

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

VITAS Healthcare Corporation of Florida/CON #10632

201 S. Biscayne Blvd., Suite 400
Miami, Florida 33131

Authorized Representative: Louis R. Tamburro
Vice President of Development
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2. Service District/Subdistrict

Hospice Service Area (SA) 9B – Martin, Okeechobee and St. Lucie
Counties

B. PUBLIC HEARING

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

Letters of Support

VITAS Healthcare Corporation of Florida provides eight letters of support in Appendix 22 of CON application #10632. The Agency received no letters of support independently regarding this proposal. The reviewer notes the eight letters of support:

- Endorse VITAS overall and the proposed project
- Are dated March 9, 2020—April 6, 2020
- Signed by senior executives of the organizations
- Individualized composition
- Indicate a southeast Florida and/or Treasure Coast origin—four from SA 9B

Appendix 3 of application #10632 includes the letters and pages 11 - 13 and page 17 includes excerpts from them (see below).

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David Lieberman, Executive Administrator of ValueCare at Home writes:
“We very much support VITAS Healthcare’s application for a Freestanding inpatient unit because it will allow them to better serve the patients in that area. It will allow patients and families quality time together in an atmosphere that is comforting and peaceful.”

We have worked with VITAS for many years and we know and respect their commitment to those they serve. This inpatient unit will allow them to continue to provide the highest level of care for the patients and families who are most in need.”

Mary M. Barnes, President and CEO of Alzheimer’s Community Care®--
“It has come to my attention that VITAS Healthcare Corporation is requesting to gain approval for affording additional freestanding inpatient units for the Treasure Coast, which Alzheimer’s Community Care endorses. Within the Treasure Coast there is an anticipation of over 8,000 new homes (5,000 for 60 plus) being built within the next five years, and the need for these expanded units is going to become critical, especially as so many of these residents will be retirees.”

Being able to rely on such additional services that VITAS is requesting to our very vulnerable and fragile population is most important for the future delivery of quality of life resources, which is our most ardent quest.”

Judith Cruz, Chief Operating Officer, Treasure Coast Food Bank writes
“Serving this community since 1988, we see a need on a daily basis for more medical assistance for our seniors and their families. Therefore, we fully support VITAS Healthcare’s application to provide a freestanding inpatient unit for those deserving in our area.”

Josephina G. Carbonell, Senior Vice President. Long-Term Care & Nutrition Independent Living Systems (ILS) writes:
“Based on the long-term relationship that ILS and VITAS have built, we believe that VITAS Healthcare will be an ideal choice to build a much needed facility along the Treasure Coast to better serve the residents of that community.”

Brenda Dickerson, Executive Director, Love and Hope in Action says:
“Every day we see many of our seniors struggling, so we fully support VITAS Healthcare’s effort to provide a freestanding inpatient unit to better serve the members of our community who need end of life care. Certainly, this special place will help those in our community who do not have a home, but deserve compassion and dignity in the end of their life.”

Jaime Caldwell, President, South Florida Hospital & Healthcare Association (SFHHA) writes—*“We believe in the value of hospice services and know that VITAS Healthcare is committed to providing the highest level of care to the patients and families they serve. SFHHA supports approval of the CON for VITAS Healthcare freestanding inpatient Unit.”*

Nancy Austin, RN, CHPN, Southeast Florida Hospice and Palliative Nurses Association President and Former District Leader for Florida states: *“Our chapter is comprised of nurses, doctors, social workers, chaplains, nursing assistants, and other who work with patients at end of life in Southeast Florida. Our members readily agree that VITAS Healthcare has made a difference in providing cutting edge end of life care to all populations in our community who desire such care.”*

Our local and national chapters of HPNA look to VITAS Healthcare as the leaders for guidance and direction. The Southeast Florida Chapter of HPNA strongly endorses this pursuit of a VITAS freestanding inpatient unit along the Treasure Coast of Florida.”

C. PROJECT SUMMARY

VITAS Healthcare Corporation of Florida (CON application #10632), a Florida for-profit corporation, referenced as VITAS, or the applicant, proposes to establish a new 16-bed freestanding inpatient hospice facility in SA 9B on approximately 2.9 acres of vacant land in the Tradition area, adjacent to Cleveland Clinic Tradition Hospital, which is located at 10000 SW Innovation Way, Port St. Lucie, (St. Lucie County), Florida.

In support of the project, VITAS references CON #10564’s Condition #16 **“Inpatient Hospice House that Provides Shelter During Hurricanes.** To meet the needs of emergency shelter in Subdistrict 9B, VITAS will develop an inpatient hospice house with a community room designed to serve as a storm shelter for VITAS special needs residents who need to evacuate, staffed by VITAS, to reduce the burden in community shelters”.¹

The applicant’s parent company is VITAS Healthcare Corporation—the ultimate parent is CHEMMED Corporation, a publicly traded company. VITAS has provided hospice services in Florida for over 40 years and provides hospice services in SAs 1, 3A, 3C, 3E, 4A, 4B, 6B, 7A, 7B, 7C, 8B, 9B, 9C, 10 and 11. VITAS also has CON #10595 approved on March 13, 2020, to provide hospice services in SA 2A.

