

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. **Applicant/CON Action Number**

Mercy Center OPCO, LLC/CON #10729

2901 Sterling Road, Suite 200
Fort Lauderdale, Florida 33312-6503

Authorized Representative: Mr. Jacob Bengio, CFO
Authorized Representative
(954) 300-3878 Ext. 102

2. **Service District/Subdistrict**

District 11/Subdistrict 11-1 (Miami-Dade County)

B. PUBLIC HEARING

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

C. PROJECT SUMMARY

Mercy Center OPCO, LLC (CON application #10729), also referenced as Mercy, Mercy Center OPCO or the applicant, proposes the addition of 15 beds to its approved 150-bed replacement community nursing home (CON #10665 and #E210004) through the relocation of 15 beds from North Dade Nursing and Rehabilitation Center. The application's Exhibit 1 includes a signed notarized letter from the authorized representative of North Dade Nursing and Rehabilitation Center committing to delicense 15 beds at its facility for this project. The planned replacement site is located at 7109 SW 61st Court, South Miami, Florida 33143. Mercy Center OPCO and North Dade Nursing and Rehabilitation Center are affiliated with Ventura Health Services—a clinical and administrative services consulting company. As of the application filing, Ventura Health Services manages 10 Florida community nursing homes, seven of which are in Miami-Dade County (Subdistrict 11-1).

The 15-bed addition includes 8,280 gross square feet (GSF) of new construction. The construction cost is \$150,000. Total project cost, which includes building, equipment, and project development costs is \$313,993.

Mercy expects issuance of license in June of 2025 and initiation of service in July of 2025.

Mercy Center OPCO, LLC does not propose any conditions to the project's approval.

D. REVIEW PROCEDURE

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

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

Section 59C-1.010(3)(b), Florida Administrative Code, allows no application amendment information subsequent to the application being deemed complete. The burden of proof to entitlement of a certificate rests with the applicant. As such, the applicant is responsible for the representations in the application. This is attested to as part of the application in the Certification of the applicant.

As part of the fact-finding, the consultant, Sarah Zimmerman, analyzed the application with consultation from Financial Analyst Derron Hillman of the Bureau of Central Services, who evaluated the financial data, and Scott Waltz of the Office of Plans and Construction, who reviewed the application for conformance with the architectural criteria.

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

The following indicate the level of conformity of the proposed project with the criteria and application content requirements found in Florida Statutes, Sections 408.035, and 408.037; applicable rules of the State of Florida, Chapter 59C-1 and 59C-2 and 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.

As of August 12, 2022, Subdistrict 11-1 had 8,255 licensed and 787 approved community nursing home beds. The subdistrict's nursing homes reported 83.29 percent for the 12 months ending June 30, 2022 and 84.41 percent total occupancy during the six-month period ending June 30, 2022.

In Volume 48, Number 191 of the Florida Administrative Register dated September 30, 2022, a fixed need pool (FNP) of zero community nursing home beds was published for Subdistrict 11-1 for the July 2025 planning horizon. There were no exemption requests or expedited CON applications to increase the subdistrict's community nursing home bed count subsequent to the FNP publication. Applying in the absence of a fixed need pool, this project is to add 15 beds through the relocation of 15 beds from North Dade Nursing and Rehabilitation Center, resulting in a replacement facility of 165 beds. The project will not change the number of licensed and approved nursing home beds in Subdistrict 11-1.

Mercy Center OPCO, LLC's Exhibit 1 of the application includes a signed notarized letter from Jacob Bengio, authorized representative of North Dade SNF Operating Company, LLC d/b/a North Dade Nursing and Rehabilitation Center, agreeing to voluntarily delicense 15 community nursing home beds at his facility for the project.

The applicant submits a need assessment within the context of the following characteristics which are briefly described:

- Population demographics and dynamics
- Bed Availability, Utilization and Quality of Services in the Subdistrict
- Reallocation of beds from an existing facility to a new physical plant under development.

When discussing Population Demographics and Dynamics, Mercy uses the Agency’s Florida Population Estimates and projections by AHCA District 2015-2030, published September 2021, showing that as of January 1, 2022, Miami-Dade County had a total population of 2,875,659 with those aged 65 and older having a population of 481,978 residents which is the largest number of seniors residing in any Florida county. Further, that as of January 2027, Miami-Dade County will add 95,633 persons at a rate of 19.6 percent aged 65 and older residents. Mercy Center OPCO, LLC states that while the total population rates for Miami-Dade County are slightly below the Florida average growth, they are higher for those age 65 and over indicating that the senior population increases in number and proportion to the total population.

Mercy next provides a table (see below) to show projected population growth by 64 and under and 65 and over age cohorts from January 2022 to January 2027 for Miami-Dade County and Florida overall.

**Current and Projected Population by Age Cohort
Miami-Dade County and Florida**

Area	January 2022 Population Estimates			January 2022 Population Distribution		
	0-64	65+	Total	0-64	65+	Total
Miami-Dade	2,387,163	488,496	2,875,659	83%	17.0%	100%
Florida	17,491,581	4,674,295	22,165,876	78.9%	21.1%	100%
Area	January 2027 Population Estimates			January 2027 Population Distribution		
	0-64	65+	Total	0-64	65+	Total
Miami-Dade	2,463,638	584,129	3,047,767	80.8%	19.2%	100%
Florida	18,133,177	5,484,682	23,617,859	76.8%	23.2%	100%
Area	Five Year Increase			Five Year Growth Rate		
	65+	Total	0-64	65+	Total	
Miami-Dade	76,475	95,633	172,108	3.2%	19.6%	6.0%
Florida	641,596	810,387	1,451,983	3.7%	17.3%	6.6%

Source: CON application #10729, page 1-2, Table 1-1 (partially reproduced), from AHCA Population Estimates, September 2021.

