

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Affinity Care of Manatee County LLC/CON application #10651

7771 West Oakland Park Blvd., Suite 150
Fort Lauderdale, Florida 33351

Authorized Representative: Patti Greenberg
(510) 499-9977

2. Service District/Subdistrict

Service Area (SA) 6C – Manatee County

B. PUBLIC HEARING

No public hearing was requested or held in regard to this project.

Letters of Support

Affinity Care of Manatee LLC (CON application #10651) provides letters of support in Volume 1, Tab 5 and excerpts of these in Volume 1, Tab 2, pages 78-90 of the application. These letters are from health organizations, social service organizations, businesses, other entities, and personal testimonials, largely within but in some cases outside SA 6C. The applicant provides letters of support from:

- Jennifer Bencie, MD MSA – Administrator/County Health Officer
Florida Department of Health
- Skilled Nursing Facilities (SNFs) – five letters
- Assisted Living Facilities (ALFs) – four letters
- Patient/Family Testimonial, Other Healthcare Organizations &
Providers – seven letters
- Virtual Reality Partner – one letter
- Chaplain (COL) Joanne S. Martindale, BCC – VA Chaplain

Affinity Care states it “was able to obtain support from nearly 40 percent” of Manatee County’s licensed nursing homes¹. Excerpts of the applicant’s support letters are cited below.

Lizer Jozefovic, Operator, Bay Vue Nursing and Rehabilitation Center indicates this 110-bed skilled nursing facility consistently operates “in the low 90 percent occupancy with appropriately 75 percent of our population being Medicaid population, lower income persons... many of our residents are minorities who are historically underserved in hospice care”. Affinity’s proposal to see residents needing hospice within two hours of referral is cited and the writer indicates this “response time is currently not available in our county”. Further, “Seniors should be able to choose which providers and programs care for them and their loved ones each step of the way. I am very excited for the residents of Manatee: they will hopefully soon have a choice in hospice programs. I urge you to approve the Affinity CON application as I believe they will be a valuable addition to Manatee County. I look forward to partnering with Affinity in caring for patients within Bay Vue...”

Kimberly Brennick NHA, MBA, LPN, Chief Executive Officer, Heritage Park Care and Rehabilitation Center (120-bed nursing home) indicates that “Affinity Care of Manatee will add the greatest value to the residents of our District and should be awarded the CON. The services they offer go above and beyond a standard hospice program and differentiate it from the existing provider. For example, Affinity Care has a culturally competent strategy to address disparities in minority populations, particularly with respect to the Black and Hispanic populations. Affinity Care of Manatee would undoubtedly be a great resource for our residents and a wonderful addition to our local healthcare landscape, I hope that in evaluating the need for choice in our community, you will agree that Affinity Care’s CON application should be approved.”

Jeff Nusbaum. NHA, Administrator, Casa Mora Rehabilitation and Extended Care (Manatee County’s largest nursing home with 240 beds) states he has been a nursing home administrator for 29 years and has seen firsthand that the current provider Tidewell basically has the monopoly on the Hospice business in Manatee County as residents/families have no choice. “I have no choices to offer my residents/families when they are not happy with the current services provided by Tidewell or shall I say, the lack of services available from Tidewell.”

¹ Affinity Care of Manatee County LLC includes support letters from five of the 13 or 38.46 percent of Manatee County’s nursing homes.

Medina Swanson LNHA, NHSA, Executive Director, Greenbriar Rehabilitation and Nursing Center (79-bed SNF) states “Aside from the traditional end-of-life care Affinity provides to its patients, one of the unique programs it will offer in Manatee County is its Equine-Facilitated Therapeutic Care Program. There is no such program in our local area; and I am certain no such program in Florida-except in Broward County where Affinity Care’s affiliate is implementing this unique program. Affinity’s other programming that will be available in Manatee County is also unique and exciting such as its Music therapy Program and Virtual reality Program. I am eager for our residents to benefit from these quality enhancements. We look forward to contracting with Affinity Care of Manatee for hospice services in our building once you approve its CON Application for hospice services in Manatee County.”

Jason Bunner, Administrator, Westminster Manor (59-bed SNF) indicates that Affinity will offer services that go above and beyond a standard hospice program and differentiate it from the existing provider. For example, Affinity Care has a culturally competent strategy to address the disparities in minority populations, particularly with respect to the Black and Hispanic populations. This strategy will be deployed in Manatee County which will be an invaluable resource in our County where it is proven that both Blacks and Hispanics receive lesser hospice services than the general population. Another example of the above and beyond services they offer is its virtual reality platform that Affinity has successfully deployed in all of its other hospice programs. The virtual reality platform offers the patient a unique experience that is intended to engage and provide a life review of sorts. It also focusses equally on preparing the patient and their family for the passing and caring for the life that’s left to live... virtual reality experiences... spark conversations, decrease depression and allow new memories to be made. Virtual reality is an innovative way to bring a larger world to people who have found themselves limited to a room, or just a bed and Affinity Care is equally innovative for bringing this technology to its patients. I believe our residents on hospice would find this to be an unparalleled experience and look forward to contracting with Affinity Care to provide hospice in our facility.”

Elizabeth Biggins, RN, BSN, Owner & Operator, Manatee Assisted Living writes “Despite the high concentration of seniors who are the most common utilizers of hospice care, there is only a single hospice provider serving the entire county. Our county has grown remarkably in recent years, and we must have a second quality hospice operator...We would welcome the opportunity to coordinate with Affinity Care Hospice for the care of our terminally-ill residents...”

Tami Erickson, Sales Counselor, Water's Edge Bradenton states "Affinity Care Hospice of Manatee County representatives have assured us that ...our patients will remain in our facility and receive the end of life care they need, in place, without disruption. This is better for our residents and their families and an alternative operating model than we currently have access to..."

Karen Arway, General Manager/Administrator, Merrill Gardens/Summerfield Senior Living cites Manatee's existing hospice monopoly and contends that "healthy competition only fosters quality and cost effectiveness". She mirrors comments made by Elizabeth Biggins and Tami Erickson concerning patients remaining in the facility receiving "end of life care they need, in place, without disruption" and coordinating with the applicant "for the care of our terminally-ill residents".

Amy L. Glasow, RN, Former Business Develop Liaison, Tidewell Hospice states she worked as a liaison in business develop for Tidewell Hospice in Sarasota and Manatee Counties for ten years training staff in Long Term Care Communities offering them one CEU for their license. She also met with patients and their families individually to educate them about when it is time to initiate hospice services often being asked "why they don't have more than one hospice in their community..." she sums it up saying "The bottom line is that the residents of these counties need and deserve a choice."

Jennifer Bencie, MD, MSA, Administrator/County Health Officer, Florida Department of Health in Manatee County writes "As the Administrator of the Florida Department of Health in Manatee County, I am pleased to provide this letter of support for Affinity Care Hospice to establish a new hospice service program in Manatee County. The Florida Department of Health in Manatee County works to protect, promote and improve the health of all people in Florida through integrated state, county, and community efforts. It is in line with this mission that DOH-Manatee supports Affinity Care Hospice's application for a Certificate of Need (CON). We would welcome the opportunity to assist Affinity Care Hospice for the care of our terminally-ill Manatee County residents..."

Lisa Herlache, Ph.D., President and Administrator, Right Intentions, Inc. d/b/a Home Instead Senior Care states that "connecting and coordinating" with the current hospice provider is "often difficult". She states that Affinity Care offers a "comprehensive and robust hospice model" carried out by a company and leadership that she is familiar with. She is also aware of Affinity Care's "specialty programs" and program to "enroll minority population groups in hospice services, targeting a reduction in the gap of services and enhancing both the Hispanic and Black hospice penetration rates". She "strongly supports"

their approval and believes it “will have a significant impact on minority terminally ill in this County, including my patients, and also address the underserved population that will not use the existing provider”.

Jeanie Davis, Senior Living Advisor, Manatee and Sarasota Counties, indicates she has met with the applicant’s representatives and that Affinity will bring a host or unique programs that will “add so much value at the end of life”. She believes that “Choice breeds equality”, stating “I am eager to work with Affinity Hospice” and “whole heartedly support Affinity Hospice’s efforts to serve Manatee County.”

Andrew Burke, President, Granny Nannies states “I am the owner and operator of a licensed private duty provider called Granny Nannies. We are a nurse registry serving the residents of Sarasota and Manatee Counties. We provide Homemakers and Caregivers to the aging population in order to support their ability to remain in the care setting they are in and choose to remain in.... We often partner with hospice to provide end-of-life care for our patients that are in need of the support. This partnership is an important part of our care model. We currently use the only hospice provider licensed to serve our counties. We often hear from the families of our clients that they would prefer to have more than one option for hospice I look forward to partnering with them (Affinity) to enhance end-of-life hospice care for our patients.”

The application also includes a letter from a family member of a former Tidewell patient that expresses dissatisfaction with the care Tidewell provided and states “we should have a CHOICE...for our journey of life.”

Colonel Joanne S. Martindale, BCC, Chaplain, United States Department of Veterans Affairs & United States Army indicates that “Affinity is a new name for Continuum Care” and that “By approving Affinity Care of Manatee County, Veterans in Manatee County who have given so selflessly, will receive the support and compassionate care they deserve at end of life. As reported by American Community Survey, Manatee County has approximately 32,500 Veterans – 8+ percent of its population. Manatee County needs and deserves Continuum to support its Veterans...”

Kyle Rand, Cofounder & CEO, Rendever states his company “is working to overcome social isolation through the power of virtual reality and shared experiences”. Further, “It is an honor to partner with a hospice company who truly understands and values all of the needs of their patients and families and strives to continue creating new ways to deliver care to the whole person, mind body and spirit.”

Letter of Opposition:

Seann M. Frazier, Esq., of Parker Hudson Rainer & Dobbs, on behalf Tidewell Hospice, Inc. - the one hospice provider serving SA 6C submitted an opposition letter dated April 28, 2021. This letter details services provided by Tidewell in Manatee County. Tidewell sites the lack of calculated need based on the Agency's fixed need pool calculation, high utilization as reported by Tidewell, which results in admissions exceeding the planning horizon's projected needed number and contends that its being the sole hospice provider, does not produce need. Mr. Frazier contends that Tidewell offers higher quality of care than Affinity.

Data in support of Tidewell's service to Manatee residents is provided. The letter also has attachments with letters citing Tidewell's care and Tidewell brochures and pamphlets. Mr. Frazier states its letters show Tidewell's "overwhelming community support". He notes that some of Tidewell supporters oppose the entry of Affinity into Manatee County.

C. PROJECT SUMMARY

Affinity Care of Manatee LLC (CON application #10651) referenced as Affinity Care, Affinity or the applicant, is a developmental stage corporation formed for the purpose of initiating hospice services in SA 6C, Manatee County, Florida. The applicant proposes \$381,998 in total project costs. The total project cost includes equipment, project development and startup costs.

Affinity has one Florida affiliate – Continuum Care of Broward LLC, which was licensed November 4, 2020. The applicant states that Continuum Care Hospice and Affinity Health Management have the same leadership team and that entities formed during the fourth quarter of 2021 and later will operate under the Affinity Care name. Affinity Care of Manatee County LLC's principal is Samuel Stern, the former principal operator of Continuum Care Hospice founded in 2013, which includes five affiliate hospice programs in five states: Florida, New Jersey, Ohio, Virginia and Washington. Affinity Care notes that it will include discussion of previous Continuum Care Hospices that were divested in CY 2020, as examples of the senior leadership team's successes.

Continuum Care of Sarasota, LLC in which Mr. Stern is the owner, has an approved CON (#10607) to establish a new hospice program in SA 8D (Sarasota County). In this batching cycle, Affinity affiliate (Continuum Care of Miami Dade LLC) proposes to establish a new hospice program in SA 11 (Miami-Dade and Monroe Counties).

The applicant expects issuance of license on September 1, 2021 and initiation of service on October 1, 2021.