¹ Appendix 17 includes a copy of CON #10564, which approved VITAS to establish its SA 9B hospice.

VITAS has three freestanding inpatient hospice facilities in SA 3C – Lecanto (16 beds), SA 7A – Rockledge (16 beds) and SA 9C – Delray Beach (8 beds) and has CON #10565 approved to establish another in SA 11 – Miami-Dade County (16 beds).

The applicant estimates the issuance of license in December 2021 and initiation of service in January 2022.

Total project cost is \$9,633,174. Costs covered are for land, building, equipment, project development and start-up costs. The project involves 20,000 gross square feet (GSF) of new construction, with a total new construction cost of \$4,627,260.

On Schedule C of the application, VITAS indicates that it does not wish to accept any conditions on the proposed project.

Issuance of a CON is required prior to licensure of certain health care facilities. The review of a CON application and ultimate approval or denial of a proposed project is based upon the applicable statutory criteria in the Health Facility and Services Development Act (408.031-408.045, Florida Statutes and applicable rule criteria within Chapter 59C-1, Florida Administrative Code. An approved CON does not guarantee licensure of the proposed project. Meeting the applicable licensure requirements and licensure of the proposed project is the sole responsibility of the applicant.

D. REVIEW PROCEDURE

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes, rules of the State of Florida, and 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 provided in the application and independent information gathered by the reviewer.

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

Section 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 in its entirety with consultation from financial analyst Everett “Butch” Broussard of the Bureau of Central Services, who evaluated the financial data and Scott Waltz of the Office of Plans and Construction, who reviewed the application for conformance with the architectural criteria.

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

The following indicate the level of conformity of the proposed project with the review criteria and application content requirements found in Sections 408.035 and 408.037, Florida Statutes, and applicable rules of the State of Florida, 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? Or does the project proposed seek beds or services in excess of the fixed need pool? Rule 59C-1.008(2), Florida Administrative Code.

The Agency does not publish need for inpatient hospice beds. Hospice programs are required by federal and state law to provide hospice patients with inpatient care when needed (42 Code of Federal Regulations 418.108) and no more than 20 percent of a hospice’s total patient days may be inpatient days per Section 400.609(4), Florida Statutes. Inpatient care may be provided through contractual arrangements in hospitals and skilled nursing facilities (SNFs), and is generally provided on a short-term basis within the total hospice stay.

As previously stated, VITAS has three freestanding inpatient facilities:

- 3C – Lecanto (16 beds)
- 7A – Rockledge (16 beds)
- 9C – Delray Beach (8 beds)

VITAS also has CON #10565, issued on March 11, 2019, to establish a 16-bed freestanding inpatient hospice facility in SA 11 – Miami-Dade County.

Service Area 9B has four licensed hospice providers. The three other providers each have a freestanding inpatient hospice facility as shown below:

- Hospice of Martin and St. Lucie, Inc., The
 - Stuart / 16 beds
- Hospice of Okeechobee, Inc.
 - Okeechobee / two beds
- Hospice of the Treasure Coast, Inc.
 - Fort Pierce / 16 beds

As shown above, SA 9B has 34 licensed inpatient beds in freestanding inpatient hospice facilities. Should CON application #10632 be approved, all SA 9B hospice providers will have a freestanding inpatient hospice facility.

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:

- **Population demographics and dynamics;**
- **Availability, utilization and quality of like services in the district, subdistrict or both;**
- **Medical treatment trends; and**
- **Market conditions.**

According to VITAS, the proposed project is submitted:

- In the interest of the continued improvement of the community's health system
- In the belief that the proposed project operation will improve access by reducing distances traveled by patients and families
- To eliminate unnecessary discharges and readmissions to local hospitals, particularly those within a 12.5-mile radius of the proposed project in Port St. Lucie:
 - Resulting in economic efficiencies in the health care system
 - Ensuring a smooth and effective continuum of care for patients at their most critical stages

Population demographics and dynamics

As of January 2020, SA 9B's total age 65+ population is projected at 128,218 persons. The age 65+ population is projected to grow to 138,591 by January 2023. This is an increase of 10,373 age 65+ residents (or by 8.09 percent), as shown below:

**Hospice Service Area 9B/Martin, Okeechobee and St. Lucie Counties
Population from January 1, 2020 – January 1, 2023**

SA Population by age group	January 2020	January 2023	Population Increase/ (Decrease)	Percent Change
0-64	400,982	416,418	15,463	3.85%
65+	128,218	138,591	10,373	8.09%
SA 9B Total	529,200	555,009	256,809	4.88%

Source: Florida Agency for Health Care Administration *Population Estimates and Projections by AHCA District 2010 to 2030*, published February 2015

As shown above, SA 9B’s age 65+ population is expected to increase at a much faster rate (8.09 percent) when compared to the under age 65 population (3.85 percent), from January 2020 to January 2023.