The applicant as shown above, notes that currently (January 2022) seniors represent 17 percent of the total population in Miami-Dade County. By 2027, the projected 584,129 seniors will represent 19.2 percent of the total population of Miami-Dade County. Mercy concludes that the increase in seniors indicates future need for residential and health care services for that population.

CON application #10729, page 1-3, Figure 1-1 shows the projected elderly population age 65 and over by ZIP Code for 2025 and page 1-4, Figure 1-2 shows the five-year increase for the elderly population in Miami-Dade County. The application’s Figures 1 and 2 show:

- Green dots for the existing (labeled "A") and replacement (labeled "B") facilities
- Red dots for the locations of existing nursing homes

- Blue dots the locations of acute care hospitals
- Three recently proposed skilled nursing facilities that are under development- Florida International Medical Center, Health Resort Network, and RSBRM Operator LLC.

The applicant emphasizes that the site for the proposed project will relocate the 15 beds to an area expected to experience more growth in the population age 65 and older over the next five years than in the vicinity of the current location. Figure 1-3, page 1-5 includes an aerial view of the proposed replacement site for The Nursing Center at Mercy showing that it is directly across from Larkin Community Hospital and two blocks from South Miami Hospital. Mercy contends the project location will provide ease of access to rehabilitation for patients following an acute care episode.

Mercy uses AHCA's Florida Nursing Home Bed Need Projections by District and Subdistrict in the application's Table 1-2, page 1-4 showing that:

- Miami-Dade is the largest county in the state in terms of population (2,875,659 residents)
- Subdistrict 11-1 has the largest nursing home capacity, with 55 facilities and 8,319 licensed beds, representing 10 percent of total beds in the state
- There are only 17 beds per thousand seniors aged 65 and over $[8,319/(496,128/1,000)]$, compared to the state with 18 beds per thousand $[86,326/(4,751,763/1,000)]$.

Mercy Center OPCO, LLC concludes that the persistent high use of the beds reflects the necessity of retaining the beds in the subdistrict. Mercy also notes the subdistrict had a temporary drop in utilization during the 2020 COVID-19 pandemic, yet occupancy remained high in Miami-Dade County. The applicant notes that the most recent data shows that utilization is once again on the rise for inpatient skilled nursing care, with nursing homes in Miami-Dade averaging 83.3 percent, compared to Florida at 75.5 percent for the 12-month period ending June 30, 2022. Mercy concludes that utilization patterns are returning to pre-pandemic levels and will continue to rise at least in proportion to the senior population growth rates, placing further demand on nursing homes for both rehabilitation and long-term skilled nursing care.

Mercy indicates that the project will promote quality through a new physical plant built to today's standards which includes 75 private rooms and 45 semi-private rooms for a total of 165 beds, including the 15 sought in this application. The applicant notes that the semi-private rooms share a bath but have wall separation between each resident's personal space and each bed has a window view, maximizing independence and privacy which facilitates resident centered care.

Regarding medical treatment trends, Mercy cites the physical plant design, which has more private rooms will allow better infection control when isolation is required. Further, larger resident rooms provide more space for medical equipment and mobility devices which promotes best practices in skilled nursing care.

The applicant contends that the state recognizes the need to replace aging facilities citing s. 408.036(3)(e), Florida Statutes which allows replacement facilities to add up to 25 percent of their licensed bed capacity. Mercy’s replacement facility includes 30 beds approved under Exemption #210004. Mercy contends that the project provides the best use of available beds and that with more beds, quality is improved through operating efficiencies in the delivery of care and outcomes.

Mercy cites the replacement facility location further south in the county than North Dade Nursing and Rehabilitation Center and away from most existing facilities but with more acute care hospitals nearby, concluding that the project will enhance access by redistributing beds where they are needed most. The applicant contends that since there is no increase in total licensed beds, existing facilities will not be impacted. Further, given the projected elderly population increase of 19 percent over the next five years and the need for hospital services often requiring short-stay rehabilitation in a skilled nursing facility, frail seniors with chronic conditions that will continue to need care.

**Miami-Dade County Patient Days, Use Rates and Occupancy,
For the Years Ending June 30, 2021 and 2022**

	6/30/2020	6/30/2021	6/30/2022
Resident Days			
Average Daily Census	7,305	6,608	6,851
Palm Beach County Population	469,612	476,914	488,496
Days per 1,000 Persons, 65+	5,678	5,058	5,119
Current Existing Community Beds	8,281	8,281	8,375
Occupancy	87.62%	79.80%	83.29%

Source: CON application #10729, page 1-3, Table 1-3

Mercy notes the table above shows utilization prior to the pandemic and during the months immediately following the outbreak and contends this is evidence that occupancy rates for nursing homes are back on the rise following an unusual period of decline due to the pandemic. Mercy shares that Miami-Dade County community nursing facilities reported:

- 2,500,568 patient days of care or an average daily census (ADC) of 6,851 and an average occupancy rate of 83.29 percent for the 12 months ending June 30, 2022
- 2,412,029 patient days or an ADC of 6,608 and occupancy rate of 79.80 percent during the 12-month period ending June 30, 2021
- 2,666,382 patient days with an ADC of 7,305 and an occupancy of 87.62 percent for the 12-month period ending June 30, 2020.

Mercy states that should all approved beds become licensed by the planning horizon, occupancy rates could rise over 100 percent by the second year of operation (12 months ending June 30, 2027). The table below is provided to support the effect of the application of the July 1, 2019—June 30, 2020 nursing home use rate to project nursing home occupancy in Miami-Dade County for the first and second year of operations for the proposed project. Mercy concludes that the result is 3,316,684 patient days for the year ending June 30, 2027, with after deducting the anticipated patient days for the replacement facility of 165 beds, the occupancy in the remaining beds is 102.36 percent for the planning area. Further, if utilization were to “maintain today's status quo” use rate for the most recent year ending June 30, 2022 (5,119 patient days per 1,000 age 65 and older), the projected days would reach 2,990,156 given population growth, resulting in an occupancy rate of 90.68 percent for the remaining beds in the subdistrict.

