

STATE AGENCY ACTION REPORT
ON APPLICATIONS FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

Brevard HMA Hospice, LLC/CON application #10695

7840 Graphics Drive, Suite 100
Tinley Park, Illinois 60477

Authorized Representative: Bryan Niehaus, JD
Authorized Representative
(708) 478-7030

Hospice of the Treasure Coast Incorporated/CON application #10696

5000 Dunn Road
Ft. Pierce, Florida 34981

Authorized Representative: Jackie Kendrick, President and CEO
(772) 403-4500

Moments Hospice of Indian River, LLC/CON application #10697

820 Lilac Drive, N., Suite 210
Golden Valley, Minnesota 55422

Authorized Representative: Sol Miller
Chief Executive Officer
(612) 655-5242

2. Service District/Subdistrict

Service Area (SA) 9A (Indian River County)

B. Public Hearing

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

Letters of Support

The applicants submitted letters of support with their applications, and some were received by the Agency independently. These letters are briefly described below.

Brevard HMA Hospice, LLC (CON application #10695) received a letter of support from Senator Debbie Mayfield, Majority Leader, 17th District (Indian River and part of Brevard County). Brevard HMA Hospice, LLC provides a large number (approximately 80) letters of support from Indian River County residents and/or medical staff members in Appendix I on pages 307 - 404 of CON application #10695 in the following categories:

- Provider Executives/Administrators(two from Aqua Home Care)
- Physicians and Practitioners (15)
- Provider Staff (33)
- State/County/City Government (former Mayor of Vero Beach and former Supervisor of Elections)
- Other (approximately 24 Indian River residents)

Henry Howle, Former Mayor of Vero Beach writes “During my service as mayor of Vero Beach, I had the privilege of listening to the needs of Vero Beach residents. In our area we are experiencing rapid population growth, especially with our senior citizens. Their priority issue has always been having access to quality healthcare services. For them, it is a quality-of-life issue. There is no question that the demand for Hospice care is only going to grow, and we need to be planning for that eventually. I know Mederi Hospice will bring LHC Group’s national excellence to our community, improving Hospice care access and quality, fall integrating Hospice care with local providers.”

The applicant presents various excerpts of letters of support on CON application #10695, pages 24 and 25, 35, 43, 46, 57 and 91-93. The reviewer notes that most of the letters of support presented by excerpt are LHC Group staff/executives/board member(s). Further, while of a form letter variety, area residents/local medical personnel indicate that the applicant will bring national excellence to this community, improving hospice care access and quality, integrating hospice care with local providers” and/or their own input about positive experience with LHC and support for the applicant as a provider for choice and competition.

Hospice of the Treasure Coast Incorporated (CON application #10696) has approximately 30 letters of support from SA 9A individuals indicating that Treasure Coast Hospice will provide quality care and a hospice choice for Indian River County residents. These include but not limited to letters from :

- Robbie Brackett, Mayor, City of Vero Beach
- Tammy K. Bursick, MMC, City Clerk, City of Vero Beach
- Timothy E. Moore, PhD, President, Indian River State College
- Meredith Egan, CEO, United Way of Indian River County
- Andrew Shook, CEO of Assist Home Healthcare
- Brian K. Bauer, President/CEO, CareerSource Research Coast

Excerpts of letters from the latter four above and others were included on the application's pages 9-12.

Moments Hospice of Indian River, LLC (CON application #10697) received numerous letters of general support from within and outside of SA 9A from Nurses and Nurse Practitioners, Assisted Living Facilities (ALFs) and Skilled Nursing Facilities (SNFs), Other Individuals, Businesses, Religious and Community Leaders.

Moments provides a table showing its letters of support volume by categories in the application's Attachment 8.

A common theme expressed in the applicant's letters is the need for another hospice option in the service area and their support for Moments to be that option.

Letters of Opposition

VNA Hospice of Indian River County, Inc., the SA's sole (not-for profit) hospice provider since October 20, 1986, submitted opposition in the form of a 26-page letter signed by Lundy Fields VNA President/Chief Executive Officer. The letter also included Exhibit A (VNA Indian River's Informational Brochures/Programmatic Documents) and Exhibit B (Letters of Support) in opposition to the applicants' projects.

VNA's opposition cites the absence of numeric need and contends that "the applicants bear the heavy burden of demonstrating "special circumstances" which justify approval" of their projects. VNA's background of serving Indian River County residents and summary of its hospice services including services outside the Medicare benefit are discussed on pages 4 – 7.

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Data is provided documenting VNA Hospice's service provision to Indian River County residents. Medicare Hospice patients served based on HealthPivots DataLab data are detailed and VNA notes 65.9 of every 100 of Indian River County residents who were also Medicare patients were receiving hospice care at the time of death in federal FY 2019 (ending September 2019). This means Indian River County had the 4th highest death service ratio in the state. In regard to the Hispanic population during 2020, Indian River had the 8th highest death service ratio at 51.5 which was higher than the state average of 46.6. The Indian River County's black population service ratio was the 6th highest rate at 51.8 in the state, which averaged 40.5.

VNA addressed quality of care on pages 16 – 19, indicating it provides high quality care. CAHPS scores were cited and VNA indicates rating of the hospice and willing to recommend are considered overall quality scores for hospice providers. VNA notes it scored 91 percent on "willingness to recommend" this hospice and it was 6th highest for percent of survey participates rating its program a '9' or '10' during the January 1, 2018 – December 31, 2019 CAHPS review period.

A comparison of the applicants CAHPS scores on the above was provided on pages 18-19. VNA cites Moments 74 percent of respondents rating its hospice a 9 or 10, and 77 percent would recommend this hospice. Brevard HMA is stated to have scores similar to VNA's and therefore VNA contends Brevard would offer no improvement in quality. Treasure Coast scores of 85 percent rated it 9 or 10 (same as VNA's) and 90 percent would recommend Treasure Coast compared to 91 percent for VNA. VNA concludes here that "none of the applicants can argue that there is a lack of hospice quality in Indian River County or provide any evidence" their program would offer superior quality.

VNA's opposition letter includes excerpts from its Exhibit B letters on pages 19-25. All letters in Exhibit B indicate the writers support for VNA and cite the services VNA provides for the community. A common theme of many of the opposition letters is the writer's belief that "an additional hospice program will jeopardize VNA's ability to carry out its mission to optimize quality of life for everyone regardless of their circumstances."

VNA concludes there are no data points or statistics to support need for another hospice program in SA 9A. Stated reasons supporting its conclusion are reproduced verbatim below:

- ✓ There is no numerical need for an additional hospice program in the service area;

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- ✓ The Medicare patient hospice death service ratio in Indian River County ranks 4th in the state out of 67 counties, and is just slightly below the highest-ranking county statewide (65.9 in Indian River compared to 67.4 in St. Johns);
- ✓ Indian River ranks amongst the highest death service ratios in the state for Black and Hispanic populations, which are traditionally underserved across the state of Florida, evidencing VNA's successful outreach to these populations;
- ✓ VNA produces high quality hospice care, and the proposed project would not offer increased quality for hospice patients in Indian River County;
- ✓ VNA has overwhelming community support and received both letters of support for its continued service to Manatee County, as well as letters describing the lack of need for an additional provider in the area and the detrimental effects the entrance of a new provider might have on the market;
- ✓ VNA serves patients across all service settings, including home, hospitals, hospice facilities, nursing homes, assisted living facilities, and other settings;
- ✓ VNA serves patients with terminal illnesses, including patients across a wide variety of disease categories that are consistent with Indian River County resident causes of death; and
- ✓ VNA's patients have a very low hospital readmission rate, which provides evidence that it is extremely effective in treating and controlling patient symptoms during the course of end-of-life care.

The reviewer recognizes that VNA's "overwhelming community support" reference to Manatee County, is a scrivener's error likely due from using TideWell Hospice's opposition letter to having a competitor in SA 6C. The reviewer notes that per the Agency's website VNA Hospice of Indian River County Inc.'s "Willingness to recommend the hospice" score was 89 percent.

The Agency independently received three letters of opposition to Indian River County residents in need of hospice services having an alternative to VNA. They all conveyed that an additional hospice would hinder VNA's ability to "carry out its mission to optimize quality of life regardless of their circumstances." These include:

- Ford J. Fegert, PA Attorney & Mediator
- Barbara Pearce, Executive Asst. - Gifford Youth Achievement Center
- Emily Sherwood, V.P. VNA & Hospice Foundation (also included in VNA's opposition Exhibit B)

Mr. Ford Fegert suggested with the approval of another hospice provider VNA's "advantages of economy of scale would be curtailed, if not lost altogether."

C. PROJECT SUMMARY

The applicants are proposing to establish a new hospice in Indian River County, which presently has one hospice program – VNA Hospice of Indian River County. The projects are submitted in the absence of published need but each applicant contends special circumstances exist to warrant approval of their project.

Brevard HMA Hospice, LLC (CON application #10695), also referenced as Brevard HMA or the applicant, is a for-profit entity licensed to operate Wuesthoff Health System Brevard Hospice and Palliative Care (SA 7A – Brevard County). The applicant refers to the project as Mederi Hospice.

Brevard HMA Hospice is an affiliate of/managed by LHC Group (or LHC), which it indicates operates in 35 states and the District of Columbia providing "a broad array of services, including home health, hospice, palliative care, home and community based services, long-term acute care hospitals, advanced practice providers and health care innovation service lines-including Imperium Health our ACO management company".

In this batching cycle, LHC Group also proposes to establish new hospice programs in SAs 1, 3B, 6B, and 9C. Brevard HMA Hospice, LLC, submitted all of these except the SA 1 application which was filed by LHC's OMNI Home Health-District 1, LLC.

Total project costs are projected to be \$378,485.60 and include equipment, project development, and start-up costs. The applicant expects issuance of license and initiation of service in July 2022.

Brevard HMA Hospice, LLC proposes to condition the award of this CON application upon the following:

Commitment to Nursing Program Support

- **COMMITMENT:** LHC Group, on behalf of Mederi Hospice, commits to offering \$35,000 to a local nursing program within District 1 (applicant's typo re District 1 as this is a SA 9A project) to support the development of a hospice and palliative care training course, along with LHC Group offering students rotations under its new

hospice program. LHC Group has experience in supporting local nursing education programs and looks forward to participating and supporting the growing workforce needs for hospice care into the future. LHC Group's "Measure" indicates it expects to identify, select, and fund a partner within 2 years of its hospice program opening but will seek to conclude the process as soon as possible.

Commitment to Palliative Care Program Development

- **COMMITMENT:** Mederi Hospice commits to establishing a palliative program for the service area once the program operates at an ADC of 50 – which LHC Group expects to reach by the end of its first year based on its projections. This will ensure the continuum of care is secured for patients that are often approaching a need for hospice, but have not yet qualified, are able to receive treatments they require under palliative care.

Commitment to Serve Patients without Primary Caregivers

- **COMMITMENT:** Mederi Hospice commits to make funding in the amount of \$25,000 available for free room and board at inpatient facilities to support patients without a primary caregiver. These funds will provide patients with care options otherwise unavailable and alleviate undue stress at the end of life.

Commitment to Serve the Homeless Population

- **COMMITMENT:** Mederi Hospice commits to targeting and serving the homeless population of District 9A as part of our program development should we be approved to provide hospice services. We will set aside \$25,000 to specifically fund support for homeless patients and execute a program of outreach and offer care through local organizations such as Treasure Coast Homeless Services Council, Inc. in accord with our charity care guidelines to ensure those patients in need of care are not denied access based on their means to pay.

Commitment to Support Local Department of Aging Services

- **COMMITMENT:** Mederi Hospice commits to funding the Area Agency on Aging of Palm Beach/Treasure Coast, Inc. organization with \$25,000 to support their existing programs for the elderly. With most hospice patient being of advanced age, the council for aging provides support services that continue to benefit, educate, and serve hospice patients and their families both before and during their hospice benefit. LHC Group's "Measure" states it will complete the donation within its first year of operation and report on the donation as part of its annual report to AHCA.

Hospice Promise Foundation

- **COMMITMENT:** Beyond its above commitments, LHC Group commits to funding its Hospice Promise Foundation with \$25,000 to support local requests for support from patients. This will ensure access to charitable funding for our patients without competing with local providers for funds.

Community Hospice Education

- **COMMITMENT:** Mederi Hospice commits to funding and providing specific community education and outreach regarding availability of hospice services within the service area over the first two years of service implementation. Mederi Hospice commits to:
 - a. Conducting at least fifty (50) one-on-one outreach sessions with healthcare providers and community organizations.
 - b. Monthly Facebook Live presentations such as Hospice Hangout to provide end-of-life education and support to the community.
 - c. Initiate the Pet Peace of Mind Program within the first 24 months. This is a non-profit program that helps patients with terminal illness provide adequate care for their pets as well as helping with placement of pets if needed.
 - d. Initiate Grief Speak online grief support program within the first 3 months that is available for any families served by the location as well as anyone in the community needing support. Grief Speak is presented every second Tuesday of the month from 6-8pm CST. During Grief Speak, one of LHC Group's bereavement coordinators or chaplains makes an informative presentation on grief and how to navigate its sometimes very confusing journey.
 - e. Initiate Community Grief Support Program within the first 6 months for any families served by the location as well as anyone in the community needing support.
 - f. Initiate a Caregiver Support Program within the first 6 months for any families served by the location as well as anyone in the community needing support and caregiving education.
 - g. Provide an online community resource for end-of-life education with HospiceWePromise.com

We Honor Veterans Program

- **COMMITMENT:** Mederi Hospice will actively seek We Honor Veterans status once operational and we will progress through each level as rapidly as possible to reflect our belief in the importance and unique needs of hospice care for our veterans.

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Mederi Hospice will advocate for Veteran patients to participate in Honor Flight for Veterans. The provider will also actively recruit Veteran volunteers to better support Veteran patients.

Hospice Office Development

- **COMMITMENT:** Mederi Hospice commits to a principal care delivery site at 603 17th St, Vero Beach, FL 32960 (or like site within same region pending finalization of lease terms), upon program inception and tracking completion of the proposed arrangements with AHCA.

The Joint Commission Accreditation

- **COMMITMENT:** Mederi Hospice commits to pursuing and obtaining accreditation by The Joint Commission by the end of its first year of operation.

Medicaid Enrollment

- **COMMITMENT:** LHC intends to serve the Medicaid Community and shall seek Medicaid enrollment immediately upon receiving Medicare approval.

Brevard HMA includes brief individual ‘measures’ of how compliance will be reported to the Agency for each of its Schedule C conditions. These measures were not included except as noted above.

Hospice of the Treasure Coast Incorporated (CON application #10696) also referenced as Treasure Coast or the applicant, is a not-for-profit entity which has been the owner/licensee of its namesake since May 9, 2003. Hospice of the Treasure Coast Incorporated presently serves SA 9B, which includes Martin, Okeechobee and St. Lucie Counties, the latter two counties bordering on west and south of Indian River County. The applicant is also affiliated with The Hospice of Martin & St Lucie Inc., which also serves SA 9B.

Treasure Coast expects issuance of license on February 7, 2022 and initiation of service on February 14, 2022. Total project costs are projected to be \$212,493 and include building, equipment, project development and start-up costs and an intangible assets and deferred costs (\$25,000 donation to the foundation for SA 9A).

Hospice of the Treasure Coast Incorporated proposes the following conditions to the project’s approval which are reproduced verbatim below from the application’s Schedule C:

1. Annually provide 5% of total patient days to Medicaid patients.

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2. Form partnerships with Service Area 9A's indigent service organizations and the local Health Department office.
3. Provide a Medicaid Specialist to assist patients with the Medicaid application process within the first two years of operation.
4. Establish a "Minority Outreach Program" to serve the African American population in need of hospice services.
5. Establish a "Minority Outreach Program" to serve the Hispanic population in need of hospice services.
6. Provide 1.0 FTE dedicated African American outreach as part of its minority outreach by the end of the first year of operations.
7. Provide 2.0 FTE dedicated bilingual staff as part of its Community Education Team.
8. Treasure Coast commits to form partnerships with Service Area 9A's migrant service organizations.
9. Hire Spanish-speaking, culturally competent interdisciplinary team members.
10. Offer all patient care materials, brochures, forms, and education in Spanish.
11. Recruit bilingual volunteers so that the most compatible volunteer can be assigned to fill each patient's visiting request.
12. Establish a main office in central Indian River County, in the Vero Beach area, ZIP Code 32960.
13. Expand its existing We Honor Veterans Level V (five) program to serve Service Area 9A. Every veteran patient & family that desires will be served by the "We Honor Veterans" program and recognized by "Treasure Coast Salutes".
14. All unrestricted donations made to Treasure Coast Hospice or the Foundation from Service Area 9A, or identified as a gift in honor of a patient served in the 9A program, shall be maintained in this dedicated account and only used for the benefit of patients and services in Service Area 9A. TCH will commit \$25,000 to initially fund this new dedicated account.
15. Not hold or host any fund-raising events (such as golf tournaments) within Service Area 9A during the first two years of operation.
16. Apply for licensure within seven (7) days of receipt of the CON to quickly enhance and expand hospice services in Service Area 9A.
17. Initiate services in 9A within seven (7) days of receipt of the 9A license to quickly enhance and expand hospice services in Service Area 9A.