St. Lucie County has SA 9B’s largest age 65+ population with 71,254 persons as of January 1, 2020. St. Lucie’s age 65+ population is projected to be 77,682 as of January 1, 2023, an increase of 6,428 persons or by 9.02 percent. As previously stated, VITAS proposes to locate the inpatient hospice facility in St. Lucie County.

VITAS states it utilized two population estimate sources in determining growth statistics for SA 9B (see CON application #10632, page 5 and Appendix 20):

- The Florida Demographic Estimating Conference, December 2019 and the University of Florida Bureau of Economic and Research, Florida Population Studies, Volume 53, Bulletin 186, January 2020
- The Florida Legislature Office of Economic Demographic Research, January 28, 2020

Based on the above, VITAS provides two vertical bar graphs (CON application #10632, page 6) that reflect estimated April 1, 2019 population and projected population growth in five-year increments from 2020—2045 by county and SA 9B combined. The applicant’s ‘Estimated Population by County’ bar graph indicates St. Lucie County has the largest population and the highest projected population growth.

VITAS uses Vx Data to show its SA 9B monthly growth in admissions since opening on July 8, 2019—March 2020 (see the table below). The applicant maintains this demonstrates its ability to penetrate the SA 9B market. The reviewer produces the partial table below based on VITAS 9B’s average daily census (ADC) and level of care as follows:

SA 9B VITAS ADC by Level of Care

ADC	JUL 2019	SEP 2019	NOV 2019	JAN 2020	MAR 2020
Homecare	10	59	90	122	146
Nursing Home	1	20	31	30	38
Continuous Care	1	2	3	5	5
Inpatient Care	1	2	3	2	7
Total	13	85*	127	160**	196

Source: CON application #10632, page 7 (partial reproduction)

Note: * and ** total 83 and 159 respectively.

The reviewer confirms that the applicant’s SA 9B VITAS ADC by Level of Care table, for each month from July 2019 through March 2020, VITAS had an increase in the total ADC. VITAS reported 489 SA 9B admissions from July 8, 2019 through December 31, 2019.²

Availability, utilization and quality of like services

The applicant discusses the licensed inpatient hospice facilities and corresponding licensed inpatient hospice beds in SA 9B (also in item E.1.a. of this report). VITAS states it has contracted bed arrangements with 15 nursing homes and two hospitals in SA 9B. Further, in addition to Cleveland Clinic Tradition Hospital (adjacent to the proposed project), there are three other major hospitals located within approximately 12.5 miles from which patients requiring higher levels of care are referred. Port St. Lucie Hospital (75 beds) was not included in the applicant’s three major hospital map on page 9 of application #10632. The general hospitals within approximately 12.5 miles of Cleveland Clinic Tradition Hospital (10000 SW Innovation Way, Port St. Lucie, Florida 34987), are listed below:³

- St. Lucie Medical Center (Port St. Lucie) – 8.36 miles
- Port St. Lucie Hospital (Port St. Lucie) – 9.85 miles
- Cleveland Clinic Martin North Hospital (Stuart) – 12.08 miles
- Lawnwood Regional Medical Center & Heart Institute (Fort Pierce) – 12.68 miles

VITAS uses *Hospice Analytics InfoMax* data to indicate that in 2018, there were 9,483 total Medicare inpatient hospice days of care provided by licensed providers in SA 9B and provides a table for 2018 Medicare claims. VITAS also provides a chart to illustrate estimated growth in General Inpatient (GIP) ADC, based upon VITAS’ experience of GIP days paid through Medicare and GIP Care including all payers. See the table below.

² Agency for Health Care Administration – VITAS’ hospice utilization report July-December 2019.

³ Source: the Agency’s website @ <https://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx>

	2018 Medicare Claims Data	2025 Estimates	2030 Estimates	Total Change Between 2018 and 2030
SA 9B GIP Days (Medicare Only)	9,483	10,341	10,952	11,469
Assumed 9B GIP Days (All Payors)	11,780	12,845	13,605.50	1,825
Estimated General Inpatient ADC	32.3	35.2	37.3	5.0
SA 9B Population	509,765	555,867	588,755	78,990

Source: CON application #10632, page 8.

Note: VITAS's notation "used April 1, 2019 Number" was not clear but it refers to the SA 9B population per Tab 20 of the application.

VITAS notes that 80.5 percent of CY 2018 GIP Days provided to patients in a VITAS unit were to patients who had Medicare as the payer source. Further, based on VITAS' projected growth in SA 9B GIP hospice days, additional beds will be needed, particularly as VITAS continues to positively impact the hospice utilization rate in this service area. VITAS concludes that "the proposed project will meet that need when the unit is completed in Q4 2021". The applicant also cites letters of support (see item B of this report) as a reflection of the community's interest in improved choice and access.