**Miami-Dade County
Projected Patient Days and Occupancy
Years One & Two of the Project**

Projected Year Ending:	6/30/2026	6/30/2027
Miami Dade Midpoint (January) Population 65+	563,614	584,129
Forecasted Resident Days	3,200,200	3,316,684
Average Daily Census	8,768	9,087
Mercy Center OPCO Days @ 42.0% & 86.6%	52,156	52,156
Deduct Mercy Center OPCO from Forecast	3,148,044	3,264,528
Average Daily Census, Remaining Days	8,625	8,944
Expected Community Licensed Beds*	8,877	8,877
Expected Occupancy, Remaining Beds	98.77%	102.36%

Source: CON application #10729, page 1-9, Table 1-4, from AHCA’s Florida Population Estimates and Projections by AHCA District 2015 to 2030, published September 2021 and Florida Nursing Home Bed Need Projections by District and Subdistrict, published September 30, 2022.

Note: * Licensed and approved beds as of August 12, 2022 less the project’s 165 beds.

Mercy concludes that with increasing occupancy and assumptions based on previous years, Miami-Dade County can be expected to see increased nursing home utilization for years to come, which demonstrates the growing need for nursing home beds in the surrounding area that it will serve and the need to retain use of all beds within the subdistrict. Further, relocating 15 beds from a facility with multi-bed wards to a new replacement facility will increase the number of beds in use.

The applicant notes that its forecast shows a fill-up period during the first two years for the proposed 165-bed facility, consistent with fill rates of recent nursing home openings in South Florida and Miami-Dade County and assumes that the additional 15 beds subject to its approval will fill once the initial 150 are fully utilized during year two. Mercy Center OPCO, LLC’s projected total admissions and patient days for the 165-bed facility’s first two years of operations are shown below.

**Projected Utilization for the 165-Bed Facility
First Two Years of Operation**

Year	Total Facility (N=165)			
	Admits	Patient Days	Occupancy Rate	ADC
Year 1 7/01/2025-06/30/2026	835	25,300	42.01%	69.3
Year 2 7/01/2026-06/30/2027	1,716	52,156	86.60%	142.9

Source: CON application #10729, page 1-10, Table 1-5

Mercy shares that its Schedule 5 in Section 5, Resources, shows the initial occupancy rate in the first quarter of July through September 2025 will rise from 7.34 percent to 71.91 percent in the fourth quarter ending June 30, 2026, with the facility averaging 42.01 percent occupancy for the first year. Further, that in the second year, the facility’s occupancy rate increases to 95.95 percent in the fourth quarter, and will average 86.60 percent occupancy in year two.

In conclusion, Mercy Center OPCO, LLC contends its analysis provides the basis for approving the addition of 15 beds to the approved 150-bed replacement nursing home due to:

- Continued population growth in the age 65 and older
- Expected increases in nursing home utilization for the planning area; and
- The project will replace the outdated facility with limited space creating a “next-generation” facility for those requiring skilled care.

2. Agency Rule Preferences

Does the project respond to preferences stated in Agency rules? Please indicate how each applicable preference for the type of service proposed is met. Rule 59C-1.036, Florida Administrative Code.

Chapter 59C-1.036 of the Florida Administrative Code does not contain preferences relative to community nursing home beds. However, the rule does contain standards the Agency utilizes in assessing an applicant’s ability to provide quality care to residents.

The applicant states that it reviews admission, care planning, and discharge processes and examines hospital discharge data to highlight the types of conditions referred to nursing homes, along with the associated services offered. Mercy confirms that the services to be provided include both short-term and long-term care.

Mercy Center OPCO, LLC confirms it will provide a wide range of services and will be certified for both Medicare and Medicaid. The applicant summarizes that its nursing services will include subacute medical services, post-hospital care, short-term rehabilitation services, restorative programs, and memory care.

With respect to the services to be provided, Mercy analyzed hospital discharges from AHCA inpatient data files to determine what services are needed for residents within Miami-Dade County. The applicant shares that in CY 2021, a total of 15,269 Miami-Dade residents aged 65 and older were discharged to a skilled nursing facility from acute, rehabilitation, and long-term care hospitals. Mercy notes that these MDC discharges identify a scope of care that includes rehabilitative therapy, particularly physical therapy and occupational therapy, are needed to provide rehabilitation and restorative care to return patients home following a hospital episode.

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

Mercy maintains that the proposed replacement facility will continue to participate in the Medicare and Medicaid programs to promote access to both short-term rehabilitation and long-term care and provides a brief narrative on the following services:

- Physical therapy
- Occupational therapy
- Speech therapy
- Orthopedic rehabilitation
- Neurological rehabilitation
- Pulmonary rehabilitation
- Medical management
- Memory care
- Palliative care
- Hospice care
- Wound care

Sixteen other services and amenities that Mercy indicates provide support, comfort and security include:

- Full time Medical Director
- 24-Hour Registered Nurse Coverage
- On site X-rays and Clinical Lab testing
- Ostomy Care

- Enteral Care
- Foley catheter care, changes, and teaching
- Diabetic care and management
- Medication Management
- Bowel and bladder training
- IV Therapy
- Dialysis Support
- Structured activities seven days a week
- Pet Therapy
- Security System
- Daily Transportation
- Beauty/barber shop

Mercy notes that Ventura Services Florida has policies and procedures used at affiliate facilities that will serve the new facility, including admissions, care planning and discharge procedures which are briefly described on CON application #10729 pages 2-3 through 2-7.