Pursuant to project approval, Affinity Care of Manatee County offers the following Schedule C conditions:

1. The applicant will implement its Virtual Reality Program upon licensure of its program. It will be made available to all eligible Affinity Care Manatee patients. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
2. The applicant will implement its Music Therapy Program upon licensure of its program. It will staff a minimum of one Board Certified Music Therapist. It will be made available to all eligible Affinity Care Manatee patients. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
3. The applicant will implement its Equine Therapy Program upon Medicare certification. It will be made available to all eligible Affinity Care Manatee patients who are physically able to make the trip to the stable partner. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
4. The applicant will implement a minority outreach program for the Black and Hispanic population assembling an appropriate care team for assessment and treatment of this population. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
5. The applicant will become accredited by CHAP once certified. This will be measured by the applicant's submission of its accreditation certificate to AHCA upon receipt.
6. The applicant will assure each patient has five to seven Home Health Aide visits per week, provided this is acceptable to the IDT, patient and family. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
7. The applicant will assure each patient has a minimum of two RN visits per week, provided this is acceptable to the IDT, patient and family. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.

8. The applicant will seek to respond to all its referrals within one hour, initiate the assessment process within two hours, and expedite admission to the hospice subject to having a physician order in hand and the patient/family selecting the hospice option. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
9. The applicant will implement its Continuum Palliative Resources program within six months of receiving its Medicare certification. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
10. The applicant will not build or operate freestanding hospice houses in Manatee County, Subdistrict 6C. This will be measured by a signed declaratory statement submitted to AHCA.
11. The applicant will implement its Veterans outreach program, We Honor Veterans, once certified. This will be measured by a signed declaratory statement submitted to AHCA.

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.

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As part of the fact-finding, consultant Sarah Zimmerman 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 24, of the Florida Administrative Register, dated February 5, 2021 the Agency indicated zero net need for a new hospice in SA 6C for the July 2022 hospice planning horizon. The applicant is applying to establish a hospice program in the absence of published numeric need.

SA 6C's only licensed hospice, Tidewell Hospice, Inc. reported 3,434 SA 6C admissions during CY 2020.

- b. Approval Under Special Circumstances. In the absence of numeric need shown under the formula in paragraph (4)(a), the applicant must demonstrate that circumstances exist to justify the approval of a new hospice. Chapter 59C-1.0355(4)(d), Florida Administrative Code. Evidence submitted by the applicant must document one or more of the following:**

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

Affinity Care states, "This Certificate of Need (CON) application is submitted in direct response to the Not Normal & Special Circumstances that exist in Manatee County, Subdistrict 6C that have been identified by the applicant and supported by extensive hospice constituents in the Service Area". The applicant contends that the Not Normal & Special Circumstances identified, on their own and in aggregate, are sufficient to warrant the approval of an additional hospice in SA 6C.

The applicant cites Rule 59C-1.0355(3)(b), Florida Administrative Code and emphasizes that a new hospice program shall not be approved in the absence of a numeric need indicated by the formula in paragraph (4)(a) of this rule, *unless other criteria in the rule and in Sections 408.035 and 408.043(1), Florida Statutes, outweigh the lack of a numeric need.*

Affinity states that Manatee County is home to three acute care hospitals with 798 licensed beds, 13 skilled nursing facilities (SNFs) with 1,595 beds, 42 assisted living facilities (ALFs) with 2,627 beds, 38 home health agencies and hundreds of physicians. Further, Manatee County is home to 395,789 residents of whom 26.7 percent are age 65+, which is projected to increase to 31.4 percent of Manatee’s (466,461) total population by 2030. Manatee County had 4,364 deaths in CY 2019, and it is projected to have 4,601 deaths as of the July 2022 planning horizon per the Agency’s hospice need projections published February 5, 2021. See the table below for Manatee County population projections.

Subdistrict 6C Population Estimates and Projections by Age Cohort 2020, 2025 and 2030					
Age Cohort	2020	2025	2030	Change, '20 to '30	Percent Change, 20 to '30
Under 65 Years	290,042	308,056	320,205	30,163	10.4%
65 and Older	105,747	126,498	146,256	40,509	38.3%
Total Population	395,789	434,554	466,461	70,672	17.9%
65+ as Percent of Total	26.7%	29.1%	31.4%	4.7%	17.6%

Source: Bureau of Economic and Business Research, Population Projections by Age, Sex, Race, and Hispanic Origin for Florida and Its Counties, 2020–2045, published June 30, 2020

Source: CON application #10651, Volume 1, Tab 2, Page 11

The applicant provides a discussion of the Rule 59C-1.0355, Florida Administrative Code hospice need formula computation projected incremental surplus of 49 admissions, suggesting there is zero net need for an additional hospice program as published.

Affinity Care contends that despite lack of numeric need, Not Normal & Special Circumstances exist in SA 6C. These include:

- o The specific terminally ill population not being served is defined in this CON application as minorities (both Black and Hispanic), persons not offered a choice in hospice care who do not want to use Tidewell, persons who had a prior negative incident with Tidewell and choose not to use Tidewell again, persons who reside in a facility which does not have a relationship with Tidewell, patients of home care service

agencies who do not work with Tidewell, and other similar circumstances. Affinity contends that “prior conclusions of law indicate that defining a group as not being served does not require that all are not being served, just that a portion of this defined group is not being served”.

- The county not being served is Manatee County. All of the terminally ill groups cited above reside in Manatee County. Affinity concludes here by restating “prior conclusions of law indicate that defining a group as not being served does not require that all are not being served, just that a portion of this defined group is not being served”.

Affinity indicates the “Special Circumstances and Not Normal Circumstances are based on factors best grouped into the following categories and discussion items”:

1. Manatee County residents are not being served.
2. Terminally-ill Black and Hispanic minority groups in Manatee County are not being served
3. 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.
4. Tidewell Hospice, Inc. operates a regional monopoly that includes Subdistrict 6C and two other contiguous hospice subdistricts.
5. Tidewell’s hospice house model of care breaks the continuity of care for the patient and adversely impacts Subdistrict 6C nursing homes and ALFs.
6. Admissions and readmissions to the regional monopoly provider have resulted in an artificial suppression of fixed need.
7. The lack of Competition & Need for Choice in hospice programs has been voiced by the community.

Not Normal Circumstance #1: Manatee County residents are not being served

Affinity provides the table below which shows that four percent of patient families participating in the CAHPS (Consumer Assessment of Healthcare Providers and Systems) survey indicated that they would probably not or definitely not recommend Tidewell Hospice. Applying four percent to the pool of potential hospice patients to the number of terminally ill Manatee County deaths in 2019 results in 175 Manatee County residents/families who would likely not utilize Tidewell. The applicant next discusses other negative CAHPS data from January 1, 2018 – December 31, 2019 and applies Manatee County deaths to these percentages concluding that this quantification ranges between 175 and 524 families who require an alternate hospice provider. See the table below.

Tidewell Hospice Family Experience - Negative CAHPS Scores Demonstrates Large Pool of Dissatisfied Consumers		
Manatee County Deaths, 2019	Tidewell Percent	4,364
Would Probably Not or DEFINITELY NOT Recommend	4%	175
Sometimes or NEVER Communicated Well	7%	305
Sometimes or NEVER Provided Timely Help	10%	436
Did NOT Provide the Right Amount of Emotional or Spiritual Support	10%	436
Sometimes or NEVER Got the HELP They Needed for Pain and Symptoms	12%	524
Did NOT Receive the Training They Needed	12%	524
Sometimes or NEVER Treated the Patient With Respect	3%	131
Rated the Agency a 6 or Lower	5%	218

Source: Tidewell Hospice CAHPS via www.hospicecompare.gov January 1, 2018 – December 31, 2019 and National Healthcare Associates analysis.

Affinity contends that there are sufficient quantified families to support the introduction of a second provider to SA 6C and this population will not be served by the existing hospice provider. While the range could be that high, the CAHPS scores cited would of course include families that would have answered negatively on more than one question. Regardless, there is some dissatisfaction shown and the applicant has support for an option other than Tidewell.

Affinity cites Ms. Erica Floyd Thomas, the Agency’s Chief of Medicaid Policy testimony in the Tidewell v Continuum Care of Sarasota Case No. 20-1712CON, when asked if she would be concerned if a family member that did not want to use the same provider due to a previous bad experience, “would it be concerning to you that those people would have no choice in another provider”, she responded “It’s always concerning when freedom of choice is not availed.” Ms. Thomas also responded “Yes” when asked if that situation would be an example where freedom of choice is important. Affinity states that one of the fundamental principles of the Medicare program is to provide consumers with ‘choice’ in seeking health care providers and services and this concept is embedded in Code of Federal Regulations 418.108 (“CFR”)42. The applicant concludes that quantifying the CHAPS survey scores in conjunction with the CFR 42 requirement of choice warrants approval of the application.

Not Normal Circumstance #2: Terminally-Ill Black and Hispanic Minority Groups in Manatee County are not being served compared to their counterparts

Affinity cites population data indicating Manatee County was home to 37,692 Black residents accounting for 9.5 percent of the county’s total population and projects a 13.3 percent increase, by more than 5,000 individuals by 2025 (BEBR 06/30/20 Publication). By 2030 Manatee

County will account for 10 percent of its total population being home to 47,000 Black residents. As for the Hispanic cohort, Manatee County is home to 74,938 Hispanic residents which is projected to increase to 89,460 by 2025 and to 101,297 by 2030. Currently, there are 5,120 Hispanic seniors residing in Manatee County, which will increase by 114 percent or to 10,942 persons by 2030. In 2019, Manatee County had 258 Black and 209 Hispanic resident deaths. The aggregate 467 deaths represented 10.7 percent of the county’s total deaths. Given the projected growth, Affinity concludes that the need for end-of-life care for minorities in Manatee County must be addressed.

Affinity provides data indicating that Tidewell Hospice’s Black penetration rate is less than the rest of Florida’s Black penetration rate. In 2019, Tidewell’s rate (42.4 percent) was 7.7 percentage points less than the remainder of Florida’s (50.1 percent) rate. The disparity year over year, with the exception of a similar rate in 2018, is illustrated in Volume 1, Tab 2, pages 19 and 20 of this application.

Affinity Care states that Tidewell’s CY 2019 Hispanic penetration rate of 38.9 was nearly 24 percentage points lower than the “rest of Florida’s Hispanic (penetration) rate of 62.6 percent”. While Tidewell’s Hispanic penetration rate has ranged from 33.5 to 40.6 percent in each of the last five years, the rest of Florida has ranged from 58.3 to 64.8 percent. The disparity in 2019 of 24 points is consistent with each of the last five years.

Had Blacks and Hispanics had equal hospice penetration rates, as the all-other/white, non-Hispanic cohort in Tidewell’s regional service area there would have been nearly an additional 300 Black (154) and Hispanic (144) admissions to hospice in 2019. Affinity applies the disparity between “all other” and the minority penetration rate to minority deaths in Tidewell’s total service area during the last five years in the table below:

Tidewell Hospice’s Underserved Population of Tidewell Hospice Achieved Same Penetration Rates as “All Other” (Non-Black/Non-Hispanic) Five-Year Trend					
	CY 2015	CY 2016	CY 2017	CY 2018	CY 2019
Black Disparity	28.0%	24.7%	26.5%	21.5%	28.4%
Hispanic Disparity	26.2%	30.8%	26.2%	26.6%	31.9%
Additional Black Admits	138	138	146	126	154
Additional Hispanic Admits	91	121	95	115	144
Total	228	259	240	241	298

Source: CON application #10651, Volume 1, Tab 2, Page 21, from Department of Elder Affairs, Annual Reports 2015-2019, Florida Office of Vital Statistics and NHA Analysis

To quantify the unmet need amongst Black and Hispanic minorities within Manatee County, Affinity quantified the portion of Black and Hispanic deaths as a percentage of total Black and Hispanic deaths in Tidewell’s three subdistricts, for each of the last five years. The table below shows Manatee County has a far greater proportion of minority deaths compared to Tidewell’s other markets.