Medical treatment trends

VITAS states its experience in SA 9B is that hospice patients are often being referred and admitted at a very late stage in their disease trajectory. Further, this is evidenced by the fact that two of the three hospitals within 12.5 miles of the proposed project have 30 day readmission rates of 26 percent, which exceed the state average rate of 21 percent and 30 day mortality rates of six to seven percent which exceed the Florida average of five percent.⁴

VITAS asserts that as a result of this latent referral practice, many patients are being referred and admitted directly from acute care settings in the later stages of disease and are actively dying or require high acuity and complex care. Further, VITAS, its physicians and interdisciplinary team are widely recognized for their ability to address the high acuity needs and complex modalities that are encountered. VITAS lists 11 complex modalities of care on page 9 of the application.

Market conditions

VITAS states patients to be served in its inpatient hospice will be admitted from its home care census and three hospitals in the immediate area. Further, the project location is conveniently located off I-95 in an

⁴ Source: CON application #10632, page 8 per 'Medicare FFS Claims Data: 2018 Q4 - 2019 Q3 per app.trellahealth.com'

area which is not within an evacuation zone, adjacent to Cleveland Clinic Tradition Hospital and relatively central to three other major hospitals:

- Lawnwood Regional Medical Center & Heart Institute
- St. Lucie Medical Center
- Martin Medical Center

VITAS provides a map of the proposed project and the three hospitals listed above (page 9 of the application). This map shows that Martin Medical Center is Cleveland Clinic Martin North Hospital. Two additional maps are provided (on page 10 of the application) and VITAS indicates these show the proposed project is central relative to the age 65+ population in SA 9B. The Agency has already documented in the *Population demographics and dynamics* portion of this report that St. Lucie County (the location of the proposed project) has the highest single concentration of age 65+ residents of the three counties in SA 9B, with the highest population growth rate for the age 65+ residents in SA 9B, from July 2020 at least through July 2025. VITAS notes that its 783 admissions during July 2019—March 2020 were residents of 29 SA 9B ZIP Codes.

Schedule 7A shows the applicant anticipates the following total in-patient days, for the first two years:

- 4,088 (year one – CY 2022)
- 4,380 (year two – CY 2023)

2. Agency Rule Criteria and Preferences

- a. Rule 59C-1.0355 (7) Florida Administrative Code states that the Agency will not normally approve a proposal for construction of a freestanding inpatient hospice facility unless the applicant demonstrates that the freestanding facility will be more cost-efficient than contractual arrangements with existing hospitals or nursing homes in the service area. The application shall include the following:**

- (1) A description of any advantages that the hospice program will achieve by constructing and operating its own inpatient beds.**

VITAS cites the following advantages to be realized through the proposed project:

- Improve access to a higher level of care for symptom-managed patients in the general geographic area vs. the emergency room or seeking another inpatient hospice unit outside of their community
- The close proximity to the Cleveland Clinic Tradition Hospital and three other major hospitals in St. Lucie and

Martin Counties will enhance a smooth transition of patients into the VITAS inpatient unit, thereby augmenting the patient and family experience

- Patients receiving hospice services will have an additional option for home-like inpatient services in a more convenient and more accessible location
- The proposed freestanding inpatient unit will include a community room designed to serve as a storm shelter for VITAS special needs residents who need to evacuate, staffed by VITAS, to reduce the burden in community shelters. The room can be converted in times of emergency to serve VITAS special need residents who require assistance that exceeds services provided at a general population shelter, particularly when there is no other sheltering option. Treasure Coast Homeless Services Council, Inc. data indicates that there were 1,379 homeless individuals on the Treasure Coast on January 22, 2020.⁵ VITAS serves and supports all residents, including those that are homeless

CON application #10632, Appendix 22 contains a news article about VITAS' \$45,000 donation to the Treasure Coast Food Bank, as an example of VITAS' involvement and support provided in the communities it serves.

- The cost for inpatient unit space within facilities has escalated to a level such that 'rental' space has become more expensive than the cost of operating a freestanding unit. The average cost at the proposed VITAS freestanding inpatient hospice facility is \$777.02 in year one and \$733.96 in year two per patient day ("PPD"), assuming a 70 percent and 80 percent occupancy, respectively. This compares favorably to the current average cost of contracted beds with facilities in SA 9B of approximately \$800.00 PPD (ranging from \$720.25 PPD to \$912.31 PPD).

VITAS emphasizes that the reduction of space cost will allow the redirection of funding to support local community programs and continued enhancement of high-quality, high-acuity care for patients and families it serves.

(2) Existing contractual arrangements for inpatient care at hospitals and nursing homes.