Regarding admissions, Mercy points out that a multidisciplinary team, consisting of the facility administrator, medical director, and other health care professionals, evaluates the needs of each resident. Further, decisions to transfer are based on consultation with the care team, as well as with the resident and his/her family and physician. Mercy states that each resident receives an admission packet which details the agreement between the facility representative and the resident, his/her legal representative or other responsible party.

Regarding care planning, the applicant comments that developing a resident care plan is the single most important task undertaken for that resident and further comments that the care plan affects every aspect of his/her life in the facility, as well as the perception of the quality of life. Mercy bullets 11 staff members responsible for the development and/or implementation of the resident's care plan and states that ongoing monitoring through the Quality Assurance and Performance Improvement (QAPI) process provides feedback to enhance care toward improvement and recovery and to avoid hospital readmissions. Further, information addressed during the initial evaluation by the admitting nurse includes but is not limited to:

- Medical diagnosis
- Description of skin condition
- Current level of activity/mobility
- Cognitive status
- Diet orders
- Weight
- ADL performance
- Physical impairments

Regarding discharge, Mercy indicates that upon admission it must recognize the potential of each resident for discharge and explains that this approach makes placement into a nursing home a last resort, as the facility environment does reduce the independence of individuals. Mercy emphasizes that an initial length of stay will be estimated, particularly for Medicare beneficiaries, after which date the expectation will be for discharge and that discharge plans begin with the initial assessment. Seven medically related social service or home-based services and additional eligibility factors are cited on the application’s page 2-6.

Mercy indicates that discharge plans involve an interdisciplinary team approach: dietary, all therapies, nursing, family, patient, caregiver and third-party payer sources to provide the best care after the patient is discharged from the facility. The interdisciplinary discharge plan/aftercare plan is discussed by the director of nursing and social services director with all relevant parties, along with a written plan, is provided to all relevant parties, including the attending physician. Mercy provides a sample discharge/transfer policy in the application’s Tab 10-Additional Information, Exhibit 3. A listing and description of key personnel, recruitment and retention is included in the application’s Section 5, Resources on pages 5-1 through 5-6.

Mercy states that the facility will have short-term and long-term patients, accepting a variety of payers including Medicare, Medicaid, and private insurance. The applicant notes the table below is based on facilities in the area with similar utilization patterns as those expected at its facility. Mercy notes that the project’s 15 beds are projected to contribute 1,199 patient days in year two and refers to its financial schedules found in Section 5, Resources. Further, admissions and patient days by payer are identified on Schedule 7. Staffing by department is included on Schedule 6, which Mercy indicates is reflective of the staffing level necessary to care for a variety of facility residents which will meet or exceed staffing standards.

**Mercy Center’s 165-bed Facility
Years One and Two
Projected Admissions & Patient Days**

Factor	Year One	Year Two
Admissions	835	1,716
Patient Days	25,300	52,156
ALOS	30.3	30.4
ADC	69.3	142.9

Source: CON application #10729, page 2-7, Table 2-1

Admissions and patient days for the facility indicate an average length of stay of 30 days in the second year of operation, representing a mix of both short-term and long-term residents. Mercy projects that the facility will achieve an ADC of 69 in first year and 143 in year two. Year two

occupancy is projected to be 86.06 percent, which is similar to the subdistrict average.

Mercy next examined the Agency’s CY 2021 Hospital Patient Discharge Data to nursing homes for Miami-Dade County residents aged 65 and over, to determine the level of need for specific services nursing home residents require identifying a total of 24 separate major diagnostic categories (MDCs). Four MDCs accounted for 59 percent of Miami-Dade residents aged 65 and older discharges to SNFs and briefly describes these MDCs (CON application #10729, pages 2-8 through 2-10). The top four MDCs are MDCs 08, 04, 05 and 18—musculoskeletal system and connective tissue, respiratory system, circulatory system, and infectious diseases. Mercy notes that these categories have much in common with respect to restorative and normalizing activities designed to improve functional capabilities. The reviewer partially reproduces Mercy’s MDC discharge table below, showing the four most frequently occurring and combining the others in the “*Remaining 20 MDCs*”.

**Miami-Dade Hospital CY 2021
Miami-Dade Residents Age 65 and over
MDC Discharges to Skilled Nursing Facilities**

MAJOR DIAGNOSTIC CATEGORY	CY 2021	
	Cases	Percent
08 Diseases & Disorders of the Musculoskeletal System and Conn Tissue	2,878	18.85%
04 Diseases & Disorders of the Respiratory System	2,408	15.77%
05 Diseases & Disorders of the Circulatory System	2,029	13.29%
18 Infectious & Parasitic Diseases, Systemic or Unspecified Sites	1,758	11.51%
<i>Remaining 20 MDCs</i>	6,196	40.58%
Grand Total	15,269	100%

Source: CON application #10729, page 2-8, Table 2-2 (partially reproduced)

Mercy notes that the MDC data above identifies the top conditions for admissions to skilled nursing facilities for calendar year 2021 and show the most common types of conditions expected for its project which determines what services are appropriate. The applicant contends it will offer a variety of specialized programs and continue to innovate to best meet residents' needs and that the replacement design with 75 private rooms and 45 semi-private rooms with the capability of converting the private rooms to semi-private will accommodate future demand, compared to the current facility with all semi-private rooms. The private rooms will also allow the facility to accommodate patients with contagions or conditions that require isolation and monitoring. The facility design also includes a large therapy suite equipped for rehabilitation and occupational therapy for activities of daily living with contracted personnel to deliver therapies. Mercy states it will use innovative technologies that allow individual programing and as functional improvements occur it will provide restorative programs that focus on avoiding hospital admission or readmission with protocols to

ensure healing and promote higher functional levels ensure residents' health and quality of life improves.