Underserved Black and Hispanic Minorities in Subdistrict 6C					
Five-Year Trend					
	CY 2015	CY 2016	CY 2017	CY 2018	CY 2019
6C Black Deaths as % of 6C/8C/8D Total	49.6%	48.5%	43.9%	46.8%	47.8%
6C Hispanic Deaths as % of 6C/8C/8D Total	43.1%	47.2%	41.4%	43.6%	46.2%
Underserved Subdistrict 6C Minorities					
Black	68	67	64	59	73
Hispanic	39	57	39	50	67
Total	107	124	103	109	140

Source: CON application #10651, Volume 1, Tab 2, Page 22, from Department of Elder Affairs, Annual Reports 2015-2019, Florida Office of Vital Statistics and NHA Analysis

Affinity Care explains that in each of the last five years, there have been between 59 and 73 Black, and 39 and 67 Hispanic unserved residents in Manatee County, SA 6C. Given that these persons are “unserved” they are in addition to the population that was previously served by Tidewell (and will not use Tidewell again) as quantified in Not Normal and Special Circumstance #1. Affinity concludes that the data proves that both the Black and Hispanic populations in Manatee County access hospice at a much lesser rate than their white counterparts, both within Tidewell service areas and compared to the remainder of Florida. The applicant contends that Tidewell Hospice’s outreach initiatives to Manatee’s Black and Hispanic population have not been robust enough to enhance accessibility and availability.

Affinity Care then discusses its insight on the historical dynamics, cultural beliefs and attitudes and the way it plans to address these issues to enhance the extent of utilization for the Black and Hispanic populations. The applicant provides five primary reasons why “Black Terminally-Ill Patients Tend to Not Choose Hospice”.

1. *African Americans have a deeply rooted distrust of the health care system.* Due to a history of disrespectful and inadequate treatment from a predominantly white medical community, contributes to their decision not to choose hospice.
2. *Lower economic status and resources* play a large part in leaving the minority communities at a disadvantage with less access to health care services.

3. *A greater willingness to spend their resources to stay alive* is shown in a recent study finding that 8/10 African Americans are willing to spend everything they have to stay alive compared with only half of the white counterpart. This trend may be positively correlated with cultural differences as well as socioeconomic disparities.
4. *Lower care satisfaction among family members* who report absent or problematic communication with physicians and a higher tendency for patients to not have written advance care planning documents. The lower satisfaction and end-of-life care earns it a reputation that spreads throughout the African American communities.

The 2020 study published by Katherine Ornstein et al., concludes that Black decedents undergo more intensive treatments at the end-of-life and are less likely to use hospice services relative to white decedents. More sustained efforts must be made to reduce the disparities in end-of-life care through better education and training of health care professionals to promote the discussion of personal values and preferences for the end-of-life in Black communities.

Affinity Care then discusses the research it has on “Hispanic Hesitation Surrounding Hospice Enrollment”:

The 2019 literature review published by Margaret L. Rising, JD, MA, BSN, RN, BA in the *Journal of Healthcare for the Poor and Underserved* titled *Hispanic Hospice Utilization: Integrative Review and Meta-analysis* concludes that overall, Hispanics are not using hospice at rates equal to non-Hispanic whites. Specific attributes that may influence hospice enrollment, usually relating to a cultural tendency toward collectivism have been associated with the Hispanic ethnic category. Hispanics are more likely to engage in family decision making on the topic of end-of-life care.

Hispanic cultural traits include the practice of “prognosis secrecy”. “The rationale behind prognosis secrecy is that sharing such information with the patient or particular family members might be burdensome for them or even hasten the patient’s death.”

The third cultural influence is the meaning of the word “hospice”. In Spanish, “hospicio” refers to a place such as an asylum related to poverty and abandonment. According to an article published by Barbara Allan, CEO of SRA Research Group, Inc., this word has a negative connotation that sends strong signals that make many Hispanic individuals reject the concept before they have invested any time or effort into learning about

it. This, along with the belief that no one can take better care of your loved ones than family, at home, leaves the Hispanic family with feelings of abandonment, failure, and guilt-leaving family out of the equation.

Affinity Care plans to address these cultural attributes by focusing on outreach and education, hiring team members that reflect the diversity of Manatee County, and implementing its Continuum Palliative Care Program which it contends will significantly improve the perception of hospice and repair the negative image that hospice historically has.

The applicant provides the following synopsis of how Affinity Care’s operator and leadership team have enhanced hospice penetration amongst various minority groups in other communities.

Continuum Care Hospice, LLC served Alameda County, California from 2015 until 2020. During this time, it focused on changing the cultural and racial divide about hospice care in that community. Continuum worked diligently by hiring people that were engrained in the community, working with local Black leaders to educate about hospice. As a result of this program, the percentage of Black admissions to the Continuum Hospice was twice that of other hospice programs serving Alameda County at that time. Between 2017 and 2019, Black admissions as a percent of total admissions increased by seven percentage points. During this same time period, total non-white admissions increased four percentage points. As a point of reference, 10.4 percent of Alameda County’s total population is Black.

Continuum Care Hospice LLC Alameda County Admissions by Race “Oakland Program”			
Percent of Total Admissions			
Year	Black	Non-White	White
CY 2017	11.5%	37.9%	62.1%
CY 2018	14.2%	29.0%	71.0%
CY 2019	18.5%	42.4%	57.6%

Source: CON application #10651, Volume 1, Page 26.

Through the implementation of the Oakland Program, Continuum Care admissions as a percent of total admissions, (18.5 percent) exceeded the 18.2 percent of deaths in the county identified as Black. The applicant states that Continuum Care’s Oakland Program cultivated a set of tools and practices to address the cultural, health systems and other impediments to hospice care that confront the underserved population.

Examples of common barriers include insensitivity to cultural variations in attitudes toward death and dying, clinician difficulty in communicating about end-of-life issues, and lack of culturally

appropriate sources of information and resources in the community. Affinity indicates it will modify the Oakland Program's mechanisms to best support the local market, and "will introduce these same learned proficiencies". Further, it will partner with existing community resources that service the Black community such as churches and community centers and will hire African American team members from the local community "in an effort to cultivate a trusting relationship". Affinity Care has conditioned this CON application on the provision it will implement a minority outreach program.

The applicant cites Continuum Care's partnership with OLE Health, a California Patient-Centered Medical Home that emphasizes care for the underserved in their region, creating programs surrounding the migrant workers and Hispanic population. Continuum Care Hospice created a team that speaks fluent Spanish, developed all their published material in Spanish and educated the home's caregivers on disease progression and what they can do to help. Affinity contends it will make the same efforts to enhance hospice utilization amongst the Hispanic demographic in Manatee County. The applicant has conditioned this CON on the provision it will implement a minority outreach program.

Additional minority outreach programs are discussed such as Continuum Care Rhode Island's work with Higher Ground International (HGI). HGI is described as "a forward-thinking and culturally grounded inter-generational social service non-governmental organization that advocates and provides programs for West African Immigrants, Refugees and Marginalized Communities in Rhode Island and Rural Villages in Liberia, West Africa". Continuum Care Rhode Island also provides education to many other minority groups including but not limited to: Cape Verdean, Portuguese, and Filipino communities.

The applicant describes the community outreach Continuum Care Rhode Island has with the Native American population working with the Narragansett tribe which has extended contracts to Continuum to provide services to their members. Affinity Care of Manatee County contends that it will apply similar expertise, awareness of cultural sensitivities and outreach to serve minority populations and cites its proposed condition to do so.

Not Normal Circumstance #3: Florida's Medicaid Manage Care Statute requires "Hospice Choice" to maintain Network Adequacy and Health Plans have the right to terminate Hospice providers based on Quality Metrics

Affinity notes that Florida Statute 409 governs Medicaid Managed Care (MMC) providers and operations. Affinity Care indicates that Florida's

Statewide Medicaid Managed Care (SMMC) was created in 2011, and there are two parts that make up the program: Managed Medical Assistance (MMA) Program and the Long-Term Care (LTC) Program. Further, Medicaid recipients that qualify, and become enrolled in MMA, are entitled to receive all health care services (other than LTC) from a managed care plan. Medicaid recipients that qualify and become enrolled in LTC, receive standard LTC benefits including:

- Adult Companion Care
- Adult Day Health Care
- Assistive Care
- Assisted Living
- Attendant Nursing Care
- Behavioral Management
- Caregiver Training
- Care Coordination/ Case Management
- Home Accessibility Adaptation
- Home Delivered Meals
- Homemaker
- **Hospice**
- Intermittent and Skilled Nursing
- Medical Equipment & Supplies
- Medication Administration
- Medication Management
- Nutritional Assessment/Risk Reduction
- Nursing Facility
- Occupational Therapy
- Personal Care
- Personal Emergency Response System (PERS)
- Respite Care
- Physical Therapy
- Respiratory Therapy
- Speech Therapy
- Transportation to LTC Services

The applicant notes that in *Tidewell Hospice v Continuum Care of Sarasota* (DOAH Case No. 20-1712CON) Ms. Erica Floyd Thomas, AHCA's Chief of Medicaid Policy testified that the minimum network standard for hospice is two per county. Affinity contends that since Manatee County only has one hospice it does not meet the minimum adequate network standard for hospices. The reviewer notes that a waiver of this requirement can be obtained.

Affinity Care notes that within Manatee County, residents are offered seven choices of MMA & LTC plans: Sunshine Health Plan, Florida Community Care (only LTC), Aetna Better Health, Humana Medical Plan,

Staywell, United Healthcare and Simply Healthcare Plan. Further, as of January 31, 2021, there were 54,005 Manatee County adults enrolled in the SMMC Program and 1,522 in a long-term care plan. Affinity applies the average annual death rate (0.011030) to the combined 55,500 (or 55,527) enrollees which yields 612 annual deaths and contends that with CAHPS scores ranging between four and 12 percent, between 24 and 73 medically indigent persons are underserved.

The applicant comments that managed care plans must develop and maintain provider networks that meet the medical needs of their enrollees in accordance with standards established pursuant to Section.409.967(2)(c), Florida Statutes. Affinity Care notes that the MMC program has many objectives that fall within financial, programmatic, and operational (quality) facets. Further, financial benchmarks, pricing and access to reach the medically underserved are foundations of MMC. The applicant states that the sponsors of these programs always espoused quality along with financial objectives; quality was not to be compromised. Affinity Care asserts that it has been proven by studies throughout the years that choice and competition have a positive effect on quality and service delivery.

The applicant states that choice and competition are important to the implementation of the MMC conversion and implementation within the State. Affinity notes the Florida Statutes governing MMC and its services, such as hospice, require AHCA-established specific standards for the number, type and regional distribution of providers in managed care plan networks to ensure access to care. The statute requires that each plan maintain a region-wide network of providers in sufficient numbers to meet the access standards for specific medical services (i.e., hospice) for all recipients enrolled in the plan [Florida Statute 409.967(2)(c)(1)]. Affinity Care contends that the verbiage, "Providers," within the statute indicates plurality, meaning that the statute implies the presence of at least more than one.

The applicant notes that Florida Statute 409.982(1) states that plans and providers participating in LTC managed care programs may limit the providers (i.e., hospices) in their networks based on credentials, quality indicators and price and each selected plan must offer a network contract to all the following providers in the region: nursing homes, hospices and aging network service providers. Affinity points out that the statute goes on to state that "After 12 months of active participation in a managed care plan's network, the plan may exclude any of the providers named in this subsection from the network for failure to meet quality or performance criteria..."

The applicant maintains that in Manatee County, if there is a quality or performance criteria issue with Tidewell Hospice Inc., there is currently no alternative provider that could step in and serve the managed care plan's patients. Affinity asserts that in SA 6C matters are more severe, because Tidewell is a single provider and operates this regional monopoly in four contiguous subdistricts. The applicant notes that should there be a quality issue where the plan would need to exclude Tidewell from its network, there would be no hospice provider able to serve the entire region of Sarasota, Manatee, Charlotte, or DeSoto Counties.