⁵ Florida's Treasure Coast is defined as "comprising Indian River, St. Lucie, Martin and in some definitions Palm Beach Counties" per Wikipedia. Per Treasure Coast Homeless Services Council, Inc.'s website their headquarters is in Indian River County. Indian River County is Hospice Service Area 9A.

CON application #10632, Appendix 23 contains an alphabetical listing of 17 area facilities (hospitals and SNFs) that VITAS indicates it has at least one but in most cases a combination of all routing, general inpatient and respite inpatient care. Seven of the 17 facilities are listed below:

- Fort Pierce Health Care
- Life Care Center of Port St. Lucie
- Martin Memorial Medical Center
- Martin Nursing and Rehabilitation
- Port St. Lucie Rehabilitation and Healthcare
- St. Lucie Medical Center
- Stuart Rehabilitation and Healthcare

VITAS stresses that contract bed arrangements are sub-optimal in terms of patient care and hospice program staff productivity because patients are situated in various locations within a facility and are often cared for by separate clinical teams that are not specifically trained in end of life hospice protocols. While contract scatter beds are a less than desirable option, VITAS states it “will utilize them, if it is the right thing for the patient”.

VITAS indicates that due to high facility occupancy rates, it is often not able to access space and that the decision is made at the sole discretion of the host facility (if the facility has space available). Further, for hospice inpatient care in an SNF, the facility must have 24-hour RN staff onsite, which a majority of SNFs do not have. VITAS stresses that although a few of these contracted rates for scattered inpatient contract beds may appear to be favorable, those beds are almost truly non-existent and it has not been able to provide inpatient care at these locations because the facilities hesitate to accept low or negative margin business.

VITAS notes that during July 8, 2019-March 31, 2020, it provided 730 general inpatient days of care in SA 9B, or 2.2 percent of the program’s total days of care. Further, given that contract bed availability is often limited and VITAS’ not having access to a freestanding inpatient facility in this market, it believes constructing its own freestanding inpatient hospital facility is appropriate in order to meet the needs of patients and families in this market.

VITAS states that due to the periodic challenges presented in situations such as that currently being experienced due to the COVID-19 (Coronavirus), hospitals and facilities are looking to reserve bed space for those patients and are discharging other

patients to alternate locations. The applicant indicates that as a result, VITAS has experienced an increase in patients requiring higher levels of care recently, which creates a need for additional inpatient bed space.

(3) Anticipated sources of funds for the construction.

Funding for the proposed project will be from VITAS's ongoing operating cash flows and, if required, its parent organizations, VITAS Healthcare Corporation and Chemed Corporation, who have committed to provide any additional resources or funding if necessary. The reviewer notes that the availability of funds and construction cost are detailed in items E.3.c. and E.3.f. of this report.

- b. Rule 59-1.0355(8) Florida Administrative Code: Semi-Annual Utilization Reports. Each hospice program shall report utilization information to the Agency or its designee on or before July 20th of each year and January 20th of the following year.**

The applicant does not respond to this criterion/preference. VITAS regularly complies with the Agency's semi-annual hospice admissions reporting, which does not include reporting inpatient hospice days.

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 previously stated, SA 9B has three freestanding inpatient hospice facilities with a total of 34 GIP beds.

VITAS restates that the proposed project is intended to provide improved:

- Quality of care for the applicant's patients
- Resiliency of the unit
- Accessibility for families and staff
- Operational efficiencies by reducing burdens on redirecting patients to distant inpatient facilities

VITAS reiterates that delivery of hospice services in a freestanding inpatient hospice facility offers important advantages to the hospice patient and family members compared to those in a contracted acute care bed or a contracted SNF bed, and that dedicated inpatient units operated by hospice providers embrace the hospice philosophy and

approach to patient care. VITAS stresses that acute care hospitals and nursing homes have fundamentally different missions from hospices, and those differences are reflected in the skills and approaches of the professionals who staff each type of care setting. Further, the proposed project is designed to support family participation and presence in a more comfortable “home like” setting.

VITAS restates that due to lower cost of space for the proposed project, versus the escalating rates for facility-based space, it believes that the proposed facility provides for an improved quality and extent of services provided to the hospice patient and family. VITAS contends that this improved quality of service will induce competition with respect to choice and patient satisfaction with the services available to the community.

The reviewer notes that VITAS provided a projected cost per patient day savings estimate, pursuant to approval of this proposal (see item E.2.a. (1) of this report).

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

VITAS provides its copies of its hospice licenses in Appendix 19 of the application. VITAS states it is certified by Medicare and Medicaid and meets or exceeds all state and federal requirements. The applicant describes VITAS’ Quality Assessment and Performance Improvement (QAPI) program as an ongoing, organization-wide, data-driven program involving data collection, analysis and performance improvement activities of quality metrics to ensure patients and families receive the highest quality of care possible. Membership, functions and responsibilities/activities of the QAPI Committee are discussed on pages 15 and 16 of the application.