Schedule 6 indicates 129 FTEs in total year one (ending June 30, 2026) and 188.9 FTEs in year two (ending June 30, 2027). Schedule 6A indicates the 15-bed project will have no FTEs and adds only 2.30 FTEs in the years one and two FTE totals. Total FTE counts remain constant from year one to year two regarding the staffing pattern headings of administration, physicians (contracted), social services, housekeeping, laundry, dietary and plant maintenance, and increase in the nursing and ancillary categories. See the table below.

**Mercy Center OPCO, LLC/CON application #10729
Projected Year One and Year Two Staffing**

	Year One Ending June 30, 2026 FTEs	Year Two Ending June 30, 2027 FTEs
Administration		
Administrator	1.00	1.00
Director of Nursing	1.00	1.00
Admissions	1.00	1.00
Bookkeeper	2.00	2.00
Secretary	3.00	3.00
Medical Records Clerk	1.00	1.00
Other: Human Resources	1.00	1.00
Other: Central Supply/Staffing Coordinator	1.00	1.00
Other: MDS Coordinator	3.00	3.00
Other: Assistant DON	1.00	1.00
Physicians		
Medical Director	Contracted	Contracted
Nursing		
RNs	15.50	31.90
Nurses' Aides	40.30	83.20
Ancillary		
Physical Therapist	3.20	3.40
Speech Therapist	1.80	1.90
Occupational Therapist	4.10	4.40
Other: Therapy Program Manager	2.10	2.10
Dietary		
Cooks	7.60	7.60
Dietary Aides	8.40	8.40
Social Services		
Social Service Director	1.00	1.00
Activity Director	1.00	1.00
Activities Assistant	1.00	1.00
Other: Driver	2.00	2.00
Housekeeping		
Housekeepers	14.00	14.00
Laundry		
Laundry Aides	5.00	5.00
Plant Maintenance		
Maintenance Supervisor	1.00	1.00
Maintenance Assistance	3.00	3.00
Security	3.00	3.00
Total	129.00	188.90

Source: CON application #10729, Schedule 6

Schedule 6 notes indicate that Mercy's staffing estimates are based on the experience of management in operating a comparable facility and is consistent with the required licensure staffing standards. Further, the costs and staffing for contractual services including specialty therapies, non-corporate legal and accounting services, consulting medical director, medical records consultant, and consultant pharmacist are based on existing contracts with providers of these services at a facility managed by an affiliated company.

c. Quality of Care. In assessing the applicant's ability to provide quality of care pursuant to s. 408.035(1)(c), Florida Statutes, the Agency shall evaluate the following facts and circumstances:

- 1. Whether the applicant has had a Chapter 400, Florida Statutes, nursing facility license denied, revoked, or suspended within the 36 months prior to the application.**

Mercy Center OPCO, LLC responds that it has not had a nursing facility licensed denied, revoked, or suspended within the past 36 months.

- 2. Whether the applicant has had a nursing facility placed into receivership at any time during the period of ownership, management, or leasing of a nursing facility in the 36 months prior to the current application.**

Mercy Center OPCO, LLC states that it has not had a nursing facility placed into receivership within the past 36 months.

- 3. The extent to which the conditions identified within subparagraphs 1 and 2 threatened or resulted in direct, significant harm to the health, safety, or welfare of the nursing facility residents.**

This does not apply as there are no conditions identified in subparagraphs 1 and 2.

- 4. The extent to which the conditions identified within subparagraph 3 were corrected within the time frames allowed by the appropriate state agency in each respective state and in a manner satisfactory to the Agency.**

This does not apply as there are no conditions identified in Subparagraph 3.

Rule 59C-1.036 (4) (f) Harmful Conditions. The Agency shall question the ability of the applicant to provide quality of care within any nursing facility when the conditions identified in subparagraph (e) 1 and (e) 2 result in the direct, significant harm to the health, safety, or welfare of a nursing facility resident, and were not corrected within the time frames allowed by the appropriate state agency in each respective state and in a manner satisfactory with the Agency.

This does not apply as no conditions are identified above.

5. **Rule 59C-1.036 (5) Utilization Reports. Within 45 days after the end of each calendar quarter, facilities with nursing facility beds licensed under Chapter 400, Florida Statutes shall report to the Agency, or its designee, the total number of patient days, which occurred in each month of the quarter, and the number of such days that were Medicaid patient days.**

Mercy indicates that it will provide required data to the Health Council of South Florida and the Agency for Health Care Administration. Further, data will include the above-cited utilization reports as well as required licensure and financial requirements required for operating the facility.

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? Section 408.035 (1), (2) and (5), Florida Statutes.**

As of August 12, 2022, Subdistrict 11-1 had 53 community nursing homes with 8,255 licensed and 787 approved community nursing home beds. Subdistrict 11-1 community nursing homes reported 84.41 percent total occupancy during the six months ending June 30, 2022, which is less than the need threshold but did exceed the State's 77.59 percent.

As previously stated, an FNP for zero community nursing home beds in Subdistrict 11-1 was published in Volume 48, Number 191 of the Florida Administrative Register dated September 30, 2022. There were no

exemption requests or expedited CON applications to increase the subdistrict’s community nursing home bed count subsequent to the FNP publication and Mercy proposes to establish the project through transfer of 15 existing licensed community nursing home beds.

Mercy Center OPCO, LLC maintains that availability often refers to how much of a service exists, such as how many beds or facilities are in the market and reiterates that Miami-Dade County has 16.9 community nursing home beds per 1,000 persons age 65+ in the county, compared to 19 community beds per 1,000 persons age 65+ statewide. Further, that by July 1, 2027 (the project’s year two), if all approved community beds are licensed in Subdistrict 11-1 and statewide, the beds per 1,000 residents age 65+ will be at 15.4, for both Subdistrict 11-1 and State. Projected beds assume 787 approved beds in Subdistrict 11-1 and 2,556 approved beds for Florida become licensed by July 1, 2027, to estimate 15.4 community beds per 1,000 age 65+ residents for Miami-Dade County and 15.6 beds per 1,000 age 65+ residents for Florida overall. See the table below.