Affinity cites the U.S. Department Health & Human Services, Office of Inspector General (OIG) report of February 2021 concluded that Tidewell overbilled Medicare resulting in an estimated \$8.3 million in reimbursement more than it should have received. The applicant includes the OIG report in Volume III, Tab 17 of CON application #10651. The audit covered 33,024 claims for hospice services provided during April 2016 – March 2018. Tidewell is cited for clinical records that did not support the beneficiary's terminal illness prognosis or the level of care claimed and for claiming payment for services that were not eligible for Medicare reimbursement. Affinity contends that this is a quality and integrity issue.

The applicant also cites the Agency's review of Tidewell's Medicaid claims during the period of September 1, 2009 – December 3, 2012, in which the final audit report dated June 10, 2016, determined that certain Medicaid claims were inappropriately paid. The overpayment and sanctions total of \$589,734 was initially repaid.² Affinity Care notes that exclusion, revocation, and suspension of licensed hospice providers for noncompliance have occurred in other markets in the past. The applicant points out that in 2015, one of the hospice programs in Alachua County was investigated for fraud; while under investigation, this provider's Medicaid funding was suspended and all patients had to be transferred to another licensed hospice program in that subdistrict. Affinity notes that had this occurred in Manatee County, Manatee residents would have been left without a hospice provider.

Affinity provides another example of a license suspension/revocation, though unrelated to quality care, that transpired in 2015; Compassionate Care Hospice of Central Florida (an Amedysis Company) serving Polk, Hardee and Highlands County, Subdistrict 6B had its license revoked due to a paperwork error. Affinity Care comments that this provider was forced to immediately cease operations and transfer all patients to another hospice program in that subdistrict. The applicant

² CON application #10651, Volume II, Tab 10 includes the June 28, 2017 Final Order in this case, which indicates Tidewell was refunded \$385,436 of the original payment.

maintains that for families and patients suffering through some of the most stressful circumstances possible, forcing them to start anew, somewhere else and with new caregivers, particularly in the last days of a patient's life is terrible. However, Affinity Care points out that there was at least another hospice provider, licensed to serve that market, which was willing and able to accept Compassionate Care Hospice's patients.

The applicant comments that should either of "these scenarios or similar" occur in Manatee County, there would be no alternative hospice program available to accept transferred patients as there is no back up to Tidewell because Tidewell is SA 6C's sole hospice provider and has a regional monopoly. Affinity asserts that this clearly presents a programmatic access barrier. Further, the fact Florida Statute requires adequate network capacity, encourages choice and allows the managed care plan to exclude a hospice (or other) provider, based on failure to meet quality or performance criteria, is a positive measure that raises the bar statewide. Affinity concludes that this is a significant issue and pitfall in a market where there is no alternate choice for the managed care providers to contract with and concludes this creates a Not Normal Circumstance.

Not Normal & Special Circumstance #4: Tidewell Hospice Operates a Regional Monopoly that Includes Manatee County, Subdistricts 6C and Two Other Contiguous Hospice Subdistricts - "Regional Monopoly"

Affinity states that the Agency should weigh and balance the Rule and Florida Statutory Review Criteria and that it is incumbent on the Agency to place little, if any weight on the fixed need pool computation for Subdistrict 6C. Tidewell is a single provider and a monopoly which has been confirmed by the Agency, The Division of Administrative Appeals and the First District Court of Appeals beginning "several years ago" and reaffirmed in CY 2021 by the Agency approving Continuum Care of Sarasota to establish a new hospice agency in Sarasota County, Florida (SA 8D).

The applicant states that Subdistrict 6C presents a Not Normal Circumstance in that the only provider serving the subdistrict, Tidewell Hospice Inc., has a regional monopoly whereby it is the sole provider in Manatee County (Subdistrict 6C), Sarasota County (Subdistrict 8D) to the south, and Charlotte and Desoto Counties (Subdistrict 8A) to the south and east of Sarasota. The applicant notes that the Federal Office of Management and Budget defines North Port-Bradenton-Sarasota as a metropolitan statistical area (MSA).

Affinity Care notes that the Federal Government defines the North Port-Sarasota combined statistical area (CSA) as consisting of North Port-Sarasota-Bradenton MSA, Punta Gorda, Florida MSA (Charlotte County) and Arcadia, Florida micropolitan statistical area (DeSoto County). Affinity concludes that, “as demonstrated herein, Tidewell is a hospice monopoly within each subdistrict and within the entire region”.

The applicant states that in DOAH Case No. 20-1712CON (Tidewell Hospice v Continuum Care of Sarasota) Robert Maness, PhD in Health Economics presented a lengthy presentation on the effects of a monopoly, and how elimination of a monopoly would enhance quality through competitive positioning. A copy of Dr. Maness’ presentation and testimony are included in CON application #10651 Volume II, Tab 7.

Affinity notes that there are six of 27 hospice subdistricts representing nine of 67 counties remaining in Florida with only a single hospice provider licensed to serve the entirety of the subdistrict/county and Tidewell is the sole provider in three of these six subdistricts. Affinity Care comments that once Continuum Sarasota is operational, five of 27 hospice service areas will remain single hospice provider subdistricts, “which is five too many”. The applicant cites Manatee’s population of 396,000 persons and 4,364 annual deaths and concludes their being “unable to comparatively shop for hospice services at home is wrong”. Affinity further notes that the current Tidewell monopoly has more than 1.05 million people in the region with 13,449 resident deaths per year with only one hospice provider available to them. The applicant provides a map in Volume I, Tab 2, Page 36 of CON application #10651, which depicts the location of the six service areas and nine counties remaining in Florida with a hospice monopoly.

Affinity Care contends “that a single provider serving an entire county, much less four counties in a contiguous region is virtually unheard of...” The applicant provides two charts—Deaths Per Hospice Program by Subdistrict Licensed & Approved Hospice Program Calendar Year 2019 and Population Ages 65+ per Hospice Program by Subdistrict Licensed & Approved Hospice Program 2020 Estimate (in Volume I, Tab 2, Pages 37 & 38) to show and support the lack of choice that is given to this service area.

Affinity concludes “choice and healthy competition enhance quality of care”, “monopolistic hospice environments result in a high level of complacency for the existing provider” and “this leads to hampered access to hospice services”. Letters of support are included in Volume I, Tab 5 of CON application #10651.

Not Normal Circumstance #5: Tidewell’s Hospice House Model of Care Breaks the Continuity of Care for the Patient, Provides an Excessive Amount of General Inpatient Care and Adversely Impacts Subdistrict 6C Nursing Homes & ALFs:

Affinity states that Tidewell’s model of care is to provide inpatient, respite and routine care in its hospice houses compared to Affinity’s model which is to maintain patients in their homes to the extent it can, utilizing contracted hospital and skilled nursing beds for general inpatient and respite care as needed. Affinity notes that Tidewell has seven hospice houses throughout the four counties it serves, two of these with 26 total beds are within Manatee County. Tidewell has three in SA 8A (Charlotte and DeSoto Counties—27 beds combined) to the south and east of Sarasota, and two in SA 8D—Sarasota County (combined 18 beds) to the south of Manatee County. Affinity also states Tidewell has two care centers in Sarasota County—a seven-bed unit at Bayfront Medical Center and a unit in an SNF. Tidewell’s inpatient hospice facility locations and bed inventory are shown in the table below.

Tidewell Hospice’s Hospice Houses Location and Bed Inventory			
Location	Subdistrict	County	Licensed Beds
Bradenton	6C	Manatee	14
Lakewood Ranch	6C	Manatee	12
Sarasota	8D	Sarasota	12
Venice	8D	Sarasota	6
Arcadia	8A	DeSoto	8
Port Charlotte	8A	Charlotte	7
Port Charlotte	8A	Charlotte	12
Total	--	--	71

Source: CON application #10651, Volume 1, Tab 2, Page 40, from Florida Need Projections for Hospice Programs, AHCA, February 5, 2021 & NHA Analysis.

Note: Tidewell Hospice had a six-bed hospice house in Ellenton within Manatee County, but it has been closed.

Affinity contends that because the current hospice provider utilizes hospice houses, Manatee County residents requiring inpatient care, routine care and respite care are admitted to one of the seven Tidewell hospice houses. The applicant states that this means that an ALF or nursing facility resident in need of inpatient hospice care, rather than receive continuous care in place is relocated out of their familiar place of residence and transferred to one of Tidewell’s facilities. Affinity Care contends this “can be problematic for the patient and family members and the nursing home and ALF the patient is removed from”, results in a disruption of patient care, detracts from quality of life enhancements in the nursing home or ALF and “often requires family members to travel greater distances to be with the patient”. According to the applicant, Tidewell over-utilizes its hospice houses reporting that 38.4 percent (or three times the national average) of Tidewell’s total hospice admissions

across three service areas were provided in hospice houses. Affinity also states Tidewell utilizes them for unnecessary inpatient services, which was found in the Medicare audit released February 2021. Further, it was “proven” in DOAH Case No. 20-1712CON (Tidewell vs. Continuum Sarasota) that “Tidewell regularly shifts patients over hospice subdistrict lines to a hospice house in another subdistrict”. Affinity provided a table showing Tidewell’s 2019 admissions in CON application #10651, Volume I, Tab 2, pages 41 and 42.

The applicant also provides a table (CON application #10651, Volume 1, Tab 2, page 42) that indicates during CY 2017-2019, between 23 (23.1) and 28 (27.9) percent of Tidewell patients place of death was in a hospice house or more than twice the national average during CYs 2017 (11.2 percent) and CY 2018 (12.8 percent). Affinity also discusses Tidewell patients averaging 38.5 percent of total deaths in general inpatient care compared to the national average of 8.6 percent and 2.4 percent average for Affinity/Continuum. The applicant notes that the percentages for Tidewell above are specific to their Sarasota operation but Tidewell operates “under a single license and reportedly operates all of its hospice houses similarly”. Affinity therefore contends the same conclusions can be drawn from Tidewell’s Sarasota facilities as Manatee County facilities.

Affinity Care of Manatee states that it does not operate freestanding hospice facilities. Rather, it collaborates with hospitals, nursing homes and ALFs to provide the inpatient level care as needed and aims to serve patients in their home where possible. Affinity Care states that it believes patients should be allowed to die at home. The applicant has conditioned approval of this CON application (Condition 10) on the provision it will not build or operate freestanding hospice facilities in Manatee County, Subdistrict 6C.

The applicant notes that several constituents who support Affinity Care of Manatee’s CON application and care model relayed their concerns relative to removal of patients from their facilities to transfer them to the Tidewell hospice houses for inpatient care, breaking the continuity of care.

Not Normal Circumstance #6: Admissions & Readmissions to the Regional Monopoly Provider has resulted in Inflated Admission Reporting

Affinity contends that Tidewell has been able to “stave off” competition from entering its subdistricts by inflating subdistrict admissions by moving patients to hospice houses in one of its other subdistricts. The applicant comments that it is the same Tidewell provider number across its three programs that is included in the DOEA Elder Affairs and

Medicare data, but the Agency counts each patient movement across the subdistrict as another admission, meaning for example that one patient could account for three admissions. The applicant points out that the result of this is that patient admissions are ‘inflated’ and it is these ‘admissions’ that the Agency uses to compute any gap or need.

Affinity notes that based on the Agency’s need computation projecting 3,385 hospice patients at the July 2022 planning horizon and Tidewell’s 3,434 service area admissions in CY 2020, there is a projected incremental surplus of 49 admissions. The applicant provides four tables to support its position that Tidewell’s admissions and readmissions result in inflated admission reporting.