VITAS’ QAPI program goals include on-going improvement of patient/family palliative outcomes, experience of care and overall hospice performance. A description of how these goals are achieved and maintained is on page 16 of the application. These include:

- The governing body and program senior management strive to create and maintain a work environment where problems can be openly addressed and care and service improvement ideas are encouraged
- A plan for correcting deficiencies within specified periods is developed, implemented and documented
- Reviews are systematic and encompass various components of care and services. Data is entered in a centralized database, which enables ongoing reporting and analysis
- Part of overall performance is the VITAS QAPI Dashboard, which:

- Tracks over 50 clinical and operational measures
- Contains quality measures above and beyond those mandated by the CMS Hospice Quality Reporting Program, including but not limited to:
 - Death attendance
 - Appropriate utilization of higher levels of care and pain reduction within 48 hours of admission
- Is updated on a quarterly basis to facilitate ongoing performance evaluation – this tracks and trends performance over time as well as benchmarking performance against other VITAS hospice programs nationwide
- Depending on performance outcome and analysis, an appropriate course of action may include the initiation of a performance improvement project
- Opportunities for improvement are prioritized based upon those with the greatest impact on care and services

The reviewer notes that the applicant does not provide for Agency review policies, procedures, examples or samples of the VITAS QAPI and the VITAS Dashboard. VITAS states that the Agency can rely on VITAS’ expertise, economies of scale and experience developed in Florida over the past 40 years.

As previously stated, VITAS provides hospice services in the following SAs: 1, 3A, 3C, 3E, 4A, 4B, 6B, 7A, 7B, 7C, 8B, 9B, 9C, 10 and 11. VITAS is CON approved to provide hospice services in SA 2A, pursuant to CON #10595, issued on March 13, 2020. Agency records indicate that for the three-year period ending April 8, 2020, VITAS had a total of 10 substantiated complaints. Each substantiated complaint can encompass multiple complaint categories. Below is a table to depict the substantiated complaints by the applicable complaint category.

**VITAS Substantiated Complaint History by Category
Three-Year Period Ending April 8, 2020**

Complaint Category	Number Substantiated
Quality of Care/Treatment	8
Resident/Patient/Client Rights	2
Administration/Personnel	1
Physical Environment	1

Source: Agency for Health Care Administration Complaint Records

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

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

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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 VITAS Healthcare Corporation of Florida (Applicant) financial ratios regardless of type to benchmarks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities.

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

10632 - VITAS Healthcare Corporation of Florida		
	Dec-18	Dec-17
Current Assets	\$43,242,171	\$38,130,164
Total Assets	\$624,834,529	\$544,953,654
Current Liabilities	\$27,610,029	\$27,429,944
Total Liabilities	\$28,778,779	\$27,978,152
Net Assets	\$596,055,750	\$516,975,502
Total Revenues	\$579,808,704	\$543,052,163
Excess of Revenues Over Expenses	\$79,080,248	\$34,115,034
Cash Flow from Operations	\$78,383,099	\$47,455,032
Short-Term Analysis		
Current Ratio (CA/CL)	1.6	1.4
Cash Flow to Current Liabilities (CFO/CL)	283.89%	173.00%
Long-Term Analysis		
Long-Term Debt to Net Assets (TL-CL/NA)	0.2%	0.1%
Total Margin (ER/TR)	13.64%	6.28%
Measure of Available Funding		
Working Capital	\$15,632,142	\$10,700,220

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

Capital Requirements and Funding:

On Schedule 2, the applicant indicates capital projects totaling \$20,741,398, which includes \$9,633,174 for this project. The applicant indicates on Schedule 3 of its application that funding for the project will be by operating cash flows. With \$78.3 million in cash flows from operations, the applicant has sufficient resources to fund this project and all capital expenditures.

Staffing:

VITAS does not provide year two staffing schedules. The applicant’s ‘Schedule 6’ indicates 103.0 FTEs in “year ended 2022”. However, ‘Schedule 6 & 6A’ notes indicate these FTEs are actually the current “VITAS Treasure Coast” staff and ‘Schedule 6A’ shows the total 114.0 FTEs in “year ended 2022”. The project’s 11.0 FTEs are shown below.

**VITAS Healthcare Corporation of Florida/CON application #10632
Proposed 16-Bed Freestanding Inpatient Hospice Facility in SA 9B
Staffing**

Position	Year Ending 2022	Year Ending 2022
Administration		
Director of Nursing –Team Mgrs.	1.0	1.0
Secretary	1.0	1.0
Nursing		
RNs	5.0	5.0
Nurses’ Aides	2.0	2.0
Social Services		
Social Services Director-SW	1.0	1.0
Chaplain	1.0	1.0
Grand Total	11.0	11.0

Source: CON application #10632, Schedule 6 (partial)

Notes to Schedule 6 indicate that:

- Staffing intended for the proposed project is based on the interdisciplinary VITAS model
- Dedicated staff for the proposed unit will be augmented when needed by the existing 120 staff (103 FTEs as of February 2020) in the Treasure Coast program or “over 135 staff members in

Subdistrict 9B” as well as the additional 6,500+ employees in other VITAS Florida hospice programs and central support staff⁶

- Contracting is intended for Registered Dietician/Nutritionist when needed

Conclusion:

Funding for this project and the entire capital budget should be available as needed.