**Subdistrict 11-1 and Florida
Current (2022) & Projected (2027) Community Nursing Home
Beds & Beds per 1,000 Residents Age 65 & Over**

Area	Before the Project			After the Project		
	Licensed Commun. Beds	2022 Population 65+	Beds Per 1,000	Projected Beds*	2027 Population 65+	Beds Per 1,000
Subdistrict 11-1	8,255	488,496	16.9	9,022	584,129	15.4
Florida	83,011	4,674,295	17.8	85,579	5,484,682	15.6

Source: CON application #10729, page 3-2, Table 3-1, from Florida Population Estimates and Projections by AHCA District 2015-2030 - September 2021 and Florida Nursing Home Bed Need Projections by District and Subdistrict - September 30, 2022.

Note: *Projected beds assume 787 approved beds in Subdistrict 11-1 and 2,556 approved beds for Florida become licensed by July 1, 2027.

Mercy emphasizes that the project assures continued availability as demand increases in proportion to population growth and that should if the project is approved the resulting beds per 1,000 elderly for the planning area would remain at 15.4 due to the minimal increase overall consistent with the state at 15.6.

Quality of care is addressed in item E.3.b. of this report. Mercy states that access is defined as how potential users obtain a service or gain admittance or entry to a facility providing the service. Components of access include:

- ✓ eligibility criteria
- ✓ financial criteria or payer requirements
- ✓ location of facilities or admission centers
- ✓ geographical features—roadways, bridges, railroads
- ✓ travel time—or travel distance that users experience
- ✓ specific services or programs

Regarding accessibility, the applicant lists the seven acute care hospitals and five nursing homes within a five-mile radius of the replacement site on CON application #10729, pages 3-3 and 3-4 (see below).

Hospital	Beds
Baptist Hospital of Miami	948
Doctors Hospital	281
Keralty Hospital	125
Larkin Community Hospital	146
Nicklaus Children's Hospital	309
South Miami Hospital	436
Steward Coral Gables Hospital	245
Total Hospital Beds	2,490
Nursing Home	
Coral Gables Nursing and Rehabilitation Center	87
Harmony Health Center	203
Palmetto Subacute Care Center	95
Riviera Health Resort	223
West Gables Health Care Center	60
Total Nursing Home Beds	668

Source: CON application #10729, pages 3-3 and 3-4.

Mercy contends that access will be improved by relocating existing licensed beds from a large existing facility to the approved replacement facility currently under development. Further, space is also decompressed at the existing facility and more new beds will be accessible in a facility that meet today's code and space requirements for improved patient quality and outcomes. The applicant concludes that the ability to maintain the current bed supply and redistribute beds from an area with a high concentration of nursing homes and few hospitals to an area near multiple hospitals with few nursing homes will improve access to skilled nursing care and continue existing referral patterns and complementary support services.

Regarding geographic access, Mercy includes maps showing the locations of acute care hospitals and nursing homes within a five-mile radius of North Dade Nursing and Rehab and the five-mile radius surrounding the proposed Mercy Center OPCO replacement site. This demonstrates that within a five-mile radius of North Dade Nursing and Rehab there are two hospitals—Jackson North Medical Center and Steward North Shore Medical Center and 20 skilled nursing facilities. The proposed project location has seven acute care hospitals and only five nursing homes. Mercy states that proximity to acute care hospitals and drive times from residential areas demonstrate accessibility meaning that there are more competing nursing homes and less access to acute care beds and services and concludes that the new facility location within six miles of the facility being replaced will increase access and ensure patients that previously utilized the facility will continue to have access.

Regarding service access, Mercy reiterates the hospital discharge data discussed in item E.1.a. of this report and explains that patients will benefit from the proposed project's programs, including orthopedic rehabilitation, cardiac rehabilitation, and respiratory care and a sufficient number of private rooms assures safe isolation measures when necessary.

Regarding financial access, Mercy states that it will make every effort to remove any financial barriers that could impede access to nursing home care, working closely with hospital discharge planners and those who may make direct admissions. Further, there are multiple insurers offering Medicare Advantage plans within the Subdistrict, including Aetna, Humana, Cigna, and Wellcare and it plans to accept a variety of these plans to maximize access to care.

Mercy reiterates its response on the extend of utilization, using the Agency's Florida Nursing Home Bed Need Projections by District and Subdistrict (September 30, 2022), noting that nursing home utilization is on the rise in Subdistrict 11-1, rebounding since the dip in utilization during the COVID-19 pandemic. The applicant notes that Miami-Dade nursing home facilities averaged 83.29 percent and the five facilities within a five-mile radius of the proposed facility averaged 91.72 percent during the most recent 12-month occupancy ending June 30, 2022 and concludes that this means there is high demand for the project.

Regarding the extend of utilization, Mercy reiterates that the Agency's *Florida Nursing Home Bed Need Projections by District and Subdistrict* publications for CYs 2016—2019 show utilization at The Nursing Center at Mercy remained high, averaging greater than 92 percent occupancy for many years prior to its inactivity. Mercy emphasizes that this project enables it to place those beds back into service along with an additional 15 beds which will assure continued availability and utilization with minimal impact on existing facilities.

Health Care Access Criteria addressed below is discussed on CON application #10729 pages 3-8 through 3-10.