Moments Hospice of Indian River, LLC (CON application #10697), a Florida limited liability company, is an affiliate of Guardian Hospice NM LLC and Affiliates d/b/a Moments Hospice. The applicant indicates that Moments Hospice presently operates hospices in six states including Minnesota, Illinois, Iowa, South Dakota, Wisconsin and apparently including Florida since the parent has CON #10659 issued to

Moments Hospice of Miami, LLC to establish a new hospice program in SA 11.

Moments Hospice expects issuance of license February 1, 2022 and initiation of service March 1, 2022.

The applicant proposes \$230,656 in total project costs. These consist of equipment, project development and startup costs.

Moments Hospice of Indian River, LLC states it will accept additional conditions based on any representations made in this application. The applicant's Schedule C conditions to the project's approval are reproduced verbatim below.

1. Open Access Program

District 9A is home to a growing number of minorities, many of which have cultural or religious beliefs that make choosing hospice care difficult because many are opposed to signing Do Not Resuscitate (DNR) orders and, in some cases, want to continue receiving interventions such as total parenteral nutrition (TPN) and intravenous fluids (IV). Therefore, Moments commits to admitting patients through the Open Access program discussed in Schedule B of this application (page 30), upon commencement of operations. The program will include these elements:

- a. Accepting eligible hospice patients, regardless of their code status.
- b. Accepting eligible hospice patients receiving treatments such as IV therapy, palliative blood transfusions, palliative TPN, hi-flow oxygen, etc.
- c. Evening and Weekend Admissions- On-call staff equipped to admit patients will be available 24 hours a day, 7 days a week, 365 days of the year.
- d. Palliative Care - Open Access includes palliative care to manage patients' pain and symptoms and provide patient and family education on disease management and advance care planning.

2. Provide Initial Moments Program

Through conversations with long-term providers in Indian River, Moments has learned that the existing hospice provider in Indian River has been unable to offer effective individualized care plans that meet the patient's needs. This has led to low utilization among nursing homes and independent living facilities in Indian River. Moments uses the Initial Moments program to increase hospice utilization among long-term care residents in its existing

service areas. The Initial Moments program focuses on the first week of hospice care for patients residing in a long-term care facility and is designed to meet the more complex challenges of facility-based hospice care. Moments conditions this application on providing its Initial Moments program upon commencement of operations.

3. Provide Final Moments Program

Moments has identified that Indian River hospice patients are receiving less than six visits per week on average in the last seven days of life. Comparatively, Moments Hospice conducts more nearly nine visits in the last seven days of life. The final week or weeks of life are challenging for patients and family members. The Final Moments Program increases visit frequency during this time to provide support and assistance navigating these challenges. The Final Moments Program is detailed in Schedule B of this application (page 45). Moments conditions this application on providing the Final Moments Program to its hospice patients in District 9A upon commencement of operations. The program will include these elements:

- a. Moments will utilize Muse Healthcare Analytics or a similar program to identify patients entering their Final Moments. Muse Healthcare Analytics has been described in Schedule B (page 42). Moments commits to implementing the program upon commencement of operations.
- b. Moments will implement the Death Doula program upon commencement of operations. This program is described in Schedule B (page 72).

4. Specialty Clinical Programs

Moments has developed three diagnosis-specific hospice clinical and outreach programs and commits to implementing these programs in District 9A. Each program takes an aggressive approach to symptom management to improve quality of life and reduce hospital admissions. Each program also has a community education element to increase hospice utilization. The three programs are described briefly below, followed by the conditions.

- a. Moments Heart was developed for patients with cardiac diagnosis to manage symptoms and reduce the frequency of exacerbations and hospital readmissions.

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- b. Moments Breathe aims to reduce hospitalizations due to unmanaged dyspnea and anxiety.
- c. Moments Respect was developed for patients with Alzheimer's disease and their families. The program improves quality of life through gentle care and family education.

Moments conditions this application on providing its Heart, Breathe, and Respect programs to hospice patients in District 9A. The programs are described in Schedule B (page 77) and will include these elements:

- a. Moments Staff Education: Moments will train all IDG staff on the Moments Heart Program, Moments Breathe Program, and Moments Respect Program. Nurses and Certified Nursing Aides will receive additional training beyond that of the IDG. The training program will be implemented at the commencement of operations.
- b. Community Education: Moments will provide community education programs to inform the community on cardiac disease, pulmonary disease, and Alzheimer's disease, and the benefits of hospice for patients with these diagnoses and their families. Moments will provide education events related to each of their diagnosis-specific programs twice a year, during the first two years of operations.
- c. Health Care Provider Education: Moments will offer area health care providers continuing education presentations on these three diagnoses, and how disease progression may lead to a terminal prognosis and hospice eligibility. Moments will offer these educational programs on a quarterly basis during the first two years of operations and will provide Continuing Education Units (CEU) for registered nurses (RNs) and licensed social workers (SWs) at no charge. This will increase the options for free CEUs available to increase knowledge among the health care community. Moments will make programs available to skilled nursing and assisted living facility staff.
- d. A Respiratory Therapist will be contracted and available upon commencement of hospice operations. The respiratory therapist may provide community education, make patient visits as part of the IDG to provide collaboration and recommendation, and assist with staff

training related to pulmonary conditions and the Moments Breathe program.

The Applicant will document compliance with the educational elements by submitting copies of curricula, schedules, and attendee lists to AHCA in the annual conditions compliance report. The Applicant will document compliance with the respiratory therapist condition by submitting the CV and start date of the respiratory therapist in the annual conditions compliance report.

5. Charity Care

To ensure low income, uninsured patients have the care they need, Moments conditions this application on providing charity care throughout the County.

6. Community Outreach

District 9A suffers from a lack of community outreach and education. Many residents are not getting the access to hospice they need and many others are getting it too late in their disease progression. A community outreach effort will dramatically improve access to care and increase utilization across the county. The Applicant will develop specific community outreach initiatives to combat the low utilization and late admissions that Indian River residents have been experiencing. The Applicant has developed specific outreach initiatives geared towards increasing utilization and raising awareness of hospice benefits and the Applicant will do the same in Indian River.

a. Provider Advisory Committee

Within the first two years of commencing operations, Moments will create a Provider Advisory Committee comprised of health care providers in District 9A. This committee will make recommendations for new hospice services and for strategies to increase awareness and utilization of hospice services. The Applicant will demonstrate compliance with this condition by submitting a progress report of the program and dates of the committee meetings as part of the annual conditions compliance report.

b. Family Advisory Committee

District 9A hospice utilization rates in District 9A are low for patients in skilled nursing and assisted living facilities. During the first two years of operations, Moments will create a Family Advisory Committee comprised of family members of Moments Hospice patients. This committee will provide feedback on programming and suggest ways to improve

services to families and caretakers, whether the loved one lives with the family or in skilled nursing or assisted living facilities. The Applicant will demonstrate compliance with this condition by submitting a progress report of the program and dates of the committee meetings as part of the annual conditions compliance report.

7. Program to Support District 9A's Hispanic Population

a. Bilingual Staff

The primary language of a growing number of District 9A residents is Spanish. To increase these residents' use of hospice services, Moments conditions this application on having bilingual staff available at all times to assist in all aspects of care, from intake to discharge.

b. Bilingual Volunteers

Moments conditions this application on seeking hospice volunteers that are bilingual. This will increase the number of patients paired with volunteers who speak their preferred or primary language.

8. National Institute for Jewish Hospice

Some hospice-eligible members of District 9A's Jewish Community do not receive hospice care because of religious beliefs. Through the Open Access Program and outreach activities, Moments plans to increase utilization in the Jewish community in District 9A. As part of the outreach effort, Moments conditions this application on joining the National Institute for Jewish Hospice organization within the first year of operations.

9. LGBTQIA+ Inclusion Program

There is a growing need for hospice care in the elderly LGBTQIA+ community in District 9A. As members of the community age, many find themselves alone with no spouse or children to care for them or guide them through decision-making processes related to advance care planning. To address this growing need, Moments will introduce the LGBTQIA+ inclusion program as detailed in Schedule B.

As part of its LGBTQIA+ Inclusion Program, Moments Hospice conditions this application on obtaining SAGE Care Platinum Level Certification during the first two years of operations. SAGE is a highly trusted national organization dedicated to improving the lives of LGBTQIA+ elders. The SAGE Care Platinum Level Certification will demonstrate Moments is of open minds,

pioneering hearts, brave spirits, healing presence, and shows that not only are all welcome, but they will be provided with dignified and highly-specialized care. The SAGE Care Platinum Level Certification will ensure Moments' staff are knowledgeable and trained on sensitivities pertaining to the LGBTQIA+ community.

10. Assisted Living Facility (ALF) Outreach

Through conversations with assisted living facility staff in Indian River, Moments Hospice has learned that there is a large need for a hospice provider that will act a partner to the facility and jointly manage the care to the patient and their loved ones. There is consistent feedback that the lack of partnership as it stands contributes to low utilization and late admission. Moments Hospice has successfully partnered with many assisted living facilities in its current service areas. Training will provide hospice staff the information they need to be better equipped to meet ALF residents' needs and partner with ALF staff. Moments conditions this application on having all its staff complete ALF training within the first year of operations.

Moments further conditions this application to provide education to ALF staff on hospice services in collaboration between the ALF and hospice. Moments will provide at least three trainings to ALF staff in its first year of operations and will monitor compliance with this condition through the annual conditions compliance report submitted to AHCA. The report will contain dates and locations of trainings provided to staff of both Moments Indian River and ALF.

11. Hospice Services to District 9A's Homeless Residents

District 9A suffers from a large wealth gap and growing income disparity level. A substantial population of individuals within District 9A experience homelessness. The lack of housing presents challenges to the delivery of hospice services. Moments Hospice believes that everyone deserves to die with dignity, and conditions this application on providing outreach to residents of District 9A experiencing homelessness through the programs listed below.

- a. Moments will provide free hospice care to uninsured individuals experiencing homelessness as part of its charity care commitment so that all hospice-eligible members of District 9A can experience dignity at the end of their lives.
- b. Donations to Area Homeless Organization: The Hope for Families Center in Indian River County has developed programs that serve the area's homeless residents.

Moments conditions this application on donating \$10,000 to The Hope for Families Center or an organization with similar mission in the region during each of its first two years of operation. The Applicant will demonstrate compliance with this condition by providing AHCA with a copy of the check as part of the annual conditions compliance report.

12. We Honor Veterans

District 9A is home to many elderly veterans who would benefit from specialized hospice programming. In its existing hospices, Moments participates in We Honor Veterans and believes the program adds value to veterans' experience of hospice care. Moments conditions this application on implementing the We Honor Veterans program and District 9A upon commencement of operations. Moments Indian River will attain level 4 certification during the first two years of operations.

13. Rapid CHAP Accreditation and Medicaid Program

Additional hospice services in District 9A should begin to improve the hospice utilization rate quickly. Moments has experience obtaining CHAP (Community Health Accreditation Partner) accreditation quickly for its new hospice programs. Moments conditions this application on notifying CHAP it is ready for its certification survey within 30 days of initiating service. Moments will use Strategic Health Programs (SHP) to provide hospice staff HQRP Analysis and CAHPS Scores and Benchmarks reports that summarize quality indicators from the Hospice Item Set (HIS) to educate clinicians on quality and engage employees in the QAPI program. The Applicant will demonstrate compliance with this condition by providing AHCA with an example of the SHP HQRP Analysis and CAHPS Scores and Benchmarks reports in the annual conditions compliance report. Moments conditions this application on participation in Florida's Medicaid program. Moments will apply for participation Florida's Medicaid program within 45 days of receiving Medicare certification. The Applicant will demonstrate compliance with this condition by providing a copy of Moments' dated application to the Florida Medicaid program as part of the annual conditions compliance report.

14. Obtain CHAP Palliative Care Accreditation

There is a need in District 9A for palliative care for people who either not eligible or not ready for hospice. Moments uses

counseling techniques such as Power of Feeling Heard and advanced care planning tools such as *The Five Wishes* as part of providing palliative care. Moments will also offer palliative chemotherapy, TPN, and palliative radiation therapy to appropriate patients to achieve optimal pain and symptom management.

Besides these services, Moments conditions this application on obtaining the new CHAP certification for palliative care during the first two years of operations. The CHAP Palliative Care standards were developed by providers of palliative care and the National Consensus Project for Quality Palliative Care. CHAP accreditation addresses the physical, emotional, social, and spiritual needs of the patients and their families and facilitates access to information and choice.

15. Staff Education & Training

Hospice staff are the key to providing patients and their families high-quality care. Moments will ensure its staff in District 9A are well trained to provide the best possible care. Moments conditions this application on these elements:

- a. Moments will pay for hospice staff to obtain and maintain Hospice and Palliative Care certification.
- b. All employed chaplains will have a Master of Divinity or equivalent graduate degree from an accredited seminary or theological school.
- c. Death Doula training, as discussed in schedule B (page 72), will begin during the first year of operations.
- d. Moments will offer Reiki Training to staff and volunteers to enable them to provide Reiki to patients as an additional benefit. This training will begin during the first year of operations.

16. Compliance Hotline

As detailed in Schedule B (page 92), Moments Hospice contracts with Ethical Advocate to provide 24-hour, everyday access for ethical and compliance concerns to be anonymously reported. Moments will provide a compliance hotline to all Moments Indian River Hospice staff at commencement of operations.

17. High-Quality Care through Staffing, Responsiveness, and Dedicated Quality of Life Funds for Patients and Families

District 9A has a need for high-quality hospice care. Based on Moments' experience, the quality of hospice care is improved through responsiveness, increased visit frequency, and reducing

patients' financial worries. Therefore, Moments commits to these conditions to improve hospice care in District 9A:

- a. Moments conditions this application on assessing all admissions within 15 minutes of referral and starting the admission process within 90 minutes of referral, subject to the patient's physician's cooperation. When a patient or family decides to use hospice, it may be one of the hardest days of their lives. Moments treats every single admission as urgent out of respect for the decision the patient and/or family has had to make related to a terminal illness. This will expedite admission to hospice, subject to receiving the physician order and the patient and/or family being prepared to meet to initiate the hospice benefit.
- b. Moments conditions this application on providing at least five CNA visits per week on average, provided this is acceptable to the IDG, the patient, and the patient's family.
- c. Moments conditions this application on providing at least three nursing visits per week on average, provided this is acceptable to the IDG, the patient, and the patient's family.
- d. Moments conditions this application on donating \$5,000 for to the Moments Hospice Foundation to fund wish fulfillment and veteran programs. This money will be used only in District 9A.

18. Programs and Services beyond Standard Hospice Benefit

Moments Hospice focuses on providing individualized plans of care that meet the needs of each unique patient. Each patient's plan of care is created with that specific patient in mind to meet specific needs and goals for care. Moments Hospice offers patients, families, and the community many services that exceed what other hospice organizations provide.

Moments conditions the application of providing the following in District 9A:

- a. 24-hour triage call staffed by Moments Hospice direct employees with video capability, as detailed in Schedule B (page 69).
- b. Telehealth Services, as detailed in Schedule B (page 48). These services allow for additional and impromptu visits via audiovisual technology. Moments provides devices to patients, as appropriate, to allow them to connect with providers, caregivers, and family members.
- c. Providing internships to students in District 9A. Compliance with this condition will be documented by a list of the interns, the schools they attend, and the degree programs, and the length of their internships with Moments. The

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Applicant will demonstrate compliance with this condition by including a report stating these items are in the annual conditions compliance report.

- d. Comprehensive bereavement services, including individual and group counseling for 13 months and up to 24 months, upon identified need or request. The Applicant will demonstrate compliance with his condition by documenting the number of individuals receiving bereavement services over 13 months after the death of a family member, as part of each annual conditions compliance report.
- e. Moments will improve patients' quality of life by offering these non-core services. The Applicant will document compliance with this condition as part of the annual conditions compliance report by attesting each was offered throughout the previous calendar year.
 - Virtual Reality: This program improves patients' lives by providing virtual experiences with a real life feel of places and experiences that they have had or dreamed of having. Moments Hospice staff and volunteers will be trained on equipment use and program administration. Training includes proper setup of headsets, software program demonstrations, scientific theory, and proper hygiene according to Moments Hospice equipment disinfection guidelines.
 - Legacy Projects allows patients to create physical items so that they can leave something special for their loved ones.
 - Namaste Care was developed for patients with dementia and is centered on providing unhurried care in a calming environment. Namaste Care will also employ aromatherapy and Reiki to provide a calming effect and help palliate symptoms such as dyspnea, anxiety, and pain.
 - Music Therapy enhances patients' lives by using music as a therapeutic intervention. Music therapy is available to both patients and their families and may be requested through any Moments Hospice staff member.
 - Pet Therapy: Moments Hospice volunteers bring certified animals to visit hospice patients to make them smile, share unconditional love, and bring calm to an often stressful time.
 - Massage Therapy: Licensed massage therapist provide an array of massage techniques tailored to each patient's needs.

19. Enterprise Fleet Car Lease Program

A large portion of District 9A is rural. Having reliable transportation is vital to performing hospice visits but may be a struggle for some clinicians. Moments Hospice will provide car leases to qualifying staff members who otherwise could not work in hospice due to transportation difficulties. Removing this barrier will increase the number of qualified applicants and the diversity of Moments' IDG team members. Moments conditions this application on initiating the Enterprise Car Lease Program upon commencement of operations.

20. Annual Food Drives

As discussed in Schedule B, Moments has seen the benefits of food drives for community members in areas it now serves. Food insecurity is a substantial problem in District 9A. Moments conditions this application on conducting an annual food drive in District 9A similar to what it does in its current markets.