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

The immediate and long-term financial feasibility of the project is tied to expected profitability. Profitability for hospice is driven by two factors, volume of patients and length of stay/condition of the patient. A new hospice program in a service area with published need is more likely than not to be financial feasible since patient volume and mix is presumed to be available in sufficient amounts to sustain a new program. The focus of our review will be on the reasonableness of projections, specifically the revenue.

The vast majority of hospice days are paid by Medicare (Medicaid is the next largest payer with similar reimbursement rates). As such, revenue is predictable by day and service type. Schedule 7 includes revenue by service type. We have divided the applicant’s projected revenues by the estimated Medicare reimbursement rates for each level of service in year two to estimate the total patient days that would be generated by that level of revenue. The results were then compared to the applicant’s estimated number of patient days. Calculated patient days that approximate the applicant’s projected patient days are considered reasonable and support the applicant’s assumptions of feasibility. Calculated patient days that vary widely from the applicant’s projected patient days call into question the applicant’s profitability assumptions and feasibility. The results of the calculations are summarized below.

⁶ VITAS provides three different staff numbers for SA 9B, Notes to ‘Schedule 6 & 6a’ cite the 120 and 103 FTEs and the “over 135 staff” employed is from page 17 of the application.

CON Action Number: 10632

CON #10632	VITAS Healthcare Corporation of Florida Revenue Table (Year Two - CY 2023)				
Martin, Okeechobee and St. Lucie	Wage Component	Wage Index	Adjusted Wage Amount	Unadjusted Component	Payment Rate
Base Rate Calculation					
Routine Home Care 1-60 days	\$131.04	0.9068	\$118.83	\$59.67	\$178.50
Routine Home Care 61+ days	\$103.56	0.9068	\$93.91	\$47.16	\$141.07
Continuous Home Care	\$940.24	0.9068	\$852.61	\$428.18	\$1,280.79
Inpatient Respite	\$238.89	0.9068	\$216.63	\$202.43	\$419.06
General Inpatient	\$640.96	0.9068	\$581.22	\$360.39	\$941.61
Year Two Comparison	Inflation Factor Year Two	Inflation Adjusted Payment Rate	Schedule 7 Revenue Year Two	Continuous Service Hours Provided	Calculated Patient Days
Routine Home Care 1-60 days	1.137	\$202.89	\$0		0
Routine Home Care 61+ days	1.137	\$160.35	\$0		0
Continuous Home Care	1.137	\$1,455.81	\$0	0	0
Inpatient Respite	1.137	\$476.32	\$354,248		744
General Inpatient	1.137	\$1,070.29	\$3,466,959		3,239
		Total	\$3,821,207		3,983
			Days from Schedule 7		4,380
			Difference		397
			Percentage Difference		9.06%

Staff bases its analysis of patient days on two key assumptions in this particular CON:

- 1., As presented on Schedule 7A, revenues are projected for Daily Hospital Service and Other inpatient Ancillary, which staff assumes are meant to read General Inpatient and Inpatient Respite, respectively.
- 2., The applicant's Schedule 7A, Projected Operating Year 1 (Ending December 31, 2023) is in fact Projected Operating Year Two.

As such, the applicant's projected patient days are 9.06 percent or 397 days greater than the number of patient days calculated by staff. Operating profits from this project are expected to increase from \$223,325 in year one to \$464,298 in year two.

Conclusion:

This project appears to be financially feasible, although patient days, and thus revenue, may be overstated.

- 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 price-based competition that would result in increased efficiencies, service, and quality is limited in health care in general and in hospice specifically. 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 hospice, price-based competition is almost non-existent. With the revenue stream essentially fixed on a per patient basis, the available margin to increase quality and offer additional services is limited.

Conclusion:

Strictly, from a financial perspective, this project will not have a material impact on price-based competition.

- 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 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 not required before the commencement of any construction, but approval will be required from the local authority having jurisdiction over building 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.**

As previously stated, Hospice programs are required by federal and state law to provide hospice patients with inpatient care when needed (42 Code of Federal Regulations 418.108). Hospice care also must be provided regardless of ability to pay and regardless of age, race, religion, sexual orientation, diagnosis, payer source or financial status.

VITAS states it has consistently admitted and provided care to patients irrespective of their ability to pay. Further, VITAS provided \$7,938,000 in charity care and \$26,830,766 in Medicaid/Managed Medicaid to hospice patients YTD December 2019. VITAS' hospital-based and freestanding inpatient units together provided \$1,316,054 in charity and \$3,341,949 in combined Medicaid/Managed Medicaid and five percent (2,273 days) of care in charity and eight percent (4,201 days) of care to Medicaid patients.