Explaining that Tidewell’s utilization report to the Department of Elder Affairs (DOEA) in aggregate does not allow for break-out by service area, Affinity includes a table comparing Tidewell’s total deaths and utilization by cancer and non-cancer in its three (6C, 8A and 8D) service areas as reported to DOEA and the Agency.³ Tidewell admitted 3,188 cancer patient admissions compared to 3,115 resident deaths from cancer during CY 2019, which results in 102.34 percent penetration rate.

Tidewell’s CY 2019 DOEA admissions under age 65 and 65 and over compared to those reported to the Agency shows Tidewell reported 146 more under age 65 and 669 more 65 and over admissions to the Agency than to DOEA. For its three service areas, Tidewell reported 10,044 CY 2019 admissions to the Agency compared to 9,229 to DEOA or a total of 815.⁴ Affinity Care concludes this “demonstrates the magnitude of the overstatement of admissions” by Tidewell.

Affinity also compares Tidewell Hospice’s aggregated unique admissions as reported to DOEA versus the Agency which includes duplicates and triplicates for each of the last five years.⁵ The comparison only goes up to calendar year 2019 since CY 2020 DOEA data is not yet available. Essentially, the duplication or distortion in admissions was 574 in 2015 and increased each year, to 815 admissions in 2019. The applicant

³ Source: ‘Tidewell Hospice Penetration Rate, Cancer v. Non-Cancer Three Subdistricts Aggregated CY 2019 Deaths & CY 2019 Utilization’ from CON application #10651, Volume 1, Tab 2, page 46.

⁴ Source: ‘Tidewell Hospice Penetration Rate, Under 65 and 65 and Older - Three Subdistricts Aggregated - CY 2019 Deaths & CY 2019 Utilization’ from CON application #10651, Volume 1, Tab 2, page 47.

⁵ Source: ‘Tidewell Hospice Admission Reporting Trend, Demonstrates Monopoly Impact & Potential Magnitude of Data Distortion on Extent of Utilization, Calendar Years 2015 Through 2019’ from CON application #10651, Volume 1, Tab 2, page 48.

contends that the exercise of moving patients between service areas results in a level of in-migration and outmigration that is not acceptable. Affinity notes this happened with 815 patients in the most recent year on an admission count of 9,229, which equates to 8.8 percent. The applicant concludes that “This practice is created by the Tidewell and is further indication of the need to approve this CON application”.

Affinity states that Tidewell provided Sarasota County CY 2017-2019 admissions by “P Factor” to tie to the inflated admissions reported to DOEA during proceedings for Case No. 20-1712 but did not provide the information separately for the DOEA single patient count. The applicant asserts it “was understood that the data was a subset of the...(Agency’s) count that resulted in 557, 698 and 815 extra patient counts” during CYs 2017-2019. Affinity Care states Tidewell’s combined SA 6C and 8A admissions reported to the Agency result in penetration rates above 100 percent for cancer patients which is not feasible. Tidewell’s 6C and 8A hospice penetration rate for cancer age 65 and older was 100.7 in 2018 and 112.2 in 2019. The applicant notes that the combined SA 6C and 8A total cancer admissions to cancer deaths was 99.8 percent in CY 2018 and 108.4 percent in CY 2019. Affinity Care concludes that it would be impossible for Tidewell to admit more than 100 percent of the cancer deaths in a single year without double counting individual patients and that approval of a second 6C provider “will ensure... residents will obtain the end-of-life care they need in their home county”. Further, it “will not create a redundancy in admission, artificially inflating admissions, because Affinity Care of Manatee County will not build freestanding hospice facilities.”

Not Normal Circumstance #7: The Lack of Competition & Need for Choice Has Been Voiced by the Community

Affinity Care comments that economic theory suggests that competition can enhance quality in markets with regulated prices because providers will compete for patients by improving quality. The applicant notes that the bulk of empirical evidence for Medicare patients shows that quality is higher in competitive markets. Affinity Care cites a study titled *What Do We Know about Competition and Quality in Health Care Markets*, by Martin Gaynor, and a copy is included in CON application #10651, Volume 3, Tab 13 of the Supporting Documents. Affinity Care points out that the reliance on market mechanisms to improve quality increases as quality reporting and pay-for-performance programs are adopted in diverse settings.

The applicant goes on to reassert Dr. Maness' s presentation in which his statements and underlying conclusions apply to Manatee County as equally as Sarasota County. Specifically quoting Dr. Maness's statement that "a monopolist has less incentive to be responsive to consumers because there is less risk a monopolist will lose consumers if it's less responsive, relative to a competitive market where if given a competitor doesn't perform or doesn't adequately meet the needs and wants to consumers, those consumers can easily switch to somewhere else that better meets their needs". Affinity also quotes Ms. Thomas's statement that Florida Medicaid supports "access to care for every benefit that is available" and if recipients who need care cannot get access to such care it would be concerning.

Affinity Care states its "representatives have been on the ground in this market for an extended period time...(meeting).. with representatives of virtually all assisted living facilities, nursing homes, hospitals, physicians, clinicians, and community leaders". Further, it "received an outpouring of support from owners and operators, administrators, clinical leadership and clinical staff of Manatee County nursing homes, assisted living facilities, home health agencies other health care organizations and community leaders in favor of its project. The primary underlying message was relayed by supporters of Affinity Care's initiative was that there was a total lack of competition in this market and there is a demand for choice in hospice providers to enhance the standard of hospice quality this community deserves".

Affinity Care states "the notion that a second provider entering the market will enhance healthy competition is not isolated to Tidewell or the Subdistrict 6C market. In terms of Florida's hospice monopoly subdistricts, enhanced competition increases the quality of care provided for the whole market, across existing providers." Examples of new hospices entering former monopoly markets are provided with the first example being Pinellas County SA 5B. Affinity states hospice admissions during the second quarter of 2018 were 1,692 when Seasons Hospice and Palliative Care entered the market. Hospice admissions increased to 1,755 the next quarter and reached 2,099 by the fourth quarter of 2019. Affinity concludes that not only did Suncoast's admissions increase but its quality metrics were improved as well.

The Hospice Item Set (HIS) is a set of data elements that can be used to calculate quality measures in hospice programs. In comparing the SA 5B incumbent (Suncoast) HIS scores for quality measures such as treatment preferences, addressing beliefs and values, pain screening pain assessment, dyspnea screening, dyspnea treatment and treatment with opioids for the year before and after of the competitor entered the market, there was an uptick in overall quality and just about every

measurement. Affinity provides bar graphs for HIS data elements on pages 52 for Suncoast Hospice and 53 (Lifepath Hospice) of the application that demonstrate improvement by these single service area hospices upon the entry of a competitor (Seasons) in both SA 5B and 6A.

Affinity Care contends that if the CON is awarded, “given all of the conditions and initiatives it will implement..(it) will foster competition and foster quality”. Further, Tidewell “will up its game, admitting quicker, providing a higher-level service or service intensity, just as it begun to do in contiguous Sarasota County once there was a threat of Continuum Care competing in that county” and Manatee County hospice patients will have a greater variety of programs.

Affinity Care goes on to discuss the ways in which the threat of competition from Continuum in Sarasota County led Tidewell to propose to provide virtual reality, add music therapy, adopt a new two-hour admissions process, and announce it would provide equine therapy.

The applicant contends that Tidewell “is already starting to up its game” but notes that Tidewell is not conditioned to provide these services and “can stop” at any time should there be no competition. Further, Affinity’s CON approval with its conditions should require Tidewell to up its game in Manatee County.

The applicant ends by stating it has garnered the support of Manatee County nursing homes, assisted living facilities, home health agencies, other health care organizations and community leaders in favor of its project and cites its letters contained in the application’s Volume I, Tab 5.

Affinity Care presents its COVID 19 pandemic response on pages 57-60, Volume I, Tab 2 of the application. The applicant then speaks of its history and of its founder Samuel Stern. The applicant is an affiliate of Continuum Care Hospice and Affinity Health Management. This collective operates five affiliate hospice programs across five states. It affirms that all “entities are affiliated to one another, through leadership, mission and values and common quality goals.” The applicant describes its experience in the State of Florida in Broward County and Sarasota County, stating its mission is carried out by providing “Non-Core Services as a condition of this application”.

Service Intensity

Affinity Care states that it prides itself on its service intensity, “which far surpasses NHPCO minimum requirements for staffing”. The applicant presents a table showing Affinity Care’s total FTEs and patient caseload per FTE by discipline compared to NHPCO’s mean and median in Volume

I, Tab 2, page 62 of the application. Affinity Care goes on to state the differences in Tidewell Hospice's service intensity (i.e., skilled nursing, social worker and home health) as presented in Case No. 20-1712CON compared to its projected caseload. Affinity (year two) projection has 34 minutes to Tidewell's 23 minutes per day for skilled nursing; Tidewell provides an average of five minutes of social worker care compared to Affinity's budgeted 14; and Tidewell provides 10 minutes of home health aide care per day compared to Affinity's budgeted 57 minutes per day. Further, Affinity Care's projected year two patients per hospice aide is six patients to Tidewell one FTE for nine patients. Lastly, Tidewell has one chaplain per 85.7 patients while Affinity projects it will have 24.9 patients per chaplain FTE.

The applicant indicates every new patient is seen at Affinity Care within two hours of referral, seven days a week and this two-hour turnaround time is a testament to Affinity's dedication to serving the needs of any and all hospice appropriate patients. Affinity points out that most hospice organizations will tell a caller on Saturday that someone will be out to see the patient Monday; whereas, Affinity Care will see that patient within two hours.

Affinity Care indicates its patients are visited by a home health aide (HHA) five to seven days per week, which allows Affinity to recognize changes in the patient ahead of the curve, and to be proactive, rather than reactive. The applicant indicates this helps to provide patient outcomes that are more comfortable and prevent unnecessary hospitalizations as well. Affinity states five to seven weekly HHA visits are an enormous benefit for the patient and for facilities where the patients reside, because it helps their staffing levels. Another feature of Affinity's high service intensity is RN visits for every patient twice weekly, daily if the patient is actively passing, to provide symptom management and proper planning.

Lastly, a social worker and chaplain visit at least weekly if the patient and family request it. The social worker and chaplain work vigorously to support the family, so they are adequately prepared. Affinity Care asserts that as a reflection of the commitment to provide a service intense program, it conditioned this CON application on the provision it will provide the following minimum core staffing:

- The applicant will assure each patient has five to seven HHA visits per week, provided this is acceptable to the IDT, patient, and family.
- The applicant will assure each patient has a minimum of two RN visits per week, provided this is acceptable to the IDT, patient, and family.

- The applicant will seek to respond to all its referrals within one hour, initiate the assessment process within two hours, and expedite admission to the hospice subject to having a physician order and the patient/family selecting the hospice option.

Affinity Care indicates receiving an outpouring of support for CON application #10651 from a number of health care providers in Manatee County including hospitals, ALF administrators, SNF administrators, clinicians, physicians, community leaders, and family members of former Tidewell Hospice patients. The applicant asserts that in addition to choose and/or dissatisfaction with the sole hospice provider in SA 6C, many SNF and ALF operators in Manatee County mentioned Affinity's service intensity as one of the reasons they are in support of CON application #10651. Affinity Care maintains it is committed to serving Manatee County with a service intense approach to enhance the quality of care every patient deserves at the end-of-life.