21. Applicant Will Not Solicit Donations

Moments will not solicit charitable donations or contributions relating to its services in District 9A from patients, family, or friends, or engage in fundraising events for its program. Any unsolicited donations received will be given to Moments Hospice Foundation, a non-profit organization that uses funds to provide donations and grants to local organizations and families, ensuring that any money received in District 9A goes back into the local community. Compliance will be provided in the annual conditions compliance report via an attestation and submission of a compliance report with a ledger showing any unsolicited amounts received and corresponding amounts provided to Moments Hospice Foundation.

22. Moments Employee to Manager and Monitor Condition Compliance

Moments recognizes this application is conditioned on many special programs, trainings, educational events, and operational offerings. Moments is sincere in its dedication to complying with all these conditions and District 9A and believes they will improve hospice utilization and quality in District 9A. Therefore, Moments has conditioned this application on engaging with its affiliates (Moments Hospice of Miami), full-time Conditions Manager employee to manage, monitor, and report on the conditions of this

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Application. The Applicant will demonstrate compliance with this condition by including a signed declaratory statement with the person's hire date, position title, and name in its annual conditions compliance report.

Moments includes brief individual descriptions of how compliance will be reported to the Agency for each of its Schedule C conditions. These measures were not included except as noted above.

Hospice programs are required by federal and state law to provide services to everyone requesting them and therefore the Agency would not place conditions on a program to provide legally required services such as palliative radiation and chemotherapy and care to the indigent and charity patients.

Should a project be approved, the applicant's proposed conditions would be reported in the annual condition compliance report as required by Rule 59C-1.013 (3) Florida Administrative Code. The proposed conditions are as the applicant stated. However, Section 408.043 (3) Florida Statutes states that "Accreditation by any private organization may not be a requirement for the issuance or maintenance of a certificate of need under ss. 408.031-408.045, Florida Statutes." Section 400.606 (5) Florida Statutes states that "The agency may deny a license to an applicant that fails to meet any condition for the provision of hospice care or services imposed by the agency on a certificate of need by final agency action, unless the applicant can demonstrate that good cause exists for the applicant's failure to meet such condition."

Issuance of a CON is required prior to licensure of certain health care facilities and services. 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 in 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, consultants Steve Love and Sarah Zimmerman who analyzed the application in its entirety with consultation from financial analyst Eric West of the Bureau of Central Services who evaluated the financial data.

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, 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? Or does the project proposed seek beds or services in excess of the fixed need pool? Rule 59C-1.008(2), Florida Administrative Code.

In Volume 47, Number 152, of the Florida Administrative Register dated August 6, 2021, zero need for a hospice program in SA 9A was published for the January 2023 hospice planning horizon. The applicants are applying for approval under special circumstances they contend warrant approval of a competing hospice in the service area.

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SA 9A is currently served by VNA Hospice of Indian River County Inc., which reported 1,570 admissions during July 1, 2020 - June 30, 2021.

Each applicant offers argument in support of need for their respective project. The applicants' major need justification(s) are described below.

Brevard HMA Hospice, LLC (CON application #10695) quotes Rule 59C-1.0355(4)(d), Florida Administrative Code, and states the following "Special and Not Normal Circumstances" justify project approval:

1. Florida's Medicaid managed care statute requires "hospice choice" to maintain network adequacy and health plans have the right to terminate hospice providers based on quality metrics
2. VNA Hospice of Indian River operates a regional monopoly in Indian River County
3. Indian River County residents are not being served
4. Terminally ill Black and Hispanic minority groups are not being served compared to their counterparts

The reviewer notes that Brevard HMA provides narrative and in some cases narrative and tables to address each of the four stated "Special and Not Normal Circumstances" stated above (CON application #10695, pages 62-71). A brief summary of each stated justification is provided below.

Regarding the applicant's first contention (hospice choice), Brevard points out that network adequacy standards set minimum numbers in each Medicaid Medical Assistance (MMA) plan contract and Long-Term Care (LTC) program plan contract. Brevard states (and the reviewer confirms through the referenced Agency website) that specifically, the standards for hospice providers are found under the following:

- Exhibit II-A, page 48 of the MMA Program
(https://ahca.myflorida.com/medicaid/statewide_mc/pdf/Contracts/2021-10-01/Exhibit_II_A_MMA-2021-10-01.pdf)
- Exhibit II-B, page 33 of the LTC Program
(https://ahca.myflorida.com/medicaid/statewide_mc/pdf/Contracts/2021-10-01/Exhibit_II_B_LTC_2021-10-01.pdf)

Brevard HMA emphasizes that both the MMA and LTC Program require at least two (2) hospice providers serving each county to meet minimum network adequacy requirements (page 62 of the application).

The reviewer notes that the Agency's Division of Medicaid provides definitions of rural (Attachment II, page 23) and urban (Attachment II, page 25) for the 2018-2023 Model Health Contract website found here: https://ahca.myflorida.com/medicaid/statewide_mc/pdf/Contracts/20

[21-10-01/Attachment II Core Contract Provisions 2021-10-01.pdf](http://ahca.myflorida.com/Medicaid/statewide_mc/pdf/SMMC_Region_21-10-01/Attachment_II_Core_Contract_Provisions_2021-10-01.pdf),
and also provides a region map at this website:

http://ahca.myflorida.com/Medicaid/statewide_mc/pdf/SMMC_Region_map.pdf.

The reviewer notes that Indian River County is one of five contiguous counties in the Agency's Division of Medicaid's Regional 9, as follows (with the applicable hospice SA):

- Indian River (SA 9A)
- Martin (SA 9B)
- Okeechobee (SA 9B)
- Palm Beach (9C)
- St. Lucie (SA 9B)

According to the United States Bureau of Census website at [U.S. Census Bureau QuickFacts: Indian River County, Florida](https://www.census.gov/quickfacts/IndianRiverCountyFlorida), as of 2010, Indian River County, Florida had a population per square mile of 274.5 and therefore, per Medicaid's definitions of rural and urban, Indian River County would be defined as urban (having a population density greater than 100 individuals per square mile).

The reviewer notes that currently, Medicaid Region 9 has a total of nine licensed and operational hospice programs, with Indian River County (SA 9A) being the sole Medicaid Region 9 county that has fewer than two hospice programs. The reviewer previously noted that Indian River County is ranked as urban per the Division of Medicaid's definition of urban. Therefore, Indian River County is an urban county with a single licensed hospice program.

Brevard HMA contends that a lack of at least two hospice providers in Indian River County directly impacts beneficiaries within Indian River County, where 22,555 residents were enrolled under MMA and 645 residents were enrolled under LTC plans, as of August 31, 2021.

Also regarding the applicant's first contention (that health plans have the right to terminate hospice providers based on quality metrics), Brevard explains that in Indian River County, if there is a quality or performance issue with VNA Hospice of Indian River, then there is no alternative for beneficiaries within the county. The reviewer notes that Brevard offers quality measures specific to the existing SA 9A hospice provider in Brevard's third contention (below).

Brevard HMA concludes that the monopoly current granted to VNA Hospice of Indian River creates a programmatic access barrier to hospice services in SA 9A and that this is a "Not Normal Circumstance".

Regarding the applicant’s second contention (that VNA Hospice of Indian River operates a regional monopoly), Brevard correctly quotes a portion of ss 408.043(1), Florida Statutes, restating from the statute, in part, that (emphasis added):

*The formula on which the certificate of need is based shall **discourage regional monopolies and promote competition.***

Brevard maintains that this reference to a “formula” is not a direct tie to the Fixed Need Pool calculations, but is instead descriptive of the factors that the Agency considers in making its ultimate decision to approve or deny new hospice programs. Brevard further maintains that the Agency should heavily weigh the Not Normal and Special Circumstances that VNA Hospice of Indian River is the only provider serving SA 9A and place little consideration on the Fixed Need Pool. Brevard quotes witness testimony from DOAH Case No. 20-1712 (page 63 of the application) to support this contention.

Regarding the applicant’s third contention (that Indian River County residents are not being served), Brevard contends that the terminally-ill residents of SA 9A are not being served today, pointing to the Consumer Assessment of Healthcare Providers and Systems (CAHPS) data to support this assertion. Brevard uses CMS CAHPS records for the timeframe of 01/01/2018 through 12/31/2019 in providing the following table to attest to this third contention.

**VNA Hospice of Indian River-Negative CAHPS Scores
Displays Large Group of Dissatisfied Consumers**

Indian River County Deaths-2019		2,199
CAHPS Measure	VNA %	
Would Probably Not or Definitely Not Recommend	7.00%	154
Sometimes or Never Communicated Well	20.00%	440
Sometimes or Never Provided Timely Help	23.00%	506
Sometimes or Never Treated the patient with Respect	11.00%	242
Did Not Provide the Right Amount of Emotional or Spiritual Support	10.00%	220
Sometimes or Never Got the Help They Needed for Pain and Symptoms	27.00%	594
Did Not Receive the Training They Needed	29.00%	638

Source: CON application #10695, page 64

Brevard states that these results document a significant and consequential portion of the Indian River County residents are not being served today and that would benefit from a second hospice provider in the market. Brevard stresses that one of the fundamental principals of the Medicare program is codified in 42 CFR 431.51-Free Choice of Providers. Brevard maintains that today hundreds of families have negative experiences with the existing SA 9A hospice provider on an annual basis and that these residents deserve a choice for themselves and loved ones in selecting their provider of hospice services.

Concerning the applicant's stated CAHPS Measure for the existing SA 9A hospice provider, "Would Probably Not or Definitely Not Recommend" being at 7.0 percent, the reviewer notes VN A Hospice of Indian River had an 89 percent "willing to recommend this hospice" during the rating period, which exceeds the States' average of 84 percent.

Regarding the applicant's fourth contention (that terminally ill Black and Hispanic minority groups are not being served in SA 9A compared to their counterparts), Brevard references multiple national studies that address inequities, disparities and dissatisfaction among these minority groups concerning hospice care and services (page 65 of the application). Brevard indicates that in 2020, about seven percent of Indian River County's deaths were African American/Black residents (2,380 total deaths/155 African American deaths = 6.51 percent). Brevard cites the source as AHCA Hospice Demographics Reports-VNA Hospice of Indian River to indicate that in both 2019 and 2020, less than 30 Black residents and less than 30 Hispanic residents were served each year (page 66 of the application).

Brevard indicates that per CMS/Medicare Public Use Files data for 2019, of 1,479 patients served by VNA Hospice of Indian River, 3.0 percent were Black and 3.0 percent were Hispanic (page 66 of the application).

Brevard contends that given a lack of clarity on both Black and Hispanic patient service from the demographic reports by VNA, Brevard states the use of AHCA FNP Reports/Demographics and www.floridacharts.com to generate two tables (CY 2017-CY 2020) to reflect how VNA Hospice of Indian River has failed to serve both Black and Hispanic hospice patients in SA 9A. The reviewer combines the two tables and reproduces only the applicant's reported CY 2020 data. See the combined table below.

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**VNA SA 9A Statistics on Black and Hispanic Patients
CY 2020**

	Black	Hispanic
VNA Market Share	100%	100%
Hospice Patients	1,570	1,570
Total Deaths	2,380	2,380
Total Market Penetration Rate	65.97%	65.97%
Deaths by Race/Ethnicity	155	100
Hospice Patients at Avg. Market Penetration	102.248	65.97
Actual Hospice Patients (Using Medicare 3% Assumption)	41.7	47.1
Actual Penetration Rate by Race/Ethnicity	30.39%	47.10%
Statewide Penetration Rate by Race/Ethnicity	40.81%	47.93%
Penetration Rate Gap vs. Market Average	-35.58%	-0.83%
VNA "Fair Share" Patients	102.248	65.97
Fair Share %	46.06%	70.40%

Source: CON application #10695, pages 66 and 68 combined (excluding CY 2017-CY 2019) and duplicated on pages 85 and 87 (excluding CY 2017-CY 2019).

Brevard indicates to visualize the above table/data, the applicant provides bar charts (pages 67 and 68, duplicated on pages 86 and 87 of the application) to indicate that VNA has historically lower Black and Hispanic penetration rates than would be expected.

Brevard contends that the SA 9A Black population and Hispanic population are not being reached effectively today and that the market would benefit from additional hospice access and choice in provider.

Brevard HMA states that in addition to the above Special Circumstances and Not Normal conditions, it has outlined some additional market demographics relevant to its period of projection. The applicant provides an Indian River County population table, which the reviewer summarizes below (from page 70 of the application):

- SA 9A-Total Population Growth (2022-2027)
 - CY 2022 Population (by age cohort and percentage)
 - 55,236 age 65+ residents
 - CY 2027 Population (by age cohort and percentage)
 - 59,141 age 65+ residents
 - Total Increase
 - 3,925 age 65+ additional residents by 2027
 - Percentage Increase
 - 7.1 percent age 65+ additional residents by 2027

Brevard HMA contends that Florida Health Charts (per 100,000 deaths) for Indian River County in 2019 indicate that SA 9A needs an experienced and sophisticated hospice operator, like the applicant, with the clinical and operational competencies to service a diverse set of patient conditions. The chart indicates that Indian River County has

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higher rates of death (per 100,000 deaths) than the State for each of the eight referenced causes of death categories. See the table below.

2019 Leading Causes of Death in SA 9A

County	Cardio-Vascular	Cancer	CLRD	Stroke	Diabetes	Renal/Nephritis	Injuries	Liver Disease
Indian River	351.6	362.5	62.5	86.3	37.3	19.3	67.6	20
Florida	221.2	214.2	56.4	65.2	29	15	62	15

Source: CON application #10695, page 71

The reviewer notes that Brevard HMA references the veteran population in Indian River County and states the use of the website https://www.va.gov/vetdata/Veteran_Population.asp to provide an SA 9A veteran population table, from 2022 to 2025 (page 71 of the application). The reviewer also notes that the applicant states, “The Veteran population accounts for the majority of the total population as seen below, with about 72% being over the age of 65.” The reviewer notes that this 72 percent attestation is arithmetically correct (by 2025, 11,275 SA 9A veterans age 65+ / 15,653 SA total veteran population = 72.03 percent). However, since the applicant’s veteran population table accounts only for veterans, for the applicant to state that the veteran population accounts for the majority of the total population does not account for the fact that the applicant’s veteran population table accounts the entire veteran population – which must be the majority – since the veteran population is the only population being captured.

Brevard HMA asserts that to rectify the monopoly status and increase patient choice in access, SA 9A needs another market provider with the capability to reach new patients. Brevard HMA contends that VNA or other applicants can replicate LHC Group’s deep post-acute care experience and expertise that compliment hospice services along the care continuum. Brevard HMA further asserts that with an existing home health service presence, deep bench of proven hospice leaders, extensive technology supporting a new hospice program at LHC Group’s national scale, and award-winning quality, Mederi Hospice is the best provider to successfully address the special circumstances and not normal conditions present within the SA 9A market (page 71 of the application).

Regarding utilization projections, Brevard HMA explains that to examine monopolistic market experiences when a second provider enters the market, Mederi Hospice examined the experiences in SAs 8B, 6A and 5B. The applicant provides a table (page 72 of the application) to indicate, for SAs 8B, 6A and 5B, an average market share of:

- 6.51 percent (year one)
- 12.23 percent (year two)

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CON application #10695 maintains that the market most similar in size to SA 9A is SA 8B, in which there was an average market share of:

- 12.81 percent (year one)
- 21.47 percent (year two)

Brevard HMA further explains having factored in its existing substantial home health care presence within the market. Brevard HMA attests that LHC Group already provides home health services to over 400 patients annually within SA 9A-with high scores on quality and patient satisfaction. Brevard HMA also states that LHC Group typically converts are 15-16 percent of its Home Health Agency (HHA) volume to hospice where it has co-located HHA/hospice services.

Brevard HMA estimates the projected need on page 73 of the application and indicates that it:

- Assumed the death rate would remain constant as applied to the 2023 need projections
- Applied the statewide use rates for hospice as applied by AHCA for the January 2023 planning horizon

The applicant states six other factors in considering the patient admission and patient days estimates and provides a table to show its conclusions (page 73 of the application).

Brevard states a conservative estimate in year one and year two of the following total patient admissions and patient days (with an ALOS constant for both years at 77). The reviewer notes that Brevard's projected patient days in the table below are consistent with CON application #10695, Schedule 7A.

**Patient Admissions and Patient Days
Years One and Two**

Mederi Hospice	Patient Admissions	Patient Days (ALOS 77)
Year One	126	8,455
Year Two	220	16,184

Source: CON application #10695, pages 74 and 105

Brevard states its own analysis indicates that a total of 110 patients in year one and 42 patients in year two would to be allocated to the existing care provider beyond its current volume.

Hospice of the Treasure Coast Incorporated (CON application #10696) maintains that irrespective of the fixed need pool publication, it has identified a Special Circumstance and Not Normal need in SA 9A, through Medicare Cost Reports (pages 20 and 22 of the application). HTC notes that VNA reported zero Medicaid patient days beginning with

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FY 2017 through FY 2020. Per the applicant, this has negative ramifications that go far beyond the lack of access to hospice care for Medicaid-eligible hospice patients in SA 9A. HTC indicates having provided services to Medicaid and other traditionally underserved groups throughout its near 40-year history. Further, Treasure Coast is a Community Partner (formerly known as Platinum Partner) with the Florida Department of Children and Families (DCF), with DCF being responsible for determining and certifying Medicaid eligibility in the state.