- 1) The need that the population served or to be served has for the health or hospice services proposed to be offered or changed, and the extent to which all residents of the district, and in particular low-income persons, racial and ethnic minorities, women, handicapped persons, other underserved groups and the elderly, are likely to have access to those services.**

Mercy Center OPCO, LLC assures its proposal allows for continued access to nursing home care for the growing elderly population of

the Miami-Dade County planning area and that it will participate in both the Medicare and Medicaid programs to ensure access to the elderly for subacute and restorative nursing care, as well as long-term care. Table 3-2, page 3-7 nursing home utilization within five miles of the project and its projected Medicaid utilization in the application's Section 5, Resources are provided to demonstrate its service to these individuals. Mercy notes that in response to Architectural Criteria, the physical design conforms to requirements of the Americans with Disabilities Act ensuring that disabled or handicapped persons can access the services.

- 2) **The extent to which that need will be met adequately under a proposed reduction, elimination or relocation of a service, under a proposed substantial change in admissions policies or practices, or by alternative arrangements, and the effect of the proposed change on the ability of members of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services to obtain needed care.**

This does not apply. Mercy notes that the facility which currently holds the 15 beds has 3-bedroom and 4-bedroom configurations that can no longer be used and contends that without approval of this project these beds would remain unutilized and occupancy levels in the planning area will rise. The applicant concludes that putting the beds into use in an area where nursing home utilization is high, improves access to all patients, including those traditionally underserved such as those that qualify for Medicaid.

- 3) **The contribution of the proposed service in meeting the health needs of members of such medically underserved groups, particularly those needs identified in the applicable local health plan and state health plan as deserving of priority.**

Mercy states this provision is not applicable as state and local health plans are no longer published.

- 4) **In determining the extent to which a proposed service will be accessible, the following will be considered:**
- a) **The extent to which medically underserved individuals currently use the applicant's services, as a proportion of the medically underserved population in the applicant's service area(s), and the extent to which medically underserved individuals are expected to use those services, if approved,**

The applicant contends that its project assures continued access to those in need of skilled nursing care for both short-term rehabilitation and long-term care. CON application #10729, Table 3-2 on page 3-7 provides the July 2021–June 2022 utilization for the five nursing homes within five miles of the project’s location. Table 3-3 on the application’s page 3-7 shows the CY 2016-2019 utilization for The Nursing Center at Mercy and Miami-Dade County nursing homes. Mercy notes that its Schedule 7, Projected Revenues for the first two years of operations, shows it will assure access to Medicaid continues within the subdistrict.

b) The performance of the applicant in meeting any applicable Federal regulations requiring uncompensated care, community service, or access by minorities and handicapped persons to programs receiving Federal financial assistance, including the existence of any civil rights access complaints against the applicant;

Mercy states that it understands that Medicare and Medicaid conditions of participation must be met to remain an active provider within the programs and that the conditions include nondiscrimination and civil rights provisions. The applicant includes information and forms used to assure resident rights and states that staff are trained to assure that residents have the free expression to exercise all their rights.

c) The extent to which Medicare, Medicaid, and medically indigent patients are served by the applicant;

Mercy provides the table below which summarizes the information for the forecast taken from the financial schedules showing the payers that include Medicare and Medicaid Managed Care, the source of reimbursement for medically under-served individuals and indigents.

The applicant states that this information shows access to the proposed payers for the skilled nursing care to be provided at the proposed 165-bed facility, with Medicaid Managed Care accounting for 39.34 percent of total patient days in year one and 60.95 percent in year two and that charity care does not exist in nursing homes because qualification for Medicaid enrollment is based on a means test, with those persons with little or no assets qualifying to become Medicaid recipients.

**Mercy Center OPCO's 165-Bed Nursing Home
Year One and Two Admissions and Patient Days by Payer**

Payor	Year One: 7/25 - 6/26			Year Two: 7/26-6/27		
	Admits	Days	Percent of Days	Admits	Days	Percent of Days
Medicare	62	11,348	44.86%	66	44.86%	23.25%
Medicare Managed Care	62	898	3.55%	128	3.55%	3.55%
Medicaid Managed Care	30	9,953	39.34%	96	39.34%	60.95%
Self-Pay	2	640	2.53%	4	2.53%	2.53%
Other	2	2,460	9.72%	4	9.72%	9.72%
Total	158	25,299	100.00%	298	100.00%	100.00%
Occupancy	42.01%			86.60%		

Source: CON application #10729, page 3-10, Table 3-4.

d) The extent to which the applicant offers a range of means by which a person will have access to its services.

Mercy states the project conforms to these provisions and assures that by seeking contracts with a variety of insureds including managed care plans and those for Medicaid recipients, it will promote access and widen the numbers of persons who can be served. Further, the new physical plant and proposed services will attract a variety of residents requiring rehabilitation and skilled nursing care.

b. Does the applicant have a history of providing quality of care? Has the applicant demonstrated the ability to provide quality care? Is the applicant a Gold Seal Program nursing facility that is proposing to add beds to an existing nursing home? Section 408.035(3) and (10), Florida Statutes.

As stated previously, Mercy Center OPCO, LLC currently is approved to establish a 150-bed replacement facility for The Nursing Center at Mercy and will contract with Ventura Services Florida to assure that the program implements the latest in ongoing quality improvements and financial requirements. The project does not involve a Gold Seal facility.

Mercy comments that the importance of continuity of care and staff training and development provide the basis for tracking progress and developing ongoing monitoring of the care within each nursing home. Further, management’s philosophy encourages continuous quality improvement (CQI) through the institution of uniform standards and guidelines, the creation of quality improvement goals, and the recognition and use of evidence-based clinical pathways to achieve desired patient outcomes.

The applicant bullets the 12 steps in the Centers for Medicare and Medicaid Services (CMS) *QAPI at a Glance* (CON application #10729, page 4-2) and maintains that these 12 steps establish a foundation for QAPI in nursing homes. Mercy states it stays up to date on all state and federal requirements for QAPI.