Music Therapy

Affinity Care comments that music therapy is clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship by a board-certified music therapist (MT-BC). The applicant states that its one music therapist for an average daily census of 50 patients "is very meaningful in that other hospices who provide 'music therapy' often utilize volunteers for this program". Affinity Care conditions approval of this CON application on the provision that it will offer music therapy to its patients upon licensure, and it will have a minimum of one Board Certified Music Therapist to provide this therapeutic treatment. The applicant asserts the following benefits from this therapy:

- Pain Management
- Anxiety Reduction
- Improving Comfort
- Expression of Emotion (both Verbally and Non-Verbally)
- Increasing Feelings of Meaning & Purpose
- Resolving Family Conflict/Relational Stress
- Processing Grief-Related Feelings and Experiences
- Increasing Self-Esteem/Self-Acceptance
- Increasing Range of Coping Mechanisms
- Enhancing Quality of Life
- Gaining a Sense of Spiritual Support
- Fostering Meaningful Sensory Engagement
- Creating Positive Memories at the End-of-Life

Virtual Reality Program

The applicant states its virtual reality (VR) program “was deployed at Affinity Care as a result of the organization’s culture and mission to provide non-pharmacological interventions” to ease patients and families’ experiences. Affinity Care conditions approval of this CON application on the provision that it will offer its VR Program to its patients initiating on the first day of the program’s operation. Affinity provides excerpts of the letter from Kyle Rand Co-founder and CEO of Rendever (the VR provider) in its response here indicating the letter is in Tab 5 of this application. Affinity’s VR Program patient services policy is included in the application’s Volume III, Tab 28.

Equine Therapy

Affinity Care conditions approval of this CON application on the provision that it will offer equine therapy to its patients initiating in the first year of the program’s operation. Equine therapy information is located in Volume II, Tab 9 of CON application #10651.

Veterans Programming

The applicant indicates it will serve and support Veterans through its We Honor Veterans Program; the We Honor Veterans Program is recognized by NHPCO and the DVA. Affinity Care states it will offer the We Honor Veterans Program once certified. Affinity provides excerpts of Colonel Joanne S. Martindale, BBC Chaplain, United States Department of Veterans Affairs & United States Army in its response here indicating the letter is in Tab 5 of the application.

Continuum Palliative Resources

The applicant states that this is an advanced disease management program for patients who are at a maximum therapy level and have approximately 24 months from the end-of-life. Affinity Care conditions approval of this CON application on the provision that it will offer its Affinity Palliative Resources program to its patients initiating within the first six months of receiving its Medicare certification. Volume II, Tab 3 of CON application #10651 includes an Affinity – Continuum Hospice and Palliative Care Palliative Resources pamphlet. Affinity Care states that this unique program and service is stated to have the following benefit:

- Improves communication between hospitals, SNFs, primary care physicians and specialists that result in positive outcomes for patients
- Improves medication management which would have otherwise led to unplanned emergency room visits and/or re-hospitalizations

- Ongoing patient and caregiver education on disease progression, alternative medical services available, expectations as disease progresses, how to manage symptoms, knowing when to call the physician
- Identifying goals of care and decreasing patient and caregiver anxiety by encouraging difficult conversation with patients nearing end-of-life about what they really want
- Serves as a connection to the community for resources to assist in providing additional services that can aid in transportation, food services, facility placement, spiritual care, amongst others
- Reduces the patient's propensity to use hospital and/or emergency department as their medical manager and reinforce better options
- Decreases cost of care as patients near end-of-life

Minority Outreach

The applicant indicates that this program particularly stresses the need for improved hospice access in Manatee County among Black and Hispanic residents.

Commitment to Quality Services

Affinity Care Hospice contends each team member is committed to the Affinity Care Hospice Pledge:

- Hospice Affirms Life
- Hospice recognizes dying as a process and so our care provides comfort rather than cure
- Hospice neither hastens nor postpones death
- Hospice provides physical, emotional, and spiritual care to terminally ill persons and their families
- Hospice helps the terminally ill person maintain quality of life and helps family members through an extremely stressful time in their lives

The Interdisciplinary Team (IDT) Approach

The applicant contends the team they provide will be specially trained in hospice and palliative care so that they have the ability and expertise to efficiently manage symptoms, control pain, and care for psychological, social, emotional, and spiritual needs of every patient.

Team members include:

- Hospice Medical Director
- Patient's Primary Care Physician
- Care Managers (RN/Primary Care Nurse)
- Medical Social Worker
- Spiritual Counselors/Chaplain
- Hospice Aides
- Music Therapists
- Trained Volunteers
- Bereavement Counselors
- And Other Extended Services

Affinity Care includes a chart illustrating how its IDT "members surround the patient in care" in the application's Volume I, page 77.

Support for the Project

Affinity Care reiterates that a second hospice choice will enable a competing provider to introduce a new approach to end-of-life care and it was able to obtain support from nearly 40 percent of Manatee County's licensed nursing homes. As previously stated, Affinity Care of Manatee LLC provides its letters of support in Volume I, Tab 5 of the application. The applicant also lists the writers and provides excerpts of their letters on pages 78-90 (Volume I, Tab 2) of the application.

Summary and Conclusion

Affinity Care seeks approval of this CON based on Not Normal and Special Circumstances within SA 6C, Manatee County and contends it is evident that there is a regional monopoly which per Florida Statutes should be discouraged. Further, "when weighing and balancing the Not Normal Circumstances presented in extensive detail above, it is evident Affinity Care of Manatee County should be approved...(the Agency) by approving Affinity Care to eliminate the monopoly that exists in SA 6C, the Agency will be approving an entity which offers an alternative model of hospice care to the existing hospice house (Tidewell's) model that permeates the region, offers a choice in providers for resident preference, offers a choice in providers to ensure Medicaid managed care plans have network adequacy and provides an alternative to enhance the standard of quality in hospice care throughout the SA".

The applicant states that Affinity Care Manatee County's analysis, commitments, and conditions of approval for this CON application support its position, demonstrate it is an outstanding applicant and that it should receive CON approval.

Based on the above detailed assessment, the anticipated volume (admissions) by quarter for the Affinity Care for the first two years of operation is as follows:

Affinity Care of Manatee Projected Admissions Years One & Two			
Year One		Year Two	
Quarter	Admissions	Quarter	Admissions
1	11	5	72
2	29	6	82
3	48	7	98
4	63	8	109
Year One	151	Year Two	361

Source: CON application #10651, Volume 1, Tab 2, Page 91

Affinity Care states its “forecasted market penetration and market share projected by the applicant in its volume projections in the above table are reasonable and realistically attainable.” Further, with only 40 of the 151 admissions in year one coming in the first six months of operations, the absorption period is also reasonable.

The projected disease and age mix during the first two years of Affinity’s operations are as follows:

Affinity Care Hospice Admissions by Terminal Illness Years One and Two		
Disease	Year One Admissions	Year Two Admissions
Cancer	38	90
Cardiac	38	90
Respiratory	25	60
Other	50	121
Total	151	361
Under 65	15	36
Over 65	136	325

Source: CON application #10651, Volume 1, Tab 2, Page 92

The applicant has projected the mix of hospice patients under the age of 65 to hospice patients over the age of 65 is 10:90. As illustrated in the previous table, the mix of cancer to non-cancer programs is projected at a ratio of 25:75. Affinity Care states its disease mix is based on analysis of patient by disease at the existing hospice and the annual deaths by disease category.

Affinity Care of Manatee LLC lists its CON conditions and concludes its discussion here stating that “Based on the information, assertions, and conditions of the CON application”, supported by information in the application and in its supporting documents, it has demonstrated that Not Normal & Special Circumstances exist in the SA 6C. Further,

Affinity Care “is well situated and fully dedicated to ameliorating both the Not Normal & Special Circumstances in Manatee County” and “should be awarded approval of this CON application #10651 to establish a hospice program in Subdistrict 6C”.

2. Agency Rule Criteria and Preferences

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.**

Affinity Care of Manatee LLC (CON application #10651) states it is committed to meeting the needs of all patients and their families in need of end-of-life care and cites its response to the fixed need pool (see Item E.1. of this review).

- (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.**

Affinity states intent to have contractual agreements with Manatee County nursing homes and hospitals. The applicant indicates many providers have “voiced their willingness to work with Affinity” and have “a future contractual relationship for beds or services within their facilities” but some facilities were ‘reluctant’ to provide support letters as they “currently have contracts with the existing provider. Affinity also lists its letters of support (see Item B of this review).

- (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**

Affinity Care maintains it is committed to serving all SA 6C patients including those who do not have primary caregivers at home, the homeless and patients with AIDS. Further, it will serve homeless patients in Manatee County and will admit patients to its hospice service. Should patients not be able to care for themselves and do not have a caregiver or caregiver support group, it may recommend placement in an ALF or SNF, in which the hospice

program will be able to provide residential care. Further, Affinity Care social workers will assist patients without financial resources to obtain residential care in a hospice unit within an ALF or SNF, as determined by their medical condition. Affinity Care proposes to establish relationships with area SNFs and ALFs either entering into per diem contracts or developing hospice units, as needed. The applicant reaffirms its commitment to serve patients with AIDS and notes that there were nine AIDS-related deaths in Manatee County during CY 2019.

- (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.**

This preference is not applicable as SA 6C is comprised of a single county – Manatee County, Florida.

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

Affinity Care asserts that it is committed to providing only the highest quality services. The applicant indicates that to carry out its mission and commitment, Affinity Care will offer a host of special programs and services that are not specifically covered by private insurance, Medicaid, or Medicare. Affinity Care indicates that with this project's approval, its unique services and programs, along with its distinguishing attributes, which are summarized in CON application #10651, Item E. 1., will be extended to Manatee County residents. The applicant provides the following description of its Non-Core Services, which are a condition of the approval of CON application #10651.

Service Intensity

The applicant reiterates there are several characteristics of Affinity Care Programs that distinguish it from the other hospice programs, the most significant of which is Affinity Care's "intensity of service which far surpasses NHPCO minimum requirements for staffing". Affinity Care reiterates its commitment to provide a service intense program and cites its proposed conditions regarding minimum core staffing to:

- assure each patient has five to seven HHA visits per week, provided this is acceptable to the IDT, patient and family.
- assure each patient has a minimum of two RN visits per week, provided this is acceptable to the IDT, patient and family; and
- seek to respond to all its referrals within one hour, initiate the assessment process within two hours, and expedite admission to the hospice subject to having a physician order and the patient/family selecting the hospice option.

Music Therapy

The applicant comments that music therapy is clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship by a board-certified music therapist (MT-BC). Affinity Care reiterates its condition (see Schedule C, Condition #2) to offer music therapy to patients on day one and to have a minimum staff of one music therapist.

Virtual Reality Program

Affinity Care reiterates its Virtual Reality Program will be implemented and cites its proposed condition to do so (see Schedule C, Condition #1).

Equine Therapy

Affinity Care again provides a detailed description of this experimental program it will offer noting that its proposed condition to do so (see Schedule C, Condition #3). This program is described in greater detail in the application's Volume II, Tab 9.

Veterans Programming

The applicant indicates it serves and supports Veterans through its We Honor Veterans Program and will make every effort to serve the veteran community in SA 6C. Affinity Care proposes to condition (#11) CON approval to "implement its Veterans outreach program, We Honor Veterans, once certified".

Continuum Palliative Resources

The applicant restates that this is an advanced disease management program for patients who are at a maximum therapy level and approximately 24 months from the end-of-life. Affinity Care conditions (Schedule C, condition #9) approval of this CON application on the provision that it will offer this program to its patients initiating within the first six months of receiving its Medicare certification.

Minority Outreach

Affinity contends it is the ideal provider to meet the needs of minority demographics based on its unique ability in its other markets and states it is “fully committed to providing end of life care to minority groups”. Minority outreach is condition #4 on the applicant’s Schedule C).

Affinity Care of Manatee also provides a detailed response to hospice licensure criteria contained in Rule 59A-38 Florida Administrative Code in the application’s Volume I, pages 96-102.

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.

Affinity Care of Manatee LLC cites its proposed staffing in Schedule 6A, which indicates it will have 15.52 FTEs in year one and 43.89 FTEs in year two excluding contract staff. The applicant asserts this “demonstrates its depth of patient care commitment” and states it will have access to a national dedicated pharmacist to assist staff with medication indicators, other treatment or medication options for the palliation at end-of-life. Volunteers were not addressed in this response.

(b) Expected sources of patient referrals.