Treasure Coast states that being the only hospice that is a designated DCF Community Partner and as such, HTC is responsible to (pages 3-4 of the application):

- Provide equipment necessary for customers to apply for benefits, check the status of an application or report a change
- Provide assistance to the customer to submit a web application
- Verify the identity of an applicant
- Provide case status information and outstanding information needed to determine eligibility

HTC explains having extensive knowledge, experience and expertise in assisting such patients, especially Medicaid-eligible patients, in understanding the intricacies of the process involved in Medicaid application, qualification and service delivery access.

HTC indicates that additional Not Normal Need Circumstances stem from the fact that SA 9A is served by a single provider. According to applicant, factors it considered in its assessment of the area include:

- Population, size, composition and growth
- Mortality and morbidity data
- Community Health Needs Assessments (CHNA) reports
- Local community provider discussions, input and support
- Patterns of hospice use including income, racial and ethnic considerations
- Access issues
- Service gaps in end-of-life care

HTC explains having reviewed/taken into account the results of two community health needs assessments (CHNAs) in the SA 9A (CON application #10696, page 29 and Tab 6):

- Indian River Medical Center (CHNA published in 2018)
- Indian River County (CHNA published 2019)

Treasure Coast states it spent several weeks in SA 9A at a grassroots level to capture existing areas of concern regarding unmet needs and

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also conducted its own data-drive analysis of SA 9A health-related needs to corroborate issues raised in the CHNAs and support letters (Tab 3 of the application). HTC lists a total of 16 areas of concern relative to the delivery of hospice services in the area (page 30 of the application).

Based on the above, Treasure Coast bullets 12 factors to support project approval. The reviewer briefly summarizes these 12 factors (pages 62-63, duplicated on pages 66-67 and again on pages 93-94 of the application). Under each bulleted factor, the reviewer references the applicant's applicable data table(s), used by CON application #10696 to support the factor:

- Treasure Coast, a Florida nonprofit corporation, currently operates as a licensed hospice provider in SA 9B and has done so successfully for nearly 40 years. As a local community nonprofit hospice, Treasure Coast's governing body is composed of leaders from the communities that it serves, and its board would be expanded to include new board members from SA 9A – fostering local accountability – Claritas data indicates that:
- Between 2021 and 2026, the population of SA 9A is projected to increase by 10,308 persons
- Both minority population groups (African American and Hispanic) within the service area are expected to grow at rates exceeding the corresponding 9A averages regardless of age
- Specific to the African American population, overall growth is forecast to be 1.6 percent per year vs. 1.2 percent per year for all residents of 9A, and the African American growth rate is higher than that for the total population of 9A in both the 0-64 and the 65+ age groups
- Overall, the Hispanic population is projected to increase by 2.8 percent per year, a rate more than double that for the total population of the service area. When broken down by age the highest rate of growth will be among the Hispanic persons age 65+, at 6.2 percent per year

The Hispanic community possesses distinct cultural, language and religious preferences and this community/population traditionally encounters language and cultural barriers which inhibit access to hospice care. Treasure Coast will address this through CON application #10696, Schedule C, Condition #s 5, 7, 9 – 11. Based on FLHealthcharts data and the Agency's Hospice Need projections, the hospice penetration rate in SA 9A is below average compared to Florida for cancer in both the under 65 and 65+ age groups, and for non-cancer under 65.

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Medicare hospice admission rates for African Americans and Hispanic residents of SA 9A lag behind the overall service area average per CMS Hospice Limited Dataset and FLHealthCharts.com. Both CHNAs published for SA 9A identify poverty/lower income status as contributing to health status problems and unmet health care needs in SA 9A.

Median household incomes for African Americans and Hispanic population groups in SA 9A fall below the Florida average and the 9A median for the African American community is almost \$28,000 below the overall 9A median income.

Treasure Coast states that it will set up a designated charitable account, as conditioned in the application, which will be used to help meet the needs of low-income patients, including outside of hospice services. Further, Treasure Coast commits to annual provide five percent (5.0 percent) of total patient days to Medicaid patients

Regarding an overview of mortality and morbidity factors impacting resident hospice needs, the applicant states that based on FLHealthCharts.com death data for CY 2019 in SA 9A, the following five categories of terminal illness stand out based on a number of cases approaching greater than 100:

- Heart diseases
- Cancer
- Cardiovascular diseases (stroke)
- Chronic lower respiratory disease
- Alzheimer's

Of the five terminal illness categories listed above, Treasure Coast offers a narrative to address serving these patients (pages 34-38 of the application:

- Heart/Respiratory diseases
- Cardiovascular disease
- Alzheimer's

Treasure Coast offers narrative regarding reaching patients with the following categories of illness that are among leading causes of death in the area:

- Diabetes
- Renal/kidney diseases
- Liver disease/failure

The applicant also discusses its experiencing serving patients with HIV/AIDS (page 38 of the application).

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Treasure Coast next cites the following terminal illness categories among nonwhites exceeds those for whites:

- Cancer
- Heart disease
- Cerebrovascular diseases (stroke)
- Respiratory disease
- Alzheimer’s
- Diabetes

Treasure Coast provides a description of the following major characteristics (pages 46-48 of the application):

- Access to care
- Outreach
- Intake

Treasure Coast offers 12 separate projection and history admissions tables with narratives to explain how year one and year two admission estimates are reached (pages 51-60, Tables 17-28 of the application). The applicant projects 111 year one and 188 year two admissions of 188 (by mortality group and age cohort). The reviewer reproduces only the year one and year two estimates and not the 2018-2020 applicant’s average admissions in its existing SA 9B program. See the partially reproduced table below.

**Treasure Coast Projected Admissions by
Mortality Group and Age Cohort
SA 9A**

Mortality Group	Admissions*	
	Year 1	Year 2
Cancer		
Under 65	8	13
65+	30	51
<i>Total</i>	<i>38</i>	<i>64</i>
Non-Cancer		
Under 65	5	9
65+	68	116
<i>Total</i>	<i>74</i>	<i>125</i>
Total Admissions	111	188

Source: CON application #10696, page 11, Table 29 (partially reproduced)

Moments Hospice of Indian River, LLC (CON application #10697)

cites “Not Normal and Special Circumstances” include:

1. Indian River County residents are not being served
2. Monopoly conditions and a lack of resident choice exist in Indian River County, resulting in unmet hospice needs throughout Indian River County

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3. Hospice patients in 9A are not being served due to abnormally short length of stay
4. Medicaid patients in 9A are not being served in Indian River County
5. Nursing Home patients are not being served in Indian River County
6. Terminally ill residents with certain non-cancer diagnoses are not being served in Indian County
7. Florida's Medicaid Managed Care Plans require hospice choice and access to hospice is at risk for members of Medicaid Managed Care Plans.

Moments states that it analyzed the most current state and federal hospice data, met with SA 9A hospitals, nursing homes, assisted living facilities, healthcare providers, Florida-based hospice experts, religious and community leaders and organizations to identify and understand, relative to the availability, accessibility, and extent utilization of hospice how it could increase hospice use rates and improve patient access.

In its overview of Indian River County addressing its need, the applicant cites ¹ the following information regarding SA 9A:

- 155,610 residents as of July 1, 2019
- 2,199 deaths during 2019
- 45 percent of SA 9A residents are 65+
- 51.6 years in 2018 was the median age of residents compared to 41.7 years in the state
- 65+ population growth is expected and “may have increasing demands for healthcare systems and service needs”

Moments contends it expects the need “to persist and/or worsen in the current monopoly environment.”

The applicant breaks down its need support in the following way:

1. That a specific terminally ill population is not being served
2. That a county or counties within the service area of a licensed Hospice program are not being served.

Moments contends that it is the only applicant able address the underserved patients of Indian River with its individualized approach to patient care, staffing models that prioritize direct patient care, Open Access program, and alternative therapies for pain management. The applicant contends it offers an alternative to the “one size fits all”

¹ Department of Elder Affairs: 2021 Profile of Older Floridians, AHCA: Facility Finder and Indian River County Community Needs Assessment (2019)

treatment plans and lack of staffing which can result in early termination.

Moments elaborates that its entry into SA 9A would bring “robust, comprehensive hospice services” that address its proposed needs and provides the following special circumstances it addresses in its application:

➤ **Indian River County Residents Are Not Being Served are Underserved**

- Moments has received support from SA 9A from those who do not want to use the current provider, VNA due to past experience
- Cultural and religious preferences that conflict/do not meet with VNA’s admissions criteria or model of care (Moments “Open Access Program” options and Condition # 1)
- Patients that do not have access to hospice services in their own home county.
- Moments outperformed all three measures with the competing hospices and VNA for hospice Visits Last Days of Life from an RN, Physician or Physician Assistant visits in the last days of life:
 - Moments-93.9 percent; VNA-89.3 percent; Treasure Coast-81.5 percent; Wuesthoff-88.3 percent (pages 45 – 48)

➤ **Regional Monopoly Conditions/Lack of Patient Choice**

- Moments states it perceives a “highly unusual monopoly situation” in SA 9A and that the residents’ needs “were not being met” leading it deemed “not so normal and special circumstances” in which the “specific terminally ill” and general overall needs for the residents were not being met. The applicant notes that this “monopolistic condition” exists in only four of Florida’s 67 counties, three of the 27 hospice service areas. Moments notes that this has been the case in SA 9A since 1982, a nearly 40-year time-period without competition.
- Lack of competition limits SA 9 in provider choice and level of service and services offered.

SA 9A provided the applicant with letters supporting Moments because of the frustration in the lack of choice for providers, quality of care and lengths of stay. Moments offers excerpts on pages 103 and 104 that address this as follows.

*James Broussard Executive Director, Pelican Landing writes
“This dynamic of a monopoly puts us and our residents at a massive disadvantage. Without the ability to choose, when our resident enters the phase of needing hospice, we are stuck with that one provider and the policies, care plans, and medical decisions they decide to make, Furthermore, we have experienced a market where a one-size fits all approach is being practiced. Patients are being treated on the same care plan that is being distilled by a single or small group of medical directors from that one hospice. Whereas with Moments Hospice, as I understand, they take a customized approach of building a unique care plan that is catered to each individual patient. That is what our residents desperately need.”*

Chris Vick President, Administrator A Moment’s Notice Healthcare - “It is heartbreaking if/when in our patients require hospice care. We only have VNA Hospice to serve our patients and many of our clients have been unhappy with the care they provide. They essentially own the market and take full advantage of the fact that Indian River residents are forced to use them, and them only. How can it be that it is legal to have a monopoly for Hospice? It is upsetting that no additional providers have been allowed into Indian River and we see a very real impact on patients.”

Ginnie Currier, RN, DON Director of Nursing, Florida Baptist Retirement Center - “We desperately need a second hospice provider in Indian River County, there is no doubt about it. We have no choices to offer residents or families, only that if they want hospice, they must use CVNA because they are the only one in town. Unfortunately, we have had some incidents of residents/families who had bad experiences with VNA. When the family of those residents face the decision of placing another parent /relative on hospice, they often choose not to. It would be sad to see something as important as hospice is, monopolized. It leaves a lasting impact on patients, families, and communities.”

*Wayne Chapman, DHW, Wellness Director, Isles Vero Beach-
“It is an unfortunate reality that if a family has a bad experience with VNA, they have no choice but to continue using them. I feel that the introduction of a new hospice agency, especially one with the qualities that Moments has, will have a substantial impact on the end-of life experience of our facility’s residents. The choice alone will benefit our residents.”*

Michael O’Malley, RN, Sebastian River Medical Center writes - “VNA of Indian River is the only hospice in our county and has been the only one for over 30 years. We have seen other health care segments in Indian River move from a single provider to multi-provider and the impact on

quality has significantly increased in those cases. The same will be true for hospice. VNA has no competition right now and patients who do not wish to use VNA have no choice at all. The lack of competition is a big disadvantage to patients, but more so it is a big disadvantage to the entire healthcare system. With no competition, there comes very little motivation to invent and refine.”

➤ **Abnormally Low Length of Stay/Underserved Hospice Patients**

- Moments notes the current provider admits terminally ill residents to hospice in the “very last days of life...depriving hospice patients and families of a substantial portion of days with hospice and the accompanying services.”
- The applicant offers 2021 Healthpivot, Hospice Benchmarking Report, Medicare FFS Claims graphs that support its claim of VNA’s ALOS and Median LOS being lower than other Florida providers and the state and national averages. Moments notes that VNA Indian River’s MLOS abnormally low numbers are a trend that has persisted for more than a decade.
- Moments offers its own performance in graphs showing its abilities in this category and “Average Home Care Visits Per Week”
- The applicant provides ALOS from the same time for the co-batched applicant Treasure Coast Hospice that confirm it too is unable to address this deficiency, only “bringing in more of the same” to the service area.
- On page 110, the applicant offers a table supporting that SA 9A has lost approximately 432,775 patient days over the last 10 years.

Moments presents the following quotes regarding the abnormal length of stay:

*Care Chris Vick President, Administrator -A Moment’s Notice HealthCare
“It is my belief that VNA has a tendency to medicate their patients heavily, very often leading to a death sooner than natural progression would. We have seen this happen time and again. Patients are admitted on to Hospice in a slowly declining state. They are given a standard ‘care kit’ by VNA comprised of ‘the cocktail’ of heavy medications. Within a few days the patient has passed. It is very unfortunate. It breaks my heart to see market domination through a legal monopoly. Many in our county don’t know better, but we sure do. Having experience in other neighboring counties, we know that hospice is supposed to be so much more than what is being offered in Indian River.”*

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Michael O'Malley, RN, Sebastian River Medical Center -"VNA has a remarkably low average length of stay which in turn means that hospitals and nursing facilities are caring for hospice appropriate patients for way too long. Those are real people with serious healthcare needs that are not getting the timely education they need in regard to hospice benefits. There is a ripple effect that negatively impacts patients and healthcare providers alike. The program is lacking and the drive is void."

Ginnie Currier, RN, DON Director of Nursing, Florida Baptist Retirement Center-Reviewer notes this was not included in the Letters of Support-"Moments also embodies a sense of urgency with their care. They have an incredible quick response time and employ in-house triage nurses to care for patients 24/7 I especially like the proactiveness of the education they provide. Our residents/families need to be educated early on about hospice and have the opportunity to access hospice benefits earlier on in their decline. At the current state, hospice is basically a 10-day program that is viewed as the place to die. That is not what hospice should be about. Hospice should be a support system for the patient and family. It should provide the opportunity of closure, the possibility of dying with dignity, and the comfort of care that is needed in the final months of life."

Wayne Chapman, DHW, Wellness Director, Isles Vero Beach "Moments focuses on education which will increase the utilization of hospice and enable hospice-eligible residents to sign on to hospice earlier in their dying process. With the wide array of therapies and programs Moments offers, the presence of their agency will enhance quality across the board and lead to better outcomes. For the sake of our entire county's residents, I hope that Moments Hospice is awarded a CON license in Indian River and have the opportunity to bring positive change to the hospice environment."

Tina Kendrick Vice President of Clinical Operations, Concordis Senior Living -"Sebastian City is an underserved area and patients who do go on hospice are not getting on soon enough. The length of stay average in Indian River county is less than half of the national average. That leads to facilities like ours needing to provide the enhanced care that dying patients need, rather than the hospice providing it. There is a chain reaction that causes stress on the healthcare system and can result in subpar care to patients."

Leticia Maldonado, Manager, Dixie Oak Manor (Vero Beach) "There have been many incidents where we would call hospice for a resident and there would be a significant delay in service. That late onset is not up to our standards as a facility and it surely is not up to the standards of the patient and their family."

Moments includes two tables - one to support its claim that Hospice of the Treasure Coast brings “more of the same” with its unusually low length of stay and will unlikely enhance service to the underserved residents of Indian River (page 114 of the application) and one showing VNA Hospice home care visits from April 2020 to March 2021 (pages 115 and 116 of the application). The applicant contends that VNA Hospice does not have the staffing or capacity to increase length of stay, that it was described to them by a former VNA leader as a “top heavy” organization that struggles to provide enough direct patient care staff.

Moments states it is capable with its strong, quantifiable track record of quickly improving hospice utilization and length of stay in new markets by using its individualized approach to patient care, staffing models that prioritize direct patient care, Open Access program and alternative therapies for pain and symptom management can offer an alternative to the “one-size-fits-all” treatment plans and lack of staffing which can result in early termination.

➤ **Unserved Medicaid Patients**

- The current sole provider, VNA, has reported zero Medicaid days for four years in a row and its Medicaid admissions are consistently lower than the state and national averages and offers VNA’s CMS.gov Cost Report for 2020, worksheet S1-11, the Statistical Data and 2021 Healthpivot Hospice Benchmarking Report showing zero unduplicated Medicaid days and its performance compared to state performance (page 117- 121).
- Moments presents a table that shows Medicaid comprised between 3.0 percent and 3.5 percent of Florida Hospice admissions from 2017 through 2019 and nationally, Medicaid patients were between 2.8 percent and 3.1 percent of admissions. The applicant provides the same information on the co-batched applicants showing that they fall below the state and national averages.
- Moments provides a table on page 120 to show that the monthly Medicaid enrollment for Indian River County has increased steadily from 2007 (10,985-8.1 percent) to 2020 (25,473 -16.1 percent), comparing the Florida numbers of 2007 (18,500,958 -11.4 percent) to 2020 (21,640,766 – 19.9 percent).
- Moments compares its Medicaid “higher than average” admissions in Minnesota with Treasure Coast Hospice and Wuesthoff Hospice that show they both fall below state and national averages. (pages 122 and 123).

