs

Brooks states that the new freestanding hospital will be independent of existing acute care hospital affiliation and will increase access and availability of CMR services to all District 4 residents and specifically residents of south Duval County, District 4's most populous county.

The applicant states that filing the CON application as opposed to waiting for deregulation is based on the time it takes for construction and the importance of 'acting now' to construct the additional capacity and cites its letters of support from the area's acute care hospitals.

Brooks Rehab projects the 60-bed facility will have 11,133 patient days or 50.8 percent occupancy in year one (CY 2022) and 14,909 patient days or 60.1 percent occupancy in year two (CY 2023).

Quality of Care

Brooks demonstrates its ongoing ability to provide quality care.

Agency complaint records indicate that for the three-year period ending April 8, 2020, Brooks Rehabilitation Hospital had a total of two substantiated complaints.

Cost/Financial Analysis

Funding for this project is provided by related company financing and should be available as necessary.

Revenues and expenses appear reasonable. The project appears to be financially feasible.

Medicaid/Indigent Care

Brooks Rehab's annual patient days by payer sources for the five year periods ending June 30, 2019, shows the hospital provided from 3.0 to 5.8 percent of its annual patient days to Medicaid patients and from 1.7 to 2.4 percent of its annual patients were non-payment.

Medicaid/Medicaid Managed Care and self-pay/charity care are projected to be 4.0 and 3.0 percent of year one and two patient days.

Architectural Analysis

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 a have significant impact on either construction costs or the proposed completion schedule.

G. RECOMMENDATION

Approve CON #10630 to establish a new 60-bed CMR hospital in District 4, Duval County. The total project cost is $45,362,810. The project involves 74,000 GSF of new construction and a construction cost of $25,550,000.

CONDITIONS:

1. The proposed site for the new facility is the 115-acre parcel known as Bartram Campus as specified within the application's narrative.
2. Acquisition of the following devices:
    - Tyromotion Diego
    - Tyromotion Amadeo
    - Restorative Therapies Xcite
    - C-Mill Treadmill
    - Restorative Therapy RT300
    - Synchrony

    In the event that later enhancements to the devices above occur, Brook's intention is acquisition of state-of-the art technologies to enhance patients' functional outcomes. Thus, some substitutions may offer improvements to the specific devices above.
3. Three special programs appearing in the application. These are stroke, oncology and neuroscience.
4. Implementation of MediTech's Electronic Medical Record with enhancements as identified within the application.

Furthermore, the applicant understands that should a condition or conditions be imposed, that an annual report to the Agency must be submitted addressing the provisions of Rule 59C-1.103, Monitoring Procedures, Florida Administrative Code with respect to compliance with conditions. Failure to comply with conditions maybe result in a fine as set out in Rule 59C-1.021, Florida Administrative Code.

Measurement of Conditions

With respect to item #1, the site location, conformity with the condition results from the submission of required foundation and commencement of construction documents with the agency's Office of Plans and Construction. The annual compliance report includes the conformation of approval in the letter for the foundation plans.

The acquisition of equipment appearing in item #2 complies with the condition subsequent to the installations, a photograph and device description furnishes the proof of compliance with the condition for each device.

The special programs of stroke, oncology and neuroscience specify employees with advanced credentials in item #3. Annual compliance reporting includes the numbers of staff in each program and the position qualifications. The stroke program has additional accreditation from The Joint Commission that appears on the certificate.

Compliance with the condition in item #4, MEDITECH software installation for the electronic medical record, produces a license agreement, a copy of which establishes conformity with the condition and completes the certificate of need compliance report.

AUTHORIZATION FOR AGENCY ACTION

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

DATE: _____

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James B. McLemore
Operations and Management Consultant Manager
Certificate of Need