Affinity Care of Manatee LLC states that this area has a dire need for choice in hospice services and “attracting patients will not be difficult”. The applicant states that it has “meaningful representation” from five of the 13 SNFs in Manatee County, as well as support from four ALFs, and home health care organizations amongst others in the county. Affinity Care expects patient referrals will come from area physicians, hospitals, nursing homes, ALFs, other health care providers and family members and patients themselves.

- (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.**

Affinity Care of Manatee LLC provides the following projected number of admissions by payer source for the first two years of operations.

Affinity Care Hospice Admissions by Payor Source Years One and Two		
Payor Source	Year One Admissions	Year Two Admissions
Medicare	139	332
Medicaid	3	7
Charity	5	13
Self-Pay	1	2
Insurance	3	7
Total	151	361

Source: CON application #10651, Tab 2, Page 114

The applicant “expects 3.5 percent charity patients and 2.0 percent Medicaid”. Affinity does not expect to collect any funds from “the patients it treats during the first three months of operation, between licensure and certification dates”.

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

Affinity Care of Manatee LLC provides the following projected number of admissions by terminal illness for the first two years of operations.

Affinity Care Hospice Admissions by Terminal Illness Years One and Two		
Disease	Year One Admissions	Year Two Admissions
Cancer	38	90
Cardiac	38	90
Respiratory	25	60
Other	50	121
Total	151	361

Source: CON application #10651, Volume I, Tab 2, Page 114

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

Affinity Care of Manatee LLC provides the following projected number of admissions by age cohort (under 65 or 65 and older) for the first two years of operations.

Affinity Care Hospice Admissions by Terminal Illness Years One and Two		
Age Cohort	Year One Admissions	Year Two Admissions
Under 65	15	36
Over 65	136	325
Total	151	361

Source: CON application #10651, Volume I, Tab 2, Page 114

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

Affinity Care of Manatee LLC maintains that staff and volunteers will directly provide all core services, including physician services, nursing services, social work services, pastoral/counseling, and dietary counseling. Affinity will contract for and purchase certain services as needed by the patients. These include durable medical equipment, medical supplies, pharmaceuticals, physical therapy, speech therapy and occupational therapy.

Affinity Care indicates that non-core services including music therapy and virtual reality will be provided by Affinity Care staff and will not be a contract service. Equine therapy will be provided by a therapist at the contracted stable.

(g) Proposed arrangements for providing inpatient care.

Affinity Care of Manatee LLC states it will contract with Manatee County nursing homes and hospitals to meet the needs of its patients and will not build freestanding hospice facilities (see Schedule C – Condition #10).

Affinity Care states that when representatives were in the market meeting with SNF and ALF leadership, they frequently voiced that the current hospice provider will relocate their patients/residents to one of their many hospice houses throughout the region, and often outside Manatee

County, SA 6C. The applicant asserts families often prefer their loved ones remain in the same facility, and seamlessly transition to hospice in place; this is better continuity of care for the patient and for the family.

Affinity Care provides sample nursing home and hospital inpatient agreements in Volume III, Tabs 24 and 25 of CON application #10651.

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

Affinity Care of Manatee LLC states it will develop relationships with existing ALFs, SNFs and hospitals to use their existing infrastructure to provide the residential and inpatient component of hospice care. The applicant has already met with representatives of local SNFs and ALFs that have relayed their willingness to work with Affinity Care, if awarded CON application #10651 to operate in SA 6C.

Affinity will not be constructing beds and will contract for existing beds on an as needed basis and states “it has no intent of increasing the total number of beds available by facility (both hospital and nursing home)”.

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

Affinity Care of Manatee LLC indicates that general inpatient care will be provided in a contractual hospital or nursing home within Subdistrict 6C, for patients who need pain control or acute/chronic symptom management which cannot be managed in other settings. The necessity for inpatient care will be determined by the interdisciplinary team. If a patient needs hospitalization for any reason unrelated to the terminal diagnosis, traditional Medicare Part A would be utilized.

Affinity Care indicates that in addition to general inpatient care, it will employ admission criteria for inpatient respite care which is offered on an “as needed” basis for a maximum of five days per respite admission under Medicare or Medicaid. The applicant comments that for patients covered under other insurance, the duration of respite services may be longer.

Affinity Care provides sample Policies & Procedures for Inpatient Services (General Inpatient & Respite) in Volume II, Tab 19 of CON application #10651.

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

Affinity Care of Manatee LLC states it is committed to serving all patients including those who do not have primary caregivers at home. The applicant comments that this is evidenced by Affinity Care's history of serving these patients and it will admit patients to its hospice service even if the patient does not have a caregiver at home. Such that be the case, it may recommend placement in an ALF or SNF where the hospice program will be able to provide residential care. Social workers will assist patients without financial resources to obtain residential care in a hospice unit within an ALF or SNF. Affinity Care states it will establish relationships with area SNFs and ALFs with per diem contracts or develop hospice units as the need arises.

(k) Arrangements for the provision of bereavement services.

Affinity Care of Manatee LLC states that it will have a social worker and spiritual counselor available to assist families during the emotionally difficult time of loss, as well as provide information on common aspects of anticipatory grief. Affinity Care will continue to provide bereavement support to grieving families for one year. The applicant notes that while one individual is identified as the primary contact with the family, generally the spouse or primary caregiver, all members of the family are eligible to receive bereavement services.

Affinity comments that a bereavement plan of care is developed based on an assessment of the patient/family needs at the time of admission and provision of hospice care, and again when the patient dies. The initial bereavement assessment includes grief or loss issues, survivor needs, services to be provided, referrals to be made, grief risk factors, potential for pathological grief reactions, individual counseling, support groups and social, spiritual and cultural needs.

Affinity Care indicates it plans to employ a bereavement coordinator to be responsible for the planning, implementation, and maintenance of the bereavement program. Sample Affinity Care Policies & Procedures for Inpatient Services (General Inpatient & Respite) are included in Volume 2, Tab 19 of CON application #10651.

(l) Proposed community education activities concerning hospice programs.

Affinity Care of Manatee LLC indicates it will provide extensive community education activities surrounding the benefits of hospice to increase hospice awareness and utilization. The applicant maintains these professionals will be responsible for leading the outreach for specific disease focused programming, further developing relationships throughout the community, and coordinating educational sessions, presentations, and other outreach activities throughout the Manatee County community. Additionally, Affinity Care comments its minority team will be involved in educating NH and ALF constituents on the myths and benefits to hospice. Affinity Care indicates that it will host hospice educational events at senior organizations, religious affiliated groups, Hispanic organizations, Veterans organizations and health fairs, all in an effort to educate the community at large on the benefits of holistic end-of-life care through hospice.

Affinity Care addresses outreach to veterans in Condition 11, Schedule C of CON application #10651.

(m) Fundraising activities.

Affinity Care of Manatee LLC states that The Continuum Care Hospice Foundation is an independent 501(c)(3) charitable organization dedicated to raising the funds necessary to help hospice and palliative care patients. The Foundation is run entirely by a team of caring volunteers and knowledgeable staff who raise funds and build community awareness in support of terminally ill patients and their families.

Affinity Care points out that the vast majority of the funds the Foundation has are from the generous gifts from former patients and their families. Affinity Care asserts that it will

not actively raise funds from the community, but if an individual wants to make a charitable donation, they will be directed to Continuum Care Hospice Foundation's website.

- 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.**

Affinity Care of Manatee LLC states it will comply with all reporting requirements, reporting results to the Agency or its designee, by the required timeframes.

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) and (2), Florida Statutes.**

As stated in item E.1.a of this report, in Volume 47, Number 24, of the Florida Administrative Register, dated February 5, 2021, zero need was published for a hospice program in SA 6C (Manatee County) for the July 2022 hospice planning horizon. However, Affinity Care indicates that Not Normal & Special Circumstances exist in SA 6C constitute a net need for its proposed hospice program.

The applicant states that Manatee County is home to three acute care hospitals with 798 licensed beds, 13 skilled nursing facilities (SNF) with 1,595 beds, 42 assisted living facilities (ALF) with 2,627 beds, 38 home health agencies and hundreds of physicians. Affinity Care notes that Manatee County is home to 395,789 residents of whom 26.7 percent are 65+. The applicant comments that SA 6C is slated for additional growth and an increasing portion of the 65+ cohort, up from 26.7 percent in 2020 to 38.3 percent of total population by 2030. The applicant states that while seniors represent 26.7 percent of the county's population in 2020, they will represent 31.4 percent of the population by 2030.

Affinity notes that Tidewell Hospice, Inc. operates a regional monopoly that includes Subdistrict 6C and two other contiguous hospice subdistricts and its monopoly is described in great detail in response to Not Normal and Special Circumstance #4 and #6 and implication of it are discussed relative to each of the other Not Normal and Special Circumstances presented in response to question 1.

Affinity Care contends that based on their study of Tidewell and validity of the information of reported numbers. This information is important to understand not as a challenge to the Fixed Need Pool, but to identify underserved population groups that are “masked” by the formula portion of the Rule. Affinity’s argument is that competition will enhance hospice utilization in the County and raise the standard of care for all hospice providers.

Affinity Care contends that despite lack of numeric need as computed by Agency Rule, Affinity Care of Manatee demonstrates Not Normal & Special Circumstances exist in SA 6C.

Tidewell Hospice Family Experience - Negative CAHPS Scores Demonstrates Large Pool of Dissatisfied Consumers		
Manatee County Deaths, 2019	Tidewell	
	Percent	4,364
Would Probably Not or DEFINITELY NOT Recommend	4%	175
Sometimes or NEVER Communicated Well	7%	305
Sometimes or NEVER Provided Timely Help	10%	436
Did NOT Provide the Right Amount of Emotional or Spiritual Support	10%	436
Sometimes or NEVER Got the HELP They Needed for Pain and Symptoms	12%	524
Did NOT Receive the Training They Needed	12%	524
Sometimes or NEVER Treated the Patient With Respect	3%	131
Rated the Agency a 6 or Lower	5%	218

Source: Tidewell Hospice CAHPS via www.hospicecompare.gov January 1, 2018 – December 31, 2019 and National Healthcare Associates analysis.

Affinity Care reiterates that a second hospice choice will enable a competing provider to introduce a new approach to end-of-life care, one such as the applicant is submitting.

Affinity Care of Manatee LLC (CON application #10651) is a developmental stage corporation formed for the purpose of initiating hospice services in SA 6C, Manatee County, Florida. Quality of care was discussed in much detail in the applicant’s response to Items E. 1. and 2. Affinity discusses Continuum’s quality of care and states it will adopt its policies, procedures and practices to ensure Manatee County residents are provided the very best end-of-life care.

- 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.**

Affinity Care of Manatee LLC (CON application #10651) is a newly formed, development stage entity with no operating history. However, as stated in item C of this report, the owner was the principle of existing

hospice programs in California, New Hampshire, Massachusetts, Rhode Island, and Washington. Mr. Stern is the principal owner of Continuum Care of Broward LLC, which was licensed effective November 4, 2020, with a deficiency free survey. Subsequently, it earned its Medicare Certification and became CHAP Accredited during the first week of January 2021. Continuum has a QAPI Plan in place and policies and procedures can be found in Supporting Documents. The applicant contends it will provide a level of service similar to Continuum Care of Broward County and its other sister affiliates that set it apart from the competitor such as its service intensity – which has been previously discussed. Affinity Care indicates that, if approved it will have staffing levels that exceed minimum requirements for hospice, as determined by NHPCO.

The reviewer notes that the following major topics are discussed in Volume 1, Tab 2, pages 129 to 134 of CON application #10651:

- Virtual Reality Program
- Equine Therapy
- Music Therapy
- Continuum Palliative Resources
- Affinity Care will develop and maintain a Quality Assurance Performance Improvement (QAPI) Plan similar to those that are already utilized by its affiliated programs. The reviewer notes who is responsible for QAPI, the composition of the QAPI Committee and the QAPI Committee responsibilities, as well as Performance Improvement overall are discussed in Volume 1, Tab 2, pages 133 and 134 of CON application #10651.
- Continuing Education and In-Service Training
- CHAP Accreditation

The applicant's affiliate Continuum Care of Broward licensed November 5, 2010 has no substantiated complaints as of April 28, 2021.