➤ **Unserved Nursing Home Patients**

- Moments produces Healthpivot, Hospice Benchmarking Report, Medicare FFS Claims and Cost Report December 2020 Medicare FFS Claims, (pages 124 -128) to cite that VNA is ranked 62nd out of 67 counties in the state in terms of nursing home census as a percent of hospice census, and 33 out of 46 dropping from 2011 to 2016 from 14.1 percent NH census to 8.8 percent and that it has consistently been lower than both state and national average for more than a decade.

Another quote on the situation is provided from *Mariah Wiggam, Administrator - Pelican Garden Assisted Living Facility, Sebastian Florida* - *“We have been notified by our geriatric care provider that they will no longer recommend hospice for their dying patients because they are distressed with the current care option. Instead they will do their best to care for their patients and admit to nursing home to a nursing home if they need the additional support. That reality disrupts our goal of residents being able to age in place, which is so important to maintaining quality of life for our residents.”*

- Moments compares its Minnesota nursing home census and states that its ability to build a census of currently unserved terminally ill patient in SA 9A without taking from VNA. The applicant contends that by having met with ever SNF in the service area, it has gained ALF and SNF provider support and provides excerpt from their letters on page 130.
- Moments contends that the higher GIP days for VNA Brevard and Treasure Coast (pages 131- 13) when compared to Moments support its ability to partner with SNFs and ALFs for end-of-life care and allows patients to die at home rather than “filling hospice house beds.”

➤ **Unserved Terminally Ill Residents with Certain Diagnosis (Patients With Non-Cancer Diagnoses)**

- Healthpivots, Hospice Benchmarking Report, Medicare FFS Data 2021, and TrellaHealth Diagnostic Groups 2021 pages 135 – 137 show:
 - VNA serves half of the nation benchmark in patients with this diagnosis, compared to Moments Minnesota 19 percent of the total hospice census.
 - Fewer Indian River County patients with COPD and circulatory system diagnosis Indian are being served when compared to the state and national averages.

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- Cancer patients are missing out on a week of hospice care, equating to 2,790 days for the 398 VNA patients and their families.
- Patients with respiratory disease receive 24 VNA days of care compared to the 47 averaged by state ALOS, half the days other Florida hospice patients receive with the same diagnosis, showing this population is underserved.
- Moment states that its disease specific programs along with its ability to identify eligible patients earlier in the process makes it the appropriate applicant for SA 9A and provides excerpts from its Letters of support on page 137.

On pages 140 and 141, the applicant offers response solutions for the above need and are described in detail in the applicant's Schedule C Conditions or in the previous narrative. Moments states it will choose an office location in SA 9A based on the area it believes will have the greatest impact on reaching underserved citizens.

The applicant discusses its response to SA 9A need on pages 140 through 156 of the application, which were previously presented in the applicants Conditions except for the Hospice Health Consultant (HCC), Inclusion and Advisory Committee (IAAC) and Moments Clinical Liaison and Education Program. Excerpts from its letters of support that discuss the abilities and programs of the applicant are presented throughout the application.

2. Agency Rule Criteria and Preferences

Brevard HMA Hospice, LLC (CON application #10695) and Moments Hospice of Indian River, LLC (CON application #10697) discuss hospice licensure standards in Rule 59A-38 Florida Administrative C, demonstrating they understand these standards. The reviewer notes that Brevard HMA Hospice, LLC and Hospice of the Treasure Coast, Incorporated (CON application #10696) operate licensed Florida hospices.

a. Rule 59C-1.0355(4)(e) Preferences for a New Hospice Program. The Agency shall give preference to an applicant meeting one or more of the criteria specified in the below listed subparagraphs:

- (1) Preference shall be given to an applicant who has a commitment to serve populations with unmet needs.**

Brevard HMA Hospice, LLC (CON application #10695) states particularly targeting the following services and/or populations currently realizing unmet need in hospice care (pages 80-88 of the application):

- Palliative care
- Patients without primary care givers
- Homeless
- Veterans (and offering the We Honor Veterans Program)
- Minority populations (Black residents and the Latino/Hispanic community)

Hospice of the Treasure Coast Incorporated (CON application #10696) reiterates that VNA has reported zero Medicaid patient days in SA 9A, beginning FY 2017, and that this restricts access to hospice care for a population that is traditionally underserved. Treasure Coast further reiterates:

- Having provide Medicaid services over its nearly 40-year history
- Understanding the intricacies of the processes involved in the Medicaid application, qualification and service delivery process
- Being the only hospice provider in the Treasure Coast area that is a designated Florida DCF Community Partner (which gives Treasure Coast certain Medicaid application process responsibilities)

Treasure Coast restates the twelve SA 9A Special and Not Normal Circumstances that it indicates warrant project approval. See Item E.1.a. of this report.

Moments Hospice of Indian River, LLC's (CON application #10697) 'not normal and special circumstances' were restated in its response. See Moment's response to Item E. 1. a. and Schedule C - proposed conditions.

- (2) **Preference shall be given to an applicant who proposes to provide the inpatient care component of the hospice program through contractual arrangements with existing health care facilities, unless the applicant demonstrates a more cost-efficient alternative.**

Brevard HMA Hospice, LLC (CON application #10695) states that Mederi Hospice will obtain contracts with area facilities to ensure inpatient access to hospice care when necessary. The reviewer notes that the applicant does not affirmatively state any

letters of support from area nursing homes and/or hospitals that indicate a willing to contract with Brevard HMA in SA 9A for the provision of the inpatient care component.

Hospice of the Treasure Coast Incorporated (CON application #10696) states an expectation to provide the inpatient component of its proposed hospice through contractual arrangements with existing nursing homes and hospitals located in Indian River County. Treasure Coast cites Consulate Health Care of Vero Beach's senior executive letter which indicates a commitment to contract with the applicant for general inpatient beds, should Treasure Coast be approved.

Moments Hospice of Indian River, LLC (CON application #10697) indicates it will use contractual arrangements with existing providers for inpatient hospice care.

- (3) Preference shall be given to an applicant who has a commitment to serve patients who do not have primary caregivers at home; the homeless; and patients with AIDS.**

Brevard HMA Hospice, LLC (CON application #10695) responds that it has already conditioned approval to serve those who lack a primary caregiver, as well as the homeless and will serve those with HIV/AIDS.

Hospice of the Treasure Coast Incorporated (CON application #10696) attests to now providing care to all individuals eligible for care who meet the criteria of terminal illness and reside within its service area, regardless of their living status and diagnosis and will continue to do so in SA 9A, when licensed to do so. Treasure Coast bullets care approaches for homeless patients, patients who live alone and patients with HIV/AIDS.

Moments Hospice of Indian River, LLC (CON application #10697) conditions project approval to and states its commitment to serve patients who do not have primary caregivers at home, the homeless and patients with AIDS.

- (4) In the case of proposals for a hospice service area comprised of three or more counties; preference shall be given to an applicant who has a commitment to establish a physical presence in an underserved county or counties.**

Service Area 9A consists of Indian River County. Therefore, this preference is not applicable.

Brevard HMA Hospice, LLC (CON application #10695) reiterates having already conditioned to establish a principal delivery site at the establishing a physical location at 603 17th St, Vero Beach, Florida 32960 (or like site within same region pending finalization of lease terms) upon program inception.

Hospice of the Treasure Coast Incorporated (CON application #10696) states that this rule preference is not applicable.

Moments Hospice of Indian River, LLC (CON application #10697) states it will choose an office location in SA 9A based on the area it believes will have the greatest impact on reaching underserved citizens.

- (5) **Preference shall be given to an applicant who proposes to provide services that are not specifically covered by private insurance, Medicaid, or Medicare.**

Brevard HMA Hospice, LLC (CON application #10695) bullets 11 Medicare hospice benefits, describes services possibly needed but not paid for by the Medicare hospice benefit and that Mederi Hospice will provide patients without means of payment the services they require. Brevard reiterates its condition to provide \$25,000 for local requests for patient support.

Hospice of the Treasure Coast Incorporated (CON application #10696) states providing a broad range of services that are not covered by private insurance, Medicaid, or Medicare (pages 71-78 of the application. The reviewer notes that the applicant provides a narrative with additional information for most of the following services:

- Grief support
- *Little Treasures* (a pediatric care program)
- Life enhancing therapies
- Complementary therapy
- Music therapy
- *Treasured Pets*
- Level 5 We Honor Veterans
- Community education
- End stage care for-
 - Cardiac
 - Pulmonary (COPD)
 - Liver
 - Advanced oncology

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- Alzheimer's and other dementias

Treasure Coast contends that the applicant manages symptoms that affect a patient's quality of life, including but not limited to:

- Pain
- Emotional distress such as anxiety or grief
- Spiritual or ethical issues that are related to the dying process
- Multi-system deterioration
- Dyspnea
- Nausea/vomiting
- Profound weakness

Moments Hospice of Indian River, LLC (CON application #10697) states it provides many services and programs not specifically covered or reimbursed. The applicant notes it proposes to condition approval to provide its programs and lists these along with a summary on page 177 of this application.

- b. Chapter 59C-1.0355, Florida Administrative Code contains the following general provisions and review criteria to be considered in reviewing hospice programs.**

- (1) Required Program Description (Rule 59C-1.0355(6), Florida Administrative Code): An applicant for a new hospice program shall provide a detailed program description in its certificate of need application, including:**

- (a) Proposed staffing, including use of volunteers.**

Brevard HMA Hospice, LLC (CON application #10695) provides the FTEs added pursuant to the proposed project in Schedule 6A total FTE count of 11.37 in year one (ending "2023") and a total FTE count of 18.11 in year two (ending "2024"). Notes to the applicant's Schedule 6A indicate the potential for some contracting and possible contracting with the parent (LHC Group) for DME and some other services.

Hospice of the Treasure Coast Incorporated (CON application #10696) provides the FTEs added pursuant to the proposed project in a Schedule 6A total FTE count of 9.5 in year one (ending 12/31/2023) and a total FTE count of 15.1 in year two (ending "12/31/202 -typo missing "4"). Notes to the applicant's Schedule 6A indicate (and the reviewer confirms in the applicant's Schedule 6A) that:

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- In year one, 1.5 FTEs and in year two, 2.0 FTEs will be allocated to Medicaid Navigators – tasked with qualifying Medicaid-eligible residents for full Medicaid benefits, not limited to hospice services.
- In both year one and year two, 2.0 FTEs will be allocated to minority outreach.

The applicant's Schedule 6A notes indicate that minority outreach is to serve the African American population in need of hospice services.

Treasure Coast provides a narrative of its proposed staffing and lists the roles and duties of volunteers on pages 78-79 of the application.

Moments Hospice of Indian River, LLC (CON application #10697) addresses its staff and volunteer's roles and duties in application's page 162-164 and 178 -189. The applicant projects it will have a total of 34.38 FTEs for year one ending February 2023 and 49.9 FTEs for year two ending February 2024.

A paid Volunteer Coordinator is listed on the applicant's 6A Schedule.

Volunteer services Moments indicates not listed in the conditions include:

- Administrative
- Patient companion
- Professional
- Bereavement
- Vigil
- Veteran
- Craft
- Community
- Holistic
- Death Doula
- Musicians
- Legacy

(b) Expected sources of patient referrals.

All applicants provide a discussion of proposed referral sources such as area physicians, hospitals, social workers, nursing homes, assisted living facilities, religious leaders, family members, etc.

Brevard HMA Hospice, LLC (CON application #10695) bullets 12 expected sources of potential patient referrals.

Hospice of the Treasure Coast Incorporated (CON application #10696) provides a table to indicate nine expected sources of potential patient referrals, with “other” as a possible 10th source.

Moments Hospice of Indian River, LLC (CON application #10697) bullets ten expected sources of potential patient referrals.

(c) Projected number of admissions, by payer type, including Medicare, Medicaid, private insurance, self-pay, and indigent care patients for the first two years of operation.

Brevard HMA Hospice, LLC (CON application #10695) provides the following table to account for projected admissions by payer source:

**Brevard HMA Hospice, LLC
Admissions by Payer Source
Years One & Two**

Payer Source	Year One Admissions	Year Two Admissions
Medicare	112	196
Medicaid	6	11
Commercial	6	11
Self-Pay	1	0
Indigent	1	2
Total	126	220

Source: CON application #10695, page 95

Hospice of the Treasure Coast Incorporated (CON application #10696) provides admission estimate totals for its proposed program by payer. The reviewer does not account in the applicant’s estimates for arithmetic differences of less than two admissions since a difference of one admission is likely due to rounding. See the table below.

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**Hospice of the Treasure Coast Incorporated
Admissions by Payer Source
Years One & Two
SA 9A Only**

Payer Source	Year One Admissions	Year Two Admissions
Medicare	93	157
Medicaid	6	9
Private Ins.	10	17
Indigent/Self-Pay	3	5
Total	111	188

Source: CON application #10696, page 80.

Moments Hospice of Indian River, LLC (CON application #10697) provides the following projected number of admissions by payer source for the first two years of operations

Moments Hospice of Indian River, LLC CON application #10697 Year One and Year Two – Admissions by Payer		
Payer	Year One Admits	Year Two Admits
Medicare	158	247
Medicaid	13	21
Private Insurance	10	15
Charity	10	15
Total	190	298

Source: CON application #10697, page 187

- (d) **Projected number of admissions, by type of terminal illness, for the first two years of operation.**

Brevard HMA Hospice, LLC (CON application #10695) provides the following table to account for projected admissions by type of terminal illness (cancer or non-cancer) and applicable age cohort and then by age cohort (under 65 and 65+). The reviewer combines these admission categories (terminal illness and age cohorts) for convenience:

**Brevard HMA Hospice, LLC
Admissions by Terminal Illness by Age Cohort and
Under Age 65 and Age 65+**

Disease	Year One Admissions	Year Two Admissions
Cancer Under 65	7	12
Cancer 65+	25	45
Non-Cancer Under 65	15	27
Non-Cancer 65+	79	136
Total	126	220
Under 65	22	39
65+	104	181
All Ages Cohort Total	126	220

Source: CON application #10695, page 95

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Hospice of the Treasure Coast Incorporated (CON application #10696) provides the projected number of admissions by type of terminal illness (cancer and non-cancer) as well as by age cohort. See the table below.

**Hospice of the Treasure Coast Incorporated
Projected SA 9A Admissions by
Mortality Group and Age Cohort**

Mortality Group	Admissions	
	Year One	Year Two
Cancer		
Under 65	8	13
65+	30	51
<i>Total</i>	38	64
Non-Cancer		
Under 65	5	9
65+	68	116
<i>Total</i>	74	125
Total Admissions	111	188

Source: CON application #10696, page 80.

Moments Hospice of Indian River, LLC (CON application #10697) provides the following projected number of admissions by diagnosis (disease) for the first two years of operations.

**Moments Hospice of Indian River, LLC
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Admissions by Diagnosis Year One and Year Two**

Admissions	Year One	Year Two
Cancer	47	74
Other	143	174
Total	190	298

Source: CON application #10697, page 189

- (e) **Projected number of admissions, by two age groups, under 65 and 65 or older, for the first two years of operation.**

Brevard HMA Hospice, LLC (CON application #10695) for projected admissions based on age cohorts, see the applicant's response to item E.2.b.(1)(d) above.

Hospice of the Treasure Coast Incorporated (CON application #10696) provides the table below to account for year one and year two admissions by age cohort.

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**Hospice of the Treasure Coast Incorporated
Projected SA 9A Admissions by Age Cohort
(Under 65 and Age 65+)**

Admission Type	Admits – Year One	Admits – Year Two
Under 65	13	22
65+	98	167
Total	111	189

Source: CON application #10696, page 81

Moments Hospice of Indian River, LLC (CON application #10697) provides the following projected number of admissions by age cohort (under 65 and 65+) for the first two years of operations:

**Moments Hospice of Indian River, LLC
CON application #10697 - Admissions by Age Group**

Age Group	Year One	Year Two
Under 65	33	52
65 and Older	157	246
Total	190	298

Source: CON application #10697, page 189

- (f) Identification of the services that will be provided directly by hospice staff and volunteers and those that will be provided through contractual arrangements.**

Brevard HMA Hospice, LLC (CON application #10695) cites 14 services to be provided directly by Mederi Hospice staff with the medical director being contracted. Brevard also bullets 24 administrative functions that may be procured in whole or in part from LHC Group.

The applicant maintains that at all times, Mederi Hospice will directly provide those services and functions mandated by State and Federal regulations.

Hospice of the Treasure Coast Incorporated (CON application #10696) cites nine core services routinely provided by Treasure Coast staff and volunteers and eight services to be provided through contractual arrangement

Moments Hospice of Indian River, LLC (CON application #10697) states that all hospice services will be provided by Moments Indian River staff and volunteers, except for physical, occupational, respiratory, and speech therapy. Moments maintains it will contract with these therapists based on patients’ needs and use of shared staffing with Moments Miami.

(g) Proposed arrangements for providing inpatient care.

Brevard HMA Hospice, LLC (CON application #10695) reiterates arrangements for providing inpatient care through contracts with existing inpatient hospice care resources within SA 9A.