VITAS states intent to continue providing hospice services to all patients who require hospice services regardless of their ability to pay.

VITAS's Schedule 7A indicates that 566 of the year one's 4,088 total patient days or 13.85 percent and 604 of year two's 4,380 patient days (13.79 percent) will be provided to Medicaid/Medicaid managed care patients. Charity care is not addressed.

F. SUMMARY

VITAS Healthcare Corporation of Florida (CON application #10632), a Florida for-profit corporation, proposes to establish a 16-bed freestanding inpatient hospice facility in SA 9B (St. Lucie County, Florida) in the Tradition area (adjacent to Cleveland Clinic Tradition Hospital) in Port St. Lucie, Florida. VITAS' parent company is VITAS Healthcare Corporation, with the ultimate parent - CHEMMED Corporation, a publicly traded company.

VITAS specifically references CON #10564, Condition #16, "Inpatient Hospice House that Provides Shelter During Hurricanes" and maintains that to meet this CON condition, the building will be constructed to include a community room designed to serve as a storm shelter for VITAS special needs residents who need to evacuate and staffed by VITAS to reduce the burden in community shelters.

Total project cost is \$9,633,174. Costs covered are for land, building, equipment, project development and start-up costs. The project involves 20,000 GSF of new construction, with a total new construction cost of \$4,627,260.

VITAS does not offer any Schedule C conditions to the proposed project.

Need/Access:

- The Agency does not publish need for inpatient hospice beds
- SA 9B has three freestanding inpatient hospice facilities with a total of 34 beds
- The proposed project location is in St. Lucie County, which SA 9A's largest number and projected growth of residents age 65+
- VITAS states the project will enhance SA 9B's continuum of services available, improve access by reducing travel distances for patients and families and eliminate unnecessary discharges and readmissions to local hospitals – four of which are within a 12.5 mile radius of the proposed project
- VITAS demonstrated ability to penetrate the SA 9B market, as evidenced by its 13 ADC in July 2019 (first month of operation) to an ADC of 196 patients in March 2020
- Community support that reflects increased choice and access
- SA 9B hospice patients are often being referred and admitted at a very late stages in their disease trajectory, are actively dying or are in need of high acuity and complex care and VITAS is widely recognized in addressing the needs of these populations
- Assuming a 70 percent occupancy in year one and an 80 percent occupancy in year two, the freestanding inpatient hospice facility's average cost per patient day is estimated to be:
 - \$777.02 (year one – ending December 31, 2022)
 - \$733.96 (year two – ending December 31, 2023)
- The above cost estimate compares favorably to VITAS's current SA 9B contracted bed average of \$800.00 per patient day
- VITAS projects 4,088 year one and 4,380 year two total annual patient days

The Agency finds that the applicant, on balance, met the statutory and rule requirements to approve a new inpatient hospice facility in Hospice Service Area 9B.

Quality of Care:

- VITAS has freestanding inpatient hospice facilities in SAs 3C, 7A and 9C and CON approval to establish another in SA 11

- The applicant provided a detailed discussion of its ability to deliver quality care
- During the three-year period ending April 8, 2020, VITAS hospice affiliates had a total of 10 substantiated complaints

Financial Feasibility/Availability of Funds:

- Funding for this project and the entire capital budget should be available as needed
- This project appears to be financially feasible, although patient days, and thus revenue, may be overstated
- Strictly, from a financial perspective, this project will not have a material impact on price-based competition

Medicaid/Indigent/Charity Care:

- Hospice programs are required by law to provide services to all who seek them
- VITAS states it provided \$7,938,000 in charity care and \$26,830,766 in Medicaid/Managed Medicaid to hospice patients and provided \$1,316,054 in charity and \$3,341,949 to Medicaid/Managed Medicaid GIP care (five and eight percent respectively of its total GIP days) YTD December 2019
- The applicant's Schedule 7A indicates that 13.85 percent of year one and 13.79 percent of year two's total annual patient days will be provided to Medicaid/Medicaid HMO patients. Schedule 7A does not address charity care

Architectural:

- 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

G. RECOMMENDATION

Approve CON #10632 to establish a 16-bed freestanding inpatient hospice facility in Hospice Service Area 9B, St. Lucie County. The total project cost is \$9,633,174. The project involves 20,000 GSF of new construction and a total construction cost of \$4,627,260.

Condition - Inpatient Hospice House that Provides Shelter During Hurricanes- To meet the needs of emergency shelter in Subdistrict 9B, VITAS will develop this inpatient hospice house with a community room designed to serve as a storm shelter for VITAS special needs residents who need to evacuate, staffed by VITAS, to reduce the burden in community shelters.

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: _____

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