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.

The purpose of our analysis for this section is to determine if the applicant has access to the funds necessary to fund this and all capital projects. Our review includes an analysis of the short and long-term position of the applicant, parent, or other related parties who will fund the project. The analysis of the short and long-term position is intended to provide some level of objective assurance on the likelihood that funding will be available. The stronger the short-term position, the more

likely cash on hand or cash flows could be used to fund the project. The stronger the long-term position, the more likely that debt financing could be achieved, if necessary, to fund the project. We also calculate working capital (current assets less current liabilities) a measure of excess liquidity that could be used to fund capital projects.

Historically we have compared all applicant financial ratios regardless of type to benchmarks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities. The applicant provided an audited financial report for a development stage audit showing cash of \$500,000.

Capital Requirements and Funding:

On Schedule 2, the applicant indicates capital projects totaling \$391,998, which consists of the CON currently under review and non-specified capital expenditures. The applicant indicates on Schedule 3 of its application that funding for the project will be by cash on hand. With \$500,000 in cash reported on the March 31, 2021 audit report, the applicant has sufficient resources to fund this project and all capital expenditures. Additionally, the applicant provided a letter from the managing member pledging an account within excess of \$4,000,000 and a trust fund within excess of \$20,000,000.

Conclusion:

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

c. What is the immediate and long-term financial feasibility of the proposal? ss. 408.035 (6), Florida Statutes

The immediate and long-term financial feasibility of the project is tied to expected profitability. Profitability for hospice is driven by two factors, volume of patients and length of stay/condition of the patient. A new hospice program in a service area with published need is more likely than not to be 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. The applicant did not provide a breakdown of routine home care one-60 days and routine home care 61+ days. The Agency used a 30/70 split to calculate to approximate the days.

CON 10651	Affinity Care of Manatee County, LLC				
Manatee	Wage Component	Wage Index	Adjusted Wage Amount	Unadjusted Component	Payment Rate
Base Rate Calculation					
Routine Home Care 1-60 days	\$133.81	0.9341	\$124.99	\$60.94	\$185.93
Routine Home Care 61+ days	\$105.76	0.9341	\$98.79	\$48.16	\$146.95
Continuous Home Care	\$959.31	0.9341	\$896.09	\$436.86	\$1,332.95
Inpatient Respite	\$256.46	0.9341	\$239.56	\$217.33	\$456.89
General Inpatient	\$653.70	0.9341	\$610.62	\$367.55	\$978.17
Year Two Comparison	Inflation Factor Year Two	Inflation Adjusted Payment Rate	Schedule 7 Revenue Year Two	Continuous Service Hours Provided	Calculated Patient Days
Routine Home Care 1-60 days	1.079	\$200.54	\$1,388,035		6,921
Routine Home Care 61+ days	1.079	\$158.50	\$3,238,749		20,434
Continuous Home Care	1.079	\$1,437.69	\$45,339	10	13
Inpatient Respite	1.079	\$492.79	\$47,304		96
General Inpatient	1.079	\$1,055.03	\$106,297		101
		Total	\$4,825,724		27,565
			Days from Schedule 7		25,992
			Difference		-1,573
			Percentage Difference		-6.05%

As such, the applicant’s projected patient days are 6.05 percent or 1,573 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 \$647,709 in year one to a net profit of \$897,922 in year two.

Conclusion:

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

- e. Will the proposed project foster competition to promote quality and cost-effectiveness? ss. 408.035 (5) & (7), Florida Statutes.**

Affinity Care of Manatee County asserts that it will introduce competition in this market which will foster quality services. The applicant will

promote quality through its service intensity which exceeds NHPCO minimum requirements. This results in enhancement of quality of care and is a true demonstration of how competition favorably impacts quality of care and cost-effectiveness. Along with the previously mentioned unique programs, Affinity Care will also offer massage therapy, reiki and aroma therapy.

Strictly, from a financial perspective, the type of price-based competition that would result in increased efficiencies, service, and quality is limited in health care in general and in hospice specifically. Cost-effectiveness through competition is typically achieved via a combination of competitive pricing that forces more efficient cost to remain profitable and offering higher quality and additional services to attract patients from competitors. Since Medicare and Medicaid are the primary payers in hospice, price-based competition is almost non-existent. With the revenue stream essentially fixed on a per patient basis, the available margin to increase quality and offer additional services is limited.

Conclusion:

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

- f. Are the proposed costs and methods of construction reasonable? Do they comply with statutory and rule requirements? ss. 408.035(8), Florida Statutes; Ch. 59A-4, Florida Administrative Code.**

The applicant is seeking to establish a new hospice program. There are no construction costs and methods associated with any of the applicant proposal.

- 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.

Affinity Care of Manatee LLC asserts that historically, Affinity/Continuum Care on average provides approximately 3.5 percent patient days for charity patients and an additional two percent for Medicaid patients; this excludes the Medicaid beneficiaries who receive hospice services under the Medicare benefit.

Affinity Care of Manatee County maintains it is committed to underserved population groups and as its affiliates have historically done, partner with community organizations and resources to ensure this population has access to safe environments where they may receive hospice care.

As reflected in Schedule 7, the applicant projects two percent of the facility's total annual patient days will be provided to Medicaid patients during both years one and two. The applicant projects 3.5 percent of the facility's total annual patient days will be provided to charity care patients during both years one and two.

F. SUMMARY

A hospice program net need of zero was published for a new hospice program in SA 6C, Manatee County. Therefore, the applicant is applying to establish a new hospice program in the absence of published numeric need.

Affinity Care of Manatee LLC (CON application #10651), a newly formed, developmental stage for profit entity with no operating history, proposes to establish a new hospice program in SA 6C, Manatee County.

The applicant is proposing total project costs of \$381,998. Affinity Care's Schedule C includes 11 conditions.

Need/Access:

Affinity Care contends that despite lack of numeric need as computed by Agency Rule, Affinity Care of Manatee demonstrates Not Normal & Special Circumstances exist in SA 6C. The applicant comments that in accordance with Rule 59C-1.0355(4)(d), Florida Administrative Code approval under Special Circumstances is defined. Affinity Care notes that the Rule states: "*...In the absence of numeric need identified in paragraph (4)(a), the applicant must demonstrate that circumstances exist to justify the approval of a new hospice. Evidence submitted by the applicant must document one or more of the following:*

- The applicant contends “*That a specific terminally ill population is not being served*” are defined in this CON application as the SA’s Black and Hispanic populations.
- The applicant contends that Manatee County is the response to “*That a county or counties within the service area of a licensed Hospice program are not being served.*”

Affinity Care of Manatee LLC indicates that the following special circumstances exist to justify the approval of a new hospice program in the proposed area:

- Tidewell Hospice, Inc. operates a regional monopoly that includes Subdistrict 6C and two other contiguous hospice subdistricts.
- Tidewell’s hospice house model of care breaks the continuity of care for the patient and adversely impacts Subdistrict 6C nursing homes and ALFs.
- Admissions and readmissions to the regional monopoly provider have resulted in an artificial suppression of fixed need.
- 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.
- The lack of Competition & Need for Choice in hospice programs has been voiced by the community.
- Affinity Care intends to enter Manatee County with the same dedication to meeting the unique needs of the community as it currently does in its facilities throughout the nation.
- Affinity Care will bring new programs and approaches that it has used successfully in other states (California, New Hampshire, Massachusetts, Rhode Island and Washington) to SA 6C
- Affinity Care will provide services that are not currently being adequately delivered by the existing provider in the subdistrict – Affinity will offer the following unique programs and services:
 - Service Intensity
 - Music Therapy
 - Virtual Reality Program
 - Equine Therapy
 - Veterans Programming (supporting the We Honor Veterans Program)
 - Affinity Palliative Resources
 - Minority Outreach (particularly among Black and Hispanic residents in the area)
 - Low Income and Homeless Initiatives
 - Community Collaboration
 - Commitment to Quality Services
 - The Interdisciplinary Team (IDT) Approach

- Affinity Care’s skill and experience in innovative quality hospice programs and services
- The ability to respond to a request for hospice care and services within one hour, initiate the assessment process within two hours, and expedite admission to the hospice subject to having a physician order at hand, and the patient/family selecting the hospice option
- Affinity will not implement hospice houses in Manatee County and will rather allow patients to remain in their respective facility, receiving end-of-life care in place without disruption.
- Affinity demonstrated the financial feasibility of the proposal.

CON application #10651 (Affinity Care of Manatee County LLC), on balance, satisfied the statutory and rule criteria for a new hospice provider in SA 6C – this included identifying the regional monopoly, the proposed populations that are being underserved for hospice, services proposed to make hospice accessible and available to underserved populations which will enhance access to hospice services to residents, proposing services not presently offered in SA 6C and support for a second hospice provider from many Manatee County health care providers.

Quality of Care:

Affinity Care is a newly formed, development stage entity with no operating history in Florida. However, the applicant cites its principle owner and leadership’s affiliation with Continuum Care.

- The applicant demonstrated evidence of its ability to provide quality care.
- Affinity Care commits to develop and maintain a Quality Assurance Performance Improvement Plan similar to those that are already utilized by its affiliated programs.

Financial Feasibility/Availability of Funds:

Funding for this project and the entire capital budget should be available as needed. This project appears to be financially feasible, although patient days and thus revenue, may be understated.

Strictly, from a financial perspective, this project is not likely to have a material impact on competition to promote quality and cost-effectiveness.

Affinity Care of Manatee County maintains that it will introduce competition in this market which will foster quality services.

Medicaid/Indigent/Charity Care:

The applicant notes Affinity Care/Continuum Care's historical provision of care to Medicaid/indigent/charity patients.

The applicant projects that approximately 3.5 percent of year one and year two total annual patient days will be provided to charity care and 2.0 percent of year one and year two patient days will be provided to Medicaid patients.

G. RECOMMENDATION

Approve CON #10651 to establish a new hospice program in SA 6C, Manatee County. The total project cost is \$381,998.

CONDITIONS:

1. The applicant will implement its Virtual Reality Program upon licensure of its program. It will be made available to all eligible Affinity Care Manatee patients. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
2. The applicant will implement its Music Therapy Program upon licensure of its program. It will staff a minimum of one Board Certified Music Therapist. It will be made available to all eligible Affinity Care Manatee patients. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
3. The applicant will implement its Equine Therapy Program upon Medicare certification. It will be made available to all eligible Affinity Care Manatee patients who are physically able to make the trip to the stable partner. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
4. The applicant will implement a minority outreach program for the Black and Hispanic population assembling an appropriate care team for assessment and treatment of this population. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
5. The applicant will become accredited by CHAP once certified. This will be measured by the applicant's submission of its accreditation certificate to AHCA upon receipt.

6. The applicant will assure each patient has five to seven Home Health Aide visits per week, provided this is acceptable to the IDT, patient and family. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
7. The applicant will assure each patient has a minimum of two RN visits per week, provided this is acceptable to the IDT, patient and family. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
8. The applicant will seek to respond to all its referrals within one hour, initiate the assessment process within two hours, and expedite admission to the hospice subject to having a physician order in hand and the patient/family selecting the hospice option. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
9. The applicant will implement its Continuum Palliative Resources program within six months of receiving its Medicare certification. This will be measured by a signed declaratory statement submitted by the applicant to AHCA.
10. The applicant will not build or operate freestanding hospice houses in Manatee County, Subdistrict 6C. This will be measured by a signed declaratory statement submitted to AHCA.
11. The applicant will implement its Veterans outreach program, We Honor Veterans, once certified. This will be measured by a signed declaratory statement submitted to AHCA.

AUTHORIZATION FOR AGENCY ACTION

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

DATE: _____

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