Hospice of the Treasure Coast Incorporated (CON application #10696) states having experience in providing inpatient care in its own inpatient unit as well as through contractual arrangement with hospitals and nursing homes and restates (previously confirmed by the reviewer) that Consulate Health Care of Vero Beach has agreed to contract with the applicant for inpatient hospice beds. This topic was addressed in item E.2.a.(2) of this report.

Moments Hospice of Indian River, LLC (CON application #10697) states that no inpatient beds are proposed in this CON application. Moments states it will arrange for inpatient care through contractual arrangements with SA 9A nursing homes, hospitals, and other facilities to meet the needs of its patients but concedes that it did not garner letters of support from these facilities. The applicant references its letters of support found in the application's Attachment 8.

Moments concludes that it "contracts beds for inpatient in the areas it serves in the Midwest and can provide the same care in District 9A". The applicant's attachment 29 includes a 19-page sample of a "Inpatient Hospice Services Agreement".

(h) Proposed number of inpatient beds that will be located in a freestanding inpatient facility, in hospitals, and in nursing homes.

Brevard HMA Hospice, LLC (CON application #10695) states that it is not requesting any new inpatient beds at this time.

Hospice of the Treasure Coast Incorporated (CON application #10696) states an expectation that the proposed project will require a total of less than 500 general inpatient days of care for the second year, or the equivalent of less than 1.5 inpatient beds. Treasure Coast again states

that Consulate Health Care of Vero Beach has agreed to contract with the applicant for inpatient hospice beds.

Moments Hospice of Indian River, LLC (CON application #10697) restates that no inpatient beds are proposed in this CON application and that it will arrange for inpatient care through contractual arrangements with SA 9A nursing homes, hospitals, and other facilities to meet the needs of its patients. See the first paragraph of Moments response to E.2.b.(1)(g) above.

(i) Circumstances under which a patient would be admitted to an inpatient bed.

Brevard HMA Hospice, LLC (CON application #10695) provides a brief narrative (pages 97 and 98 of the application) detailing circumstances under which a patient would be admitted to an inpatient bed.

Hospice of the Treasure Coast Incorporated (CON application #10696) provides a brief narrative (pages 82 and 83 of the application) detailing circumstances under which a patient would be admitted to an inpatient bed.

Moments Hospice of Indian River, LLC (CON application #10697) does not detail circumstances under which a patient would be admitted to an inpatient bed.

(j) Provisions for serving persons without primary caregivers at home.

Brevard HMA Hospice, LLC (CON application #10695) provides a brief narrative (page 98 of the application) detailing the applicant's provisions for serving persons without a primary caregiver at home.

Hospice of the Treasure Coast Incorporated (CON application #10696) provides a brief narrative (page 83 of the application) detailing the applicant's provisions for serving persons without a primary caregiver at home and further indicates that this was addressed previously (see item E.2.a.(3) of this report).

Moments Hospice of Indian River, LLC (CON application #10697) states it will care for SA 9A patients without primary caregivers at home or homes by placing them in an ALF or nursing home.

(k) Arrangements for the provision of bereavement services.

Brevard HMA Hospice, LLC (CON application #10695) provides a brief narrative (pages 98 and 99 of the application) detailing the applicant's understanding of the criteria that needs to be met in order to make or have arrangements for the provision of bereavement services. Brevard's bereavement counseling will be extended to various locations/sites and will be coordinated, when appropriate, with the individual's community spiritual advisor, if any, as well as with other community resources judged to be useful to the family/caregiver(s).

Hospice of the Treasure Coast Incorporated (CON application #10696) provides a narrative description of arrangements for the provision of bereavement services (pages 83-85 of the application). Treasure Coast states having extensive programming and related policies and procedures in place for the provision of bereavement services and expects to conduct similar bereavement services under the auspices of the proposed project. The applicant discusses 14 procedures that are applied to Treasure Coast's bereavement activities.

Treasure Coast references literature and tools related to its bereavement programs in CON application #10696, Tab 28.

Moments Hospice of Indian River, LLC (CON application #10697) has comprehensive bereavement services, including individual and group counseling for 13 months and up to 24 months, upon identified need or request. The applicant offers:

- Sympathy cards.
- Team members attending the funeral or memorial service for the patient.
- Mailings and letters.
- Telephone contacts. Face to face or virtual visits.
- Support groups.
- Memorial services.

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- Referrals are to professionals such as therapists and physicians with individual counseling provided by the bereavement counselor as appropriate.
- Resources to be provided and invitation to special bereavement events.
- Collaboration with individual's mental health and medical team has indicated.
- Educational resources.
- Other unique items identified by the bereavement coordinator or IDG team members.

Moments states it offers many different additional services that can be added to a plan of care to enhance the bereavement program. They are:

- Grief yoga which can be offered virtually or in partnership with the local yoga studio, the connection of breath and general posture supports emotions moving through the body and provides a healthy form of coping with grief.
- Time in nature this great grief support group meets at predesignated parks to experience the healing power of nature and the calming effect that quietly roaming down the path provides.
- Grief journaling which is writing, provides a connection to the heart and allows for expression of conscious and subconscious thoughts. Writing prompts to allow for expression while moving through the grieving process. A facilitator is available to provide emotional support as emotions come to the surface.
- Healing with animals whether it is spending time with a certified therapy pet or visiting a partner stable, animals have a way of touching our hearts and allowing emotions to flow.
- Coping with grief while in recovery a support group is specifically created for those who have participated in 12-step or other recovery programs groups.

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- Meditation and breathing healing these workshops teach people to how to connect with their bodies and mindfulness practices. Guided meditation, breathing techniques, and other meditation and techniques are taught and experienced.
- Ladies' afternoon is a tea ladies' group that meets regularly for tea and community, while navigating the grief process.
- Men's grief group. A gentleman's group where it is safe to talk about feelings and understand you are not alone. Healthy expression of emotions is encouraged, and community is built.
- Grief retreats. Day long retreats allow the bereaved to step away from the hustle and bustle of life and gain a deeper understanding of their grief. This retreat is experiential and educational exploring the stages of grief and techniques for working through the grieving process.
- Veterans grief support group. Veterans supporting veterans through the grieving process.
- Memory making. Workshops from bereaved who have lost someone in the past month activities may include making pillows out of the loved one's clothing or making memory shadowboxes, luminaries etc. While crafting this group shares stories and heals together.
- LGBTQIA+ support groups our support groups for members of the LGBTQIA+ community who may feel more comfortable sharing their bereavement journey with other LGBTQIA+ community members.

(I) Proposed community education activities concerning hospice programs.

Brevard HMA Hospice, LLC (CON application #10695)

bullets eight hospice benefits and points out that reaching patients early in the process and educating allows patients to take full advantage of these benefits.

Hospice of the Treasure Coast Incorporated (CON application #10696) offers a narrative overview/highlights of the applicant's community education activities and the reviewer identifies the major headings, some of which were

previously addressed elsewhere in the application):

- Collaboration with-
 - Healthcare Professionals
 - Value-based Plans
- Staffing
- What Sets TCH Apart (11 bulleted features)
Treasure Coast's existing SA 9B
- Community Assessment
 - Treasure Coast's review of area CHNAs
- External Communications

Moments Hospice of Indian River, LLC (CON application #10697) conveys its understanding of the importance of outreach in the community and references its information on page 81 of this application to further describe its process. The applicant states it has conditioned this process and cites Schedule C and Attachment 16.

(m) Fundraising activities.

Brevard HMA Hospice, LLC (CON application #10695)

comments that Mederi Hospice will build the existing fundraising activities of LHC Group – most notably the Hospice Promise Foundation. Further, Mederi Hospice will be open to donations from area residents and corporations but is otherwise committed to supporting the needs of the hospice through corporate funds.

Hospice of the Treasure Coast Incorporated (CON application #10696)

comments that Treasure Coast is associated with fundraising organizations (The Hospice Foundation of Martin and St. Lucie, Inc., and the Foundation Board of Trustees are mentioned) and that the applicant:

- Is prepared to mobilize its resource to quickly extend into the proposed SA 9A program
- Will establish a new separate charitable foundation account for Indian River County and this account will be started with \$25,000
- Unrestricted donations originating in SA 9A will be deposited in this account
 - The account will only be used to meet the special needs of patients in SA 9A that cannot be met by other sources (Medicare, private insurance, community organizations, etc.)

The Treasure Coast Foundation (The Hospice Foundation of Martin and St. Lucie, Inc., and the Foundation Board of Trustees) is explained in greater detail (pages 114-115 of the application).

Moments Hospice of Indian River, LLC (CON application #10697) states it will not solicit charitable donations and will not engage in fundraising activities. The applicant states that any unsolicited donation will be given to the Moments Hospice Foundation which will stay in the community.

- 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 reviewer notes that Schedule D-1 (Item H), which all applicants completed, contains a commitment to provide the Agency with all utilization reports. Both Brevard (Wuesthoff) and Hospice of the Treasure Coast have a history of timely utilization reporting.

Brevard HMA Hospice, LLC (CON application #10695) maintains that Mederi Hospice will file its semi-annual utilization reports with all required data elements in conformity with this rule criterion.

Hospice of the Treasure Coast Incorporated (CON application #10696) does not respond to this rule preference.

Moments Hospice of Indian River, LLC (CON application #10697) states it will comply with this reporting requirement.

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), (2) and (5), Florida Statutes.**

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As previously stated, in Volume 47, Number 152, of the Florida Administrative Register dated August 6, 2021, zero need for a hospice program in SA 9A was published for the January 2023 hospice planning horizon. The applicants are applying for approval under special circumstances they contend warrant approval of a competing hospice in the service area.

SA 9A is currently served by VNA Hospice of Indian River County Inc., which reported 1,570 admissions during July 1, 2020 - June 30, 2021. The following chart illustrates SA 9A's hospice admissions for the five-year period ending June 30, 2021. As shown below, with the exception of the 12-month period ending June 30, 2020 (which experienced a decrease of 40 admissions over the 12 months ending June 30, 2019), SA 9A's total admissions increased every year from the 12 months ending June 30, 2017 (1,285 admissions) to the 12 months ending June 30, 2021 (1,570 admissions).

**VNA Hospice of Indian River County, Inc.
Service Area 9A Admissions
Five Years Ending June 30, 2021**

12 Months Ending:	Admissions
June 30, 2021	1,570
June 30, 2020*	1,450*
June 30, 2019	1,490
June 30, 2018	1,319
June 30, 2017	1,285

Source: Agency for Health Care Administration Florida Need Projections for Hospice Programs, issued September (2017 and 2018), October 2019 and August 2021

Note: * The 12 months ending June 30, 2020 include 683 admissions as reported to the Agency for the months of July – December 2019, that were not published due to cancellation of the July 2020 batch.

Brevard HMA Hospice, LLC (CON application #10695) provides a table (page 103 of the application) to indicate that Indian River County is predicted to grow in population from 2020-2030 as follows:

- 157,873 to 181,194 residents (expanding at a rate of 14.77 percent)
- 16,000 age 65+ more residents (expanding at a rate of 33.18 percent) - with the age 65+ cohort representing the vast majority of hospice patients

The applicant references the Agency's Fixed Need Pool calculation/determination of SA 9A (for the January 2023 hospice planning horizon) and states that Mederi Hospice does not challenge the calculation/determination. However, the applicant reiterates that project approval is sought based on the following stated Special and Not Normal Circumstances:

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1. Florida's Medicaid managed care statute requires "hospice choice" to maintain network adequacy and health plans have the right to terminate hospice providers based on quality metrics
2. VNA Hospice of Indian River operates a regional monopoly in Indian River County
3. Indian River County residents are not being served
4. Terminally ill Black and Hispanic minority groups are not being served compared to their counterparts

Each of the four stated Special and Not Normal Circumstances were addressed in item E.1.a. of this report.

CON application #10695 reiterates its expected year one and year two patient admissions, patient days and the expected remaining need allocated to the existing SA 9A hospice provider for each of the two years.

Hospice of the Treasure Coast Incorporated (CON application #10696) reiterates that:

- VNA has stopped admitting Medicaid patients to its programs, reporting zero Medicaid patient days beginning in FY 2017
- SA 9A is served by a single provider
- Treasure Coast, a Florida nonprofit corporation, currently operates as a licensed hospice provider in SA 9B and has done so successfully for nearly 40 years. As a local community nonprofit hospice, Treasure Coast's governing body is composed of leaders from the communities that Treasure Coast serves, and its board would be expanded to include new board members from SA 9A – fostering local accountability
- Between 2021 and 2026, the population of SA 9A is projected to increase by 10,308 persons
- Both minority population groups (African American and Hispanic) within the service area are expected to grow at rates exceeding the corresponding 9A averages regardless of age
- Specific to the African American population, overall growth is forecast to be 1.6 percent per year vs. 1.2 percent per year for all residents of 9A, and the African American growth rate is higher than that for the total population of 9A in both the 0-64 and the 65+ age groups
- Overall, the Hispanic population is projected to increase by 2.8 percent per year, a rate more than double that for the total population of the service area. When broken down by age the highest rate of growth will be among the Hispanic persons age 65+, at 6.2 percent per year

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- The Hispanic community possesses distinct cultural, language and religious preferences and this community/population traditionally encounters language and cultural barriers which inhibit access to hospice care. Treasure Coast addresses this in CON application #10696, Schedule C, Condition #s 5, 7, 9 –11.
- The hospice penetration rate in SA 9A is below average compared to Florida for cancer in both the under 65 and 65+ age groups, and for non-cancer under 65
- Medicare hospice admission rates for African Americans and Hispanic residents of SA 9A lag behind the overall service area average
- Both CHNAs published for SA 9A identify poverty/lower income status as contributing to health status problems and unmet health care needs in SA 9A
- Median household incomes for African Americans and Hispanic population groups in SA 9A fall below the Florida average and the 9A median for the African American community is almost \$28,000 below the overall 9A median income
- Treasure Coast will set up a designated charitable account, as conditioned in the application, which will be used to help meet the needs of low-income patients, including outside of hospice services
- Treasure Coast commits to annual provide five percent (5.0 percent) of total patient days to Medicaid patients

The applicant's quality narrative (pages 95-96 of the application) is addressed under item E.3.b. of this report.

Moments Hospice of Indian River, LLC (CON application #10697)

responded to this in great detail in its response to item E.1.a. and on page 96 of this application and states it has identified, after conducting needs analysis of SA 9A, several populations with unmet needs:

- 65+ population growth is expected and “may have increasing demands for healthcare systems and service needs”
- Indian River County Residents are not being served
- Monopoly Condition/No Choice of Providers
- Abnormally Low Length of Stay/Underserved Hospice Patients
- Unserved Medicaid Patients
- Unserved Nursing Home Patients
- Unserved Patients With Non-Cancer Diagnoses
- Florida's Medicaid Managed Care Plans require hospice choice and access to hospice is at risk for these members

The applicant references its response, and its Schedule C conditions.

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(3), Florida Statutes.

The Agency maintains a Hospice Quality Reporting Program (HQRP) which has The Centers for Medicare and Medicaid Services -

- CAHPS® (Patients and Family Experience Measures-Consumer Assessment of Healthcare Provider and Systems) survey data for January 1, 2018 through December 31, 2019
- HIS (Quality of Patient Care Measures-Hospice Item Set) data for CY 2019.²

As of October 8, 2021, the CMS.gov website indicates there are nine HIS Quality Measures. Below is the publicly available HQRP information, for each of the SA 9A existing provider and co-batched applicants with current licensed hospice operations in Florida. We obtained Minnesota Moments data from the CMS.gov website.

**CAHPS®
January 1, 2018 – December 31, 2019**

Hospice	Willing to Recommend This Hospice	Commmun. With Family	Getting Timely Help	Treating Patients with Respect	Emotional and Spiritual Support	Help for Pain and Symptom	Training Family to Care for Patient	Caregivers Rated the Hospice a 9 or 10	Average Score
Brevard HMA	90%	81%	79%	90%	92%	72%	72%	86%	83%
Treasure Coast	90%	84%	82%	90%	92%	79%	77%	85%	85%
Moments	74%	72%	70%	83%	84%	72%	65%	69%	74%
VNA Hospice IR	89%	80%	77%	90%	91%	73%	71%	85%	82%
State Average	84%	78%	75%	88%	89%	73%	70%	80%	80%

Source: <https://www.floridahealthfinder.gov/Hospice/Hospice.aspx> and CMS.gov website @ <https://www.medicare.gov/care-compare> for Moments (CON application #10697).

The CAHPS® (Patients and Family Experience Measures-Consumer Assessment of Healthcare Provider and Systems) data above shows the following regarding overall scores of each co-batched hospice compared to the statewide average of 80 percent. Treasure Coast has the highest overall score (85 percent) Brevard HMA (Wuesthoff) has the second highest overall average score (83 percent), and Moments the lowest at 74 percent. LHC Group purchased Brevard HMA Hospice LLC in May of 2020.

The reviewer notes that the CY 2019 HIS – Hospice and Palliative Care Composite Process Measure – VNA Hospice of Indian River was 96.9 percent, Hospice of the Treasure Coast was 71.7 percent, Moments Minnesota was 81.1 percent compared to Wuesthoff Health Brevard’s 98.2 percent, Florida hospices average 94.2 percent and the national

² Source: <https://www.floridahealthfinder.gov/Hospice/Hospice.aspx>

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average is 88.7 percent. The composite measure is the ‘Patients Who Got an Assessment of All 7 HIS Quality Measures’ at the above site.

Brevard HMA Hospice LLC (CON application #10695) states the following support the applicant’s/parent’s quality of care history:

- LHC Group’s history, licensure, quality and accreditation and that Mederi Hospice will be building on LHC Group’s operations
- Letters of support are a testament to the organization’s quality and reputation

Brevard provides the following quality headings which are delineated in greater detail on the application’s pages 20-58.

- National Leader in Hospice and Post-Acute Care with a Local Focus
 - Local focus
 - National presence/experience
 - Highly capable executive leadership
- Best-in Class Services
 - Quality
 - Diverse post-acute care experience and services
 - Population health initiatives
 - Unique partnership experience
- Human Capital Resources
- Robust Financial Resources
- Leading Technology Platforms
 - HomeCare HomeBase
 - Medscope
 - Medalogix
 - Strategic HealthCare Programs (SHP)
- Hospice Promise Foundation Support
- Prepared for the Future of Hospice/Post-Acute Care

The applicant maintains that LHC Group’s services can be broadly classified into the following five principal segments, with narrative offered for each (pages 25-33 of the application):

- Home health services
- Hospice services
- Home and community-based
- Facility-based services offered through affiliated LTACHs
- Healthcare Innovation Services or HCI

LHC Group’s Quality Assurance and Performance Improvement (QAPI) Department are also discussed.

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On page 35 of the application, under the major heading “Hospice Service Line Aggregate Results 2020”, Brevard discusses CAHPS and HIS measures and provides a stated May 2020 to August 2020 CHAPS quality measurement table – stating to compare CAHPS scores for LHG Group from May 2020 to August 2020. These dates are more recent than the data available to the Agency cited above. In the table below, the reviewer:

- Reproduces the portion of the Agency’s most available CAHPS quality scores for Brevard (SA 7A)
- Overlays the stated August 2020 CAHPS scores (rounded to the nearest whole number)
- N/P indicates that the applicant did provide data in those rows.

**CAHPS Data
Brevard (January 1, 2018 through December 31, 2019) and
LHC Group (August 2020)**

Co-Batched Applicant Hospice Provider	Measures								
	Communication With Family	Getting Timely Help	Treating Patient with Respect	Emotional and Spiritual Support	Help for Pain and Symptoms	Training Family to Care for Patient	Caregiver Rated the Hospice 9 or 10	Willing to Recommend this Hospice	AVG Score
Brevard	81	79	90	92	72	72	86	90	83
LHC Group	84	82	92	91	N/P	N/P	84	87	N/P

Source: <https://www.floridahealthfinder.gov/Hospice/Hospice.aspx>, as of October 5, 2021 and CON application #10695, pages 35 and 36 (partially reproduced)

The applicant cites CON application #10695’s Appendix IV (CAHPS Score vs. SHP Benchmark Detail) indicating that the results are for a 12-month period. The reviewer notes that according to CON application #10695, page 537, the SHP Scores and Benchmarks data time period is 12/01/2019 – 11/30/2020, with a report date of 3/23/2021. Per the applicant, LHC Group has the following quality measure scores:

**SHP Scores and Benchmarks
12/01/2019 – 11/30/2020
LHC Group, Inc.**

LHC Group, Inc.	Measures								
	Communication With Family	Getting Timely Help	Treating Patient with Respect	Emotional and Spiritual Support	Help for Pain and Symptoms	Training Family to Care for Patient	Caregiver Rated the Hospice 9 or 10	Willing to Recommend this Hospice	Overall Composite
Actual	86%	82%	93%	94%	81%	80%	89%	89%	86%
Ranking	70%	71%	63%	64%	73%	74%	70%	66%	74%
SHP National	82%	76%	91%	91%	76%	74%	85%	85%	82%

Source: CON application #10695, Appendix IV, page 537

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Agency records indicate that for the three-year period ending October 25, 2021, the applicant's sole Florida hospice program (in SA 7A) had no substantiated complaints.

Hospice of the Treasure Coast, Inc. (CON application #10696) states having a long/exemplar/meritorious history (for nearly 40 years) of providing high quality care in its existing SA 9B program. Treasure Coast states that it currently meets and will continue to comply with all standards for program licensure described in Chapter 400, Part IV, Florida Statutes and Chapter 59A-38, Florida Administrative Code. Treasure Coast states it participates in Medicare and Medicaid and meets all applicable Medicare conditions of participation.

The applicant contends that all resources necessary to ensure compliance in the new program are in place or available and all necessary policies, procedures, guidelines, systems, plans and relationships available will be utilized or modified as necessary to meet all regulatory requirements. The reviewer notes that some policies/procedures are bulleted (pages 108-109 of the application).

Treasure Coast maintains having a mission of service to indigent populations, regardless of race, ethnicity, religious affiliation or ability to pay and will make a concerted effort to reach out to all segments of the service area's population in need of care.

The applicant has a brief overview of key events and milestones in the history and development of Treasure Coast, from 1981 through 2021, as well as a diagram of the Treasure Coast "Cycle of Hospice Care" on pages 98-99 of the application. Treasure Coast references its applicable internal policy(ies) and offers narrative descriptions regarding:

- Admissions (including 11 care continuity/coordination efforts)
- Transfer of Care to IDG Management (including 16 bulleted disciplines/care providers)
- Levels of Care (Routine, General Inpatient, Respite, Continuous)
- Dying and Death

Patient recertification is briefly discussed, along with formal care coordination. The applicant delineates the Treasure Coast Interdisciplinary Group (IDG), with details such characteristics as roles, functions and coordination and explains that the treatment plan for each patient depends upon individual needs. Treasure Coast states Quality Assessment Performance Improvement (QAPI) plan serves the following purpose:

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To provide a process for an effective, ongoing, hospice-wide data-driven QAPI program the monitors, evaluates and improves the quality of patient care and competency of staff and compliance

The applicant traces QAPI “key elements” (pages 109-111 of the application).

Treasure Coast points out its special programs, some of which the applicant previously mentioned earlier in its application. Treasure Coast states being a dementia-friendly organization, having been certified by the Martin County HUGS (Help, Understanding, Guidance and Safety) Program (CON application #10696, Tab 23.

Agency records indicate that for the three-year period ending October 25, 2021, the applicant’s SA 9B programs had a total of two substantiated complaints. Each of the two substantiated complaints were under the single complaint category of quality of care/treatment.

Moments Hospice of Indian River, LLC (CON application #10697) is a newly formed entity with no operational history. However, the applicant notes that is closely affiliated with Moments Hospice, an experienced provider with 10 licensed and Medicare-certified agencies with 13 offices serving 59 counties in Minnesota and 69 counties in Wisconsin and Des Moines Iowa, metro area.

Moments states that it has never had a CMS or state complaint survey at any of its facilities or patient homes, or a had a condition-survey, and has never been required to have CHAP do a follow-up survey.

- 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(4), Florida Statutes.**

Applies to all applicants - 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.

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

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

Brevard HMA Hospice, LLC (CON application #10695) provides its parent, LHC Group, Inc. & Subsidiaries audits.

10695 - LHC Group, Inc. & Subsidiaries		
	Dec-20	Dec-19
Current Assets	\$647,022,000	\$380,274,000
Total Assets	\$2,483,354,000	\$2,140,295,000
Current Liabilities	\$681,436,000	\$230,972,000
Total Liabilities	\$851,079,000	\$617,893,000
Net Assets	\$1,632,275,000	\$1,522,402,000
Total Revenues	\$2,063,204,000	\$2,080,241,000
Excess of Revenues Over Expenses	\$178,105,000	\$151,614,000
Cash Flow from Operations	\$529,247,000	\$130,462,000
Short-Term Analysis		
Current Ratio (CA/CL)	0.9	1.6
Cash Flow to Current Liabilities (CFO/CL)	77.67%	56.48%
Long-Term Analysis		
Long-Term Debt to Net Assets (TL-CL/NA)	10.4%	25.4%
Total Margin (ER/TR)	8.63%	7.29%
Measure of Available Funding		
Working Capital	(\$34,414,000)	\$149,302,000

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 \$13,969,743, which includes the nationwide capital expenditures and hospices in Districts 5B, 4A, 1, 3B, 9A, and 9C.

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The applicant indicates on Schedule 3 of its application that funding for the project will be provided by related company financing. The most recent audit showed \$286.5 million in cash on hand and \$529.2 million in cash from operating activities.

Conclusion:

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

Hospice of the Treasure Coast, Inc. (CON application #10696):

10696 - Health and Palliative Services of the Treasure Coast, Inc.	
	Sep-20
Current Assets	\$16,685,078
Total Assets	\$50,147,165
Current Liabilities	\$6,368,607
Total Liabilities	\$12,795,419
Net Assets	\$37,351,746
Total Revenues	\$38,420,209
Excess of Revenues Over Expenses	\$2,667,725
Cash Flow from Operations	\$2,170,753
Short-Term Analysis	
Current Ratio (CA/CL)	2.6
Cash Flow to Current Liabilities (CFO/CL)	34.09%
Long-Term Analysis	
Long-Term Debt to Net Assets (TL-CL/NA)	17.2%
Total Margin (ER/TR)	6.94%
Measure of Available Funding	
Working Capital	\$10,316,471

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 \$2,005,082, which includes the CON currently under review, IT, facilities, and foundation expenditures. The applicant indicates on Schedule 3 of its application that funding for the project will be provided

CON Action Numbers: 10695, 10696 & 10697

by cash on hand. The most recent audit showed \$11.5 million in cash on hand and \$2.1 million in cash from operating activities.

Conclusion:

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

Moments Hospice of Indian River, LLC (CON application #10697) provides its parent’s audited financial statements.

10697 – Guardian Hospice MN LLC and Affiliates	
	Dec-20
Current Assets	\$5,425,886
Total Assets	\$6,365,235
Current Liabilities	\$4,370,320
Total Liabilities	\$4,370,320
Net Assets	\$1,994,915
Total Revenues	\$19,034,291
Excess of Revenues Over Expenses	\$2,571,570
Cash Flow from Operations	\$1,086,130
Short-Term Analysis	
Current Ratio (CA/CL)	1.2
Cash Flow to Current Liabilities (CFO/CL)	24.85%
Long-Term Analysis	
Long-Term Debt to Net Assets (TL-CL/NA)	0.0%
Total Margin (ER/TR)	13.51%
Measure of Available Funding	
Working Capital	\$1,055,566

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 \$230,656, which consists solely of the CON currently under review. The applicant indicates on Schedule 3 of its application that funding for the project will be provided by cash on hand. The applicant provided a letter from their bank stating there is an available balance of \$2,193,875.48.

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 (6), Florida Statutes

Applies to all applicants - 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 financially 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.

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Brevard HMA Hospice, LLC (CON application #10695):

10695	Brevard HMA Hospice, LLC				
Indian River	Wage Component	Wage Index	Adjusted Wage Amount	Unadjusted Component	Payment Rate
Base Rate Calculation					
Routine Home Care 1-60 days	\$131.61	0.8	\$105.29	\$67.80	\$173.09
Routine Home Care 61+ days	\$104.00	0.8	\$83.20	\$53.58	\$136.78
Continuous Home Care	\$1,078.25	0.8	\$862.60	\$355.59	\$1,218.19
Inpatient Respite	\$283.32	0.8	\$226.66	\$181.14	\$407.80
General Inpatient	\$665.05	0.8	\$532.04	\$382.28	\$914.32
Year Two Comparison	Inflation Factor Year Two	Inflation Adjusted Payment Rate	Schedule 7 Revenue Year 2	Continuous Service Hours Provided	Calculated Patient Days
Routine Home Care 1-60 days	1.042	\$180.34	\$915,407		5,076
Routine Home Care 61+ days	1.042	\$142.51	\$1,527,234		10,717
Continuous Home Care	1.042	\$1,269.22	\$20,586	24	16
Inpatient Respite	1.042	\$424.88	\$69,016		162
General Inpatient	1.042	\$952.62	\$462,963		486
Total			\$2,995,205		16,457
			Days from Schedule 7		16,184
			Difference		-273
			Percentage Difference		-1.69%

As such, the applicant’s projected patient days are 1.49 percent or 242 days less than the number of patient days calculated by staff. Operating profits from this project are expected to increase from a net loss of \$489,546.11 in year one to a net gain of \$38,706.39 in year two.

Conclusion:

This project appears to be financially feasible, although patient days may be understated and/or revenues overstated.

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Hospice of the Treasure Coast, Inc. (CON application #10696):

10696	Hospice of the Treasure Coast, Inc.				
Indian River	Wage Component	Wage Index	Adjusted Wage Amount	Unadjusted Component	Payment Rate
Base Rate Calculation					
Routine Home Care 1-60 days	\$131.61	0.8	\$105.29	\$67.80	\$173.09
Routine Home Care 61+ days	\$104.00	0.8	\$83.20	\$53.58	\$136.78
Continuous Home Care	\$1,078.25	0.8	\$862.60	\$355.59	\$1,218.19
Inpatient Respite	\$283.32	0.8	\$226.66	\$181.14	\$407.80
General Inpatient	\$665.05	0.8	\$532.04	\$382.28	\$914.32
Year Two Comparison					
Year Two Comparison	Inflation Factor Year Two	Inflation Adjusted Payment Rate	Schedule 7 Revenue Year 2	Continuous Service Hours Provided	Calculated Patient Days
Routine Home Care 1-60 days	1.057	\$182.92	\$596,399		3,260
Routine Home Care 61+ days	1.057	\$144.55	\$707,141		4,892
Continuous Home Care	1.057	\$1,287.36	\$87,039	24	68
Inpatient Respite	1.057	\$430.95	\$41,502		96
General Inpatient	1.057	\$966.24	\$468,670		485
Total			\$1,900,751		8,802
			Days from Schedule 7		8,883
			Difference		81
			Percentage Difference		0.92%

As such, the applicant’s projected patient days are .92 percent or 81 days more than the number of patient days calculated by staff. Operating profits from this project are expected to increase from a net loss of \$6,864 in year one to a net gain of \$105,212 in year two.

Conclusion:

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

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Moments Hospice of Indian River, LLC (CON application #10697):

10697	Moments Hospice of Indian River, LLC				
Indian River	Wage Component	Wage Index	Adjusted Wage Amount	Unadjusted Component	Payment Rate
Base Rate Calculation					
Routine Home Care 1-60 days	\$131.61	0.8	\$105.29	\$67.80	\$173.09
Routine Home Care 61+ days	\$104.00	0.8	\$83.20	\$53.58	\$136.78
Continuous Home Care	\$1,078.25	0.8	\$862.60	\$355.59	\$1,218.19
Inpatient Respite	\$283.32	0.8	\$226.66	\$181.14	\$407.80
General Inpatient	\$665.05	0.8	\$532.04	\$382.28	\$914.32
Year Two Comparison					
Year Two Comparison	Inflation Factor Year Two	Inflation Adjusted Payment Rate	Schedule 7 Revenue Year 2	Continuous Service Hours Provided	Calculated Patient Days
Routine Home Care 1-60 days	1.032	\$178.62	\$2,591,356		14,508
Routine Home Care 61+ days	1.032	\$141.15	\$537,007		3,804
Continuous Home Care	1.032	\$1,257.13	\$314,059	24	250
Inpatient Respite	1.032	\$420.83	\$39,424		94
General Inpatient	1.032	\$943.55	\$272,255		289
		Total	\$3,754,100		18,944
			Days from Schedule 7		18,409
			Difference		-535
			Percentage Difference		-2.91%

As such, the applicant’s projected patient days are 2.91 percent or 535 days less than the number of patient days calculated by staff. Operating profits from this project are expected to increase from a net loss of \$116,405 in year one to a net gain of \$199,641 in year two.

Conclusion: This project appears to be financially feasible, although patient days may be understated and/or revenue may be overstated.

e. Will the proposed project foster competition to promote quality and cost-effectiveness? ss. 408.035(7), Florida Statutes.

Applies to all co-batched applicants: 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.

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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 (8), Florida Statutes; Ch. 59A-4, Florida Administrative Code.**

There are no construction costs and methods associated in establishing the proposed co-batched hospice programs.

- 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(9), Florida Statutes.**

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. Therefore, the Agency will not impose a charity care or Medicaid patient day condition on an applicant.

The applicants Medicaid and charity care responses are summarized in table form below. An applicant's history of its Medicaid and charity care can be the applicant's or if a newly formed entity, it's parent.

**Service Area 9C Applicants
Medicaid and Charity Care
History & Projections**

Applicant/CON #	Discusses History	Year One Medicaid Proposed	Year Two Medicaid Proposed	Year One Charity Care	Year Two Charity Care
Brevard HMA Hospice, LLC (#10695)	Yes	5.0%	5.0%	1%	1%
Hospice Treasure Coast Inc.(#10696)	Yes	6.7%	6.7%	2% (Inc. 1% Self-pay-per Schedule 7A)	2% (Inc. 1% Self-pay-per Schedule 7A)
Moments Indian River, LLC (#10697)	Yes	7.0 %	7.0%	5.6 %	5.0 %

Source: Applicant's responses to Item E. 3. g. and Schedules 7A.

Brevard HMA Hospice, LLC (CON application #10695) notes that Indian River County has “a lower percentage of the Medicaid population than the State average” based on Medicaid Managed Care (MMC) figures provided by the Agency. The applicant’s chart on page 109 indicates Indian River County’s MMC Enrollment to population ratio is 14.20 percent compared to Florida’s 17.83 percent.

The applicant also notes its proposed conditions to make \$25,000 funding available for free room and board at inpatient facilities to patients without a primary caregiver, \$25,000 funding available for support of homeless patients and a program of outreach and offer care to local organizations such as Treasure Coast Homeless Services, Inc., \$25,000 to the Area Aging of Palm Beach/Treasure Coast, Inc. to support existing programs for the elderly and \$25,000 through its Hospice Promise Foundation to support local requests for support from patients. Brevard also cites its proposed conditions to apply for Medicaid provider status and to provide palliative care to patients not eligible for hospice once its ADC reaches 50 patients.

Hospice of the Treasure Coast Incorporated (CON application #10696) notes its proposed condition to Medicaid patients and to donate \$25,000 to its Treasure Coast Hospice Foundation to establish an account to be used to meet needs of patients that are not covered by Medicare, insurance, private resources, or community organization services and programs.

Moments Hospice of Indian River, LLC (CON application #10697), states that in 2019, Medicaid and charity care accounted for approximately 10 percent of Moments patient days and Medicaid was 20 percent greater than the Minnesota state average. Further, its emphasis on Open Access has it providing nearly double the percentage of charity care as that of other providers in its service areas. The applicant cites its multiple conditions to address the needs of Medicaid and indigent patients including:

- Moments conditions this application on participation in Florida’s Medicaid program. Moments will apply for participation Florida’s Medicaid program within 45 days of receiving Medicare certification.
- To ensure low income, uninsured patients have the care they need, Moments conditions this application on providing charity care “for at least 5 percent of total admissions”.

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- Moments will provide free hospice care to uninsured individuals experiencing homelessness as part of its charity care commitment so that all hospice-eligible members of District 9A can experience dignity at the end of their lives.

The reviewer notes that the Moments condition “for at least 5 percent of total admissions” portion is stated on Schedule C to be “throughout the County”. Regardless, a percentage of charity care or Medicaid admissions or patient days would not be imposed on a hospice.

F. PROJECT SUMMARY

The co-batched applicants are seeking a CON to establish a new hospice program in SA 9A, in the absence of published need. Therefore, it is incumbent upon the applicant(s) to demonstrate other criteria in Rule 59C-1.0355 Florida Administrative Code and Sections 408.035 and 408.043(1) outweigh the lack of a numeric need.

Brevard HMA Hospice, LLC (CON application #10695) is the for-profit licensee of Wuesthoff Health System Brevard Hospice and Palliative Care serving SA 7A (Brevard County). The applicant references the proposed project as Mederi Hospice. As of May 1, 2020, Brevard HMA is an affiliate of/managed by LHC Group, Inc.

In this batching cycle, LHC Group also proposes to establish new hospice programs in SAs 1, 3B, 6B and 9C.

The applicant proposes \$378,485.60 in total project costs. Brevard expects issuance of license and initiation of service in July 2022.

Pursuant to project approval, Brevard HMA Hospice, LLC offers a total of 11 Schedule C conditions.

Hospice of the Treasure Coast Incorporated (CON application #10696) is a not-for-profit hospice provider licensed in SA 9B (Martin, Okeechobee, St. Lucie Counties) since May 9, 2003.

Treasure Coast expects issuance of license on February 7, 2022 and initiation of service on February 14, 2022. The applicant proposes \$212,493 in total project costs.

Pursuant to project approval, Hospice of the Treasure Coast Incorporated offers a total of 17 Schedule C conditions.

Moments Hospice of Indian River, LLC (CON application #10697) is a for-profit newly formed entity and an affiliate of Guardian Hospice NM LLC and Affiliates d/b/a Moments Hospice. Moments has CON approval to establish a new hospice in SA 11.

Moments Hospice expects issuance of license February 1, 2022 and initiation of service March 1, 2022.

The applicant proposes \$230,656 in total project costs.

Pursuant to project approval, Moments Hospice of Indian River, LLC offers a total of 22 Schedule C conditions.

Need/Access:

The proposed projects are presented based on special circumstances for a new hospice in SA 9A. **Each** applicant's major argument(s) in support of need for its proposal is briefly summarized below.

Brevard HMA Hospice, LLC (CON application #10695) states the following "Special and Not Normal Circumstances" justify project approval:

1. Florida's Medicaid managed care statute requires "hospice choice" to maintain network adequacy and health plans have the right to terminate hospice providers based on quality metrics
2. VNA Hospice of Indian River operates a regional monopoly in Indian River County
3. Indian River County residents are not being served
4. Terminally ill Black and Hispanic minority groups are not being served compared to their counterparts

The applicant expects to particularly target the following services and/or populations currently realizing unmet need in hospice care:

- Palliative care
- Patients without primary care givers
- Homeless
- Veterans (and offering the We Honor Veterans Program)
- Minority populations (Black residents and the Latino/Hispanic community)

Brevard HMA contends that:

- Neither the existing hospice provider, nor any of the other applicants seeking project approval in SA 9A, replicate LHC Group's deep post-acute care experience and expertise that complement hospice services along the care continuum

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- LHC Group knows how to leverage its technology, clinical experiences and market presence to drive organic growth in market penetration rates to reach patients at the right time in their care journey for hospice services

With an expected ALOS of 77 for both years, Brevard HMA anticipates:

- Year One
 - 126 total admissions
- Year Two
 - 220 total admissions

Hospice of the Treasure Coast Incorporated (CON application #10696) maintains that the project warrants approval due to the following Special and Not Normal conditions/considerations:

- Irrespective of the fixed need pool publication, VNA reported zero Medicaid patient days beginning with FY 2017 through FY 2020
 - This has negative ramifications that go far beyond the lack of access to hospice care for Medicaid-eligible hospice patients in SA 9A
- Treasure Coast has provided services to Medicaid and other traditionally underserved groups throughout its near 40-year history
- Treasure Coast is a Community Partner (formerly known as Platinum Partner) with Florida's DCF, with DCF being responsible for determining and certifying Medicaid eligibility in the state
 - Treasure Coast is the only hospice provider in the Treasure Coast area that is a designated DCF Community Partner and has extensive knowledge, experience and expertise in assisting such patients with the intricacies of the application process
- SA 9A is served by a single hospice provider
- In addition to conducting its own area needs assessment, Treasure Coast considered the following recent CHNAs to assess unmet hospice need in SA 9A:
 - Indian River Medical Center (CHNA published in 2018)
 - Indian River County (CHNA published 2019)
 - Together, the two CHNAs identified a total of 16 areas of concern relevant to the delivery of hospice services
- Treasure Coast, a Florida nonprofit corporation, currently operates as a licensed hospice provider in SA 9B and has done so successfully for nearly 40 years. As a local community nonprofit

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hospice, Treasure Coast's governing body is composed of leaders from the communities that Treasure Coast serves, and its board would be expanded to include new board members from SA 9A – fostering local accountability

- Between 2021 and 2026, the population of SA 3B is projected to increase by 10,308 persons
- Both minority population groups (African American and Hispanic) within the service area are expected to grow at rates exceeding the corresponding 9A averages regardless of age
- Specific to the African American population, overall growth is forecast to be 1.6 percent per year vs. 1.2 percent per year for all residents of 9A, and the African American growth rate is higher than that for the total population of 9A in both the 0-64 and the 65+ age groups
- Overall, the Hispanic population is projected to increase by 2.8 percent per year, a rate more than double that for the total population of the service area. When broken down by age the highest rate of growth will be among the Hispanic persons age 65+, at 6.2 percent per year
- The Hispanic community possesses distinct cultural, language and religious preferences and this community/population traditionally encounters language and cultural barriers which inhibit access to hospice care. Treasure Coast address this through CON application #10696, Schedule C, Condition #s 5, 7, 9 – 11
- The hospice penetration rate in SA 9A is below average compared to Florida for cancer in both the under 65 and 65+ age groups, and for non-cancer under 65
- Medicare hospice admission rates for African Americans and Hispanic residents of SA 9A lag behind the overall service area average
- Both CHNAs published for SA 9A identify poverty/lower income status as contributing to health status problems and unmet health care needs in SA 9A
- Median household incomes for African Americans and Hispanic population groups in SA 9A fall below the Florida average and the 9A median for the African American community is almost \$28,000 below the overall 9A median income
- Treasure Coast will set up a designated charitable account, as conditioned in the application, which will be used to help meet the needs of low-income patients, including outside of hospice services
- Treasure Coast commits to annually provide five percent (5.0 percent) of total patient days to Medicaid patients

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The applicant estimates total year one admissions of 111 and estimates year two total admissions of 188.

Moments Hospice of Indian River, LLC (CON application #10697) states that it has identified, after conducting needs analysis of SA 9A, several populations with unmet needs:

- 65+ population growth is expected and “may have increasing demands for healthcare systems and service needs”
- Indian River County Residents are not being served
- Monopoly Condition/No Choice of Providers
- Abnormally Low Length of Stay/Underserved Hospice Patients
- Unserved Medicaid Patients
- Unserved Nursing Home Patients
- Unserved Patients With Non-Cancer Diagnoses
- Florida’s Medicaid Managed Care Plans require hospice choice and access to hospice is at risk for these members

Moments also addresses the need to serve Medicaid and charity care, see item E.3. g. and the applicant’s proposed conditions.

Moments projects 190 total year one and 298 total year two admissions.

CON application #10695 Brevard HMA Hospice, LLC, on balance, best satisfied the statutory and rule criteria for a new hospice provider in SA 9A—this included identifying:

- *The proposed populations that are being underserved for hospice*
- *Services/programs proposed to make hospice more accessible and available to underserved populations*
- *Being a high quality provider serving the adjoining 7A service area, with strong local community support from SA health organizations, social services organizations, and other entities*

Quality of Care:

All co-batched applicants demonstrate the ability to provide quality care.

Brevard HMA Hospice, LLC (CON application #10695) commits to develop and maintain a Quality Assurance Performance Improvement Plan similar to those that are already utilized by its affiliated programs.

- Further, Brevard HMA Hospice: Is a Florida entity, and is affiliated with LHC Group which currently operates one hospice program in Florida (SA 7A) which borders SA 9A to the north

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- Brevard HMA’s most currently available Agency-linked CAHPS measure for:
 - Willingness to Recommend the Hospice score was 90
 - Compared to an average score of 84
 - An overall CAHPS average score of 83
- Brevard HMA’s most currently available HIS measure for:
 - Patients who got an assessment of all 7 HIS Quality Measures was 98.2 percent
- The applicant provided LHC Group’s most currently available CAHPS measure for:
 - Willingness to Recommend the Hospice score was 87
- For the three years ending October 25, 2021, LHC’s sole Florida hospice program (in SA 7A) had no substantiated complaints

Brevard HMA had no substantiated complaints during the three-year period ending October 25, 2021.

Hospice of the Treasure Coast Incorporated (CON application #10696) cites its existing quality programs. Further,

- Treasure Coast is an existing not-for-profit hospice provider in SA 9B that borders SA 9A, to the south and southwest
- Treasure Coast’s most currently available Agency-linked CAHPS measure for:
 - Willingness to Recommend the Hospice score was 90
 - Compared to an average score of 84
 - An overall CAHPS average score of 85
- Treasure Coast’s most currently available HIS measure for:
 - Patients who got an assessment of all 7 HIS Quality Measures was 71.7 percent

During the three-year period ending October 25, 2021, the applicant’s SA 9B programs had a total of two substantiated complaints.

Moments Hospice of Indian River, LLC (CON application #10697) commits to develop and maintain a Quality Assurance Performance Improvement Plan similar to those that are already utilized by its affiliated programs.

Moments Minnesota affiliate had a CAHPS score of 74 percent “Willing to Recommend the Hospice” compared to Florida’s 84 percent.

Financial Feasibility/Availability of Funds:

Applies to **all applicants:**

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- Funding for this project and the entire capital budget should be available as needed
- Strictly, from a financial perspective, this project will not have a material impact on price-based competition. However, the introduction of a competitor in a single provider hospice service area should increase competition and result in improved quality.

Brevard HMA Hospice, LLC (CON application #10695)

- This project appears to be financially feasible, although patient days may be understated and/or revenues overstated

Hospice of the Treasure Coast, Inc. (CON application #10696)

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

Moments Hospice of Indian River, LLC (CON application #10697):

- This project appears to be financially feasible, although patient days may be overstated and/or revenue may be overstated

Medicaid/Indigent/Charity Care:

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.

The applicants indicate the existing SA provider in its overall provision of care to Medicaid patients is none to low compared to the state average.

See the applicants responses to Item E. 3. g. for their proposed provision of service to Medicaid and medically indigent patients.

G. RECOMMENDATION

Approve CON #10695 to Brevard HMA Hospice, LLC to establish a new hospice program in Service Area 9A. The total project cost is \$378,458.60.

CONDITIONS:

Commitment to Nursing Program Support

- **COMMITMENT:** LHC Group, on behalf of Mederi Hospice, commits to offering \$35,000 to a local nursing program within District 1 (applicant's typo as this is a SA 9A project) to support the development of a hospice and palliative care training course, along with LHC Group offering students rotations under its new hospice program. LHC Group has experience in supporting local nursing education programs and looks forward to participating and supporting the growing workforce needs for hospice care into the future. LHC Group's "Measure" indicates it expects to identify, select, and fund a partner within 2 years of its hospice program opening but will seek to conclude the process as soon as possible.

Commitment to Palliative Care Program Development

- **COMMITMENT:** Mederi Hospice commits to establishing a palliative program for the service area once the program operates at an ADC of 50 – which LHC Group expects to reach by the end of its first year based on its projections. This will ensure the continuum of care is secured for patients that are often approaching a need for hospice, but have not yet qualified, are able to receive treatments they require under palliative care.

Commitment to Serve Patients without Primary Caregivers

- **COMMITMENT:** Mederi Hospice commits to make funding in the amount of \$25,000 available for free room and board at inpatient facilities to support patients without a primary caregiver. These funds will provide patients with care options otherwise unavailable and alleviate undue stress at the end of life.

Commitment to Serve the Homeless Population

- **COMMITMENT:** Mederi Hospice commits to targeting and serving the homeless population of District 9A as part of our program development should we be approved to provide hospice services. We will set aside \$25,000 to specifically fund support for homeless patients and execute a program of outreach and offer care through local organizations such as Treasure Coast Homeless Services Council, Inc. in accord with our charity care guidelines to ensure those patients in need of care are not denied access based on their means to pay.

Commitment to Support Local Department of Aging Services

- **COMMITMENT:** Mederi Hospice commits to funding the Area Agency on Aging of Palm Beach/Treasure Coast, Inc. organization with \$25,000 to support their existing programs for the elderly. With most hospice patient being of advanced age, the council for aging provides support services that continue to benefit, educate, and serve hospice patients and their families both before and during their hospice benefit. LHC Group’s “Measure” states it will complete the donation within its first year of operation and report on the donation as part of its annual report to AHCA.

Hospice Promise Foundation

- **COMMITMENT:** Beyond its above commitments, LHC Group commits to funding its Hospice Promise Foundation with \$25,000 to support local requests for support from patients. This will ensure access to charitable funding for our patients without competing with local providers for funds.

Community Hospice Education

- **COMMITMENT:** Mederi Hospice commits to funding and providing specific community education and outreach regarding availability of hospice services within the service area over the first two years of service implementation. Mederi Hospice commits to:
 - a. Conducting at least fifty (50) one-on-one outreach sessions with healthcare providers and community organizations.
 - b. Monthly Facebook Live presentations such as Hospice Hangout to provide end-of-life education and support to the community.
 - c. Initiate the Pet Peace of Mind Program within the first 24 months. This is a non-profit program that helps patients with terminal illness provide adequate care for their pets as well as helping with placement of pets if needed.
 - d. Initiate Grief Speak online grief support program within the first 3 months that is available for any families served by the location as well as anyone in the community needing support. Grief Speak is presented every second Tuesday of the month from 6-8pm CST. During Grief Speak, one of LHC Group’s bereavement coordinators or chaplains makes an informative presentation on grief and how to navigate its sometimes very confusing journey.
 - e. Initiate Community Grief Support Program within the first 6 months for any families served by the location as well as anyone in the community needing support.

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- f. Initiate a Caregiver Support Program within the first 6 months for any families served by the location as well as anyone in the community needing support and caregiving education.
- g. Provide an online community resource for end-of-life education with HospiceWePromise.com

We Honor Veterans Program

- **COMMITMENT:** Mederi Hospice will actively seek We Honor Veterans status once operational and we will progress through each level as rapidly as possible to reflect our belief in the importance and unique needs of hospice care for our veterans. Mederi Hospice will advocate for Veteran patients to participate in Honor Flight for Veterans. The provider will also actively recruit Veteran volunteers to better support Veteran patients.

Hospice Office Development

- **COMMITMENT:** Mederi Hospice commits to a principal care delivery site at 603 17th St, Vero Beach, FL 32960 (or like site within same region pending finalization of lease terms), upon program inception and tracking completion of the proposed arrangements with AHCA.

The Joint Commission Accreditation

- **COMMITMENT:** Mederi Hospice commits to pursuing and obtaining accreditation by The Joint Commission by the end of its first year of operation.

Medicaid Enrollment

- **COMMITMENT:** LHC intends to serve the Medicaid Community and shall seek Medicaid enrollment immediately upon receiving Medicare approval.

Deny CON #s 10696 and 10697.

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: December 17, 2021



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