The applicant includes a Quality Assurance and Assessment Program (QAAP), which it states assures that the facility will meet or exceed the needs, expectations and requirements of the patients while maintaining good patient outcomes and exceptional person-centered care where the residents are involved in their own care and their needs are addressed individually. Further, Mercy states that a Risk Management/Quality Assurance Committee (RM/QAC), which will meet monthly and plans of correction for areas that need improvement will be developed. The applicant explains that the goal is to prevent failure of those core processes that could cause substandard quality of care and place the facility in danger of regulatory non-compliance.

Mercy's QAPI guiding principles addressed on CON application #10729, pages 4-2 through 4-4 include:

Purpose: To focus on the goal of an exceptional person-centered care environment by including residents, physicians, staff members, family members, and other providers as needed in the performance improvement process to support a care environment that nurtures meaningful relationships.

Guiding Principles: The beliefs and philosophy of the organization as it pertains to quality assurance and performance improvement. The guiding principles guide what is done, why it is done, and how to conduct the QAPI processes.

- **Guiding Principle #1** Care practices are guided by a structured Quality Assurance and Performance Improvement process.
- **Guiding Principle #2** All staff members acknowledge their commitment to performance improvement and their perspective roles in the process.
- **Guiding Principle #3** Focus on systems and processes and encourage staff to identify potential errors and system breakdowns.
- **Guiding Principle #4** Set goals to improve performance, measure progress towards the goal, and revise the goal when necessary.

Procedures: The administrator is responsible for the Quality Assurance Performance Improvement Program. This committee shall meet at least quarterly to identify areas of concern as well as to recommend, implement, monitor, and evaluate changes. The committee ensures that training, resources, and time is provided to those individuals participating on the Performance Improvement Projects (PIPS).

Mercy contends that each PIP subcommittee will use Root Cause Analysis (RCA) to improve existing processes, with the facility utilizing the “**Five Whys**” as its RCA method to identify the root cause of the problem so that appropriate approaches can be planned.

The application’s Tab 10-Additional Information, Exhibit 4 includes a summary of the QAPI Plan and Process, Performance Improvement Project worksheets, the Quality Assurance Committee Report, and policies for reporting accidents and incidents.

Mercy offers a narrative explanation/description of the following activities and initiatives (pages 4-4 and 4-5 of the application):

- Emergency Management and Hurricane Preparedness - The proposed facility that the 15 beds will be relocated to will
 - be constructed and equipped with a generator to ensure residents have a safe, comfortable environment during times of power outages.
 - have a comprehensive emergency management plan that provide a detailed plan for natural disasters, including hurricanes, cover preparation protocols, monitoring, reports, and evacuation protocols which include procurement and storage of sufficient supplies, including food, water, pharmaceuticals, and nursing supplies.
- Resident Rights, Privacy and Advisory Committee – assures residents' rights and coordinates with the Ombudsman to assure that all proper interactions are guided by the policies which includes within the quality assurance review in which aspects of residents' rights receive evaluation, and any breach or concerns addressed in the continuous quality improvement cycle.
 - A residents' rights brochure provided by Florida's Long-Term Care Ombudsman Program is given to each admission.
 - Every employee is given their own copy of the residents' rights and receives education upon hire during the first day of orientation and annually thereafter.

- Activities and Resident Council - assures that residents have areas of interests to pursue and can develop friendships, interpersonal interactions, and gain information.
 - Activities director plans the range of activities based on the individual care plans and resident requests in which residents have opportunities to participate in various forms of recreation for both for mind and body
 - Family is always encouraged to participate with residents and staff.
 - Activities are designed to promote physical, as well as mental stimulation and social interaction and include regular daily programs and special events are structured such that residents' interests are a priority, promoting social interaction and entertainment.
 - Community outing and involvement are incorporated into the offerings to keep residents engaged and active.
 - Activities sometimes include movies, shopping, and special events, and dinner out, providing residents with community interactions and new exposure to what the broader community offers.

Regarding licensing history, Mercy acquired the inactive license for The Nursing Center at Mercy for the purpose of establishing a replacement nursing home and was then granted CON #10665 for a 120-bed replacement facility on September 8, 2021 and has CON Exemption #E210004 to add 30 beds to the replacement facility.

Mercy Center OPCO, LLC did not operate the facility, nor has it operated other facilities; however, it will contract with Ventura Services Florida, an established clinical and administrative services consulting company. Skilled nursing facilities affiliated with Ventura Services include seven Miami-Dade County facilities acquired starting in 2019.

Ventura Services Florida Affiliated Skilled Nursing Facilities

Facility Name	Licensee since	Beds	6/30/20 - 7/1/21		6/30/21 - 7/1/22	
			Patient Days	Occup.	Patient Days	Occup.
Harmony Health Center (District - 11)	5/13/19	203	67,120	90.59%	71,357	81.46%
Miami Springs Nursing & Rehab Center (District - 11)	6/17/19	269	28,973	29.51%	50,717	51.65%
Sierra Lakes Nursing & Rehab Center (District - 11)	9/30/19	180	59,620	90.75%	60,809	92.56%
South Dade Nursing & Rehab Center (District - 11)	10/7/19	180	59,450	90.49%	62,373	94.94%
North Dade Nursing & Rehab Center (District - 11)	10/14/19	245	72,543	81.12%	68,408	76.50%
Regents Park At Aventura (District - 11)	11/8/21	180	54,862	83.50%	61,213	93.17%
Claridge House Nursing & Rehab Center (District - 11)	11/8/21	240	65,446	74.71%	71,357	81.46%
Okeechobee Health Care Facility (District - 9)	3/1/22	210	55,242	84.08%	53,686	74.07%
Olive Branch Health and Rehab Center (District - 1)	4/1/22	90	22,215	67.63%	15,083	45.91%
De Luna Health and Rehab Center (District - 1)	4/1/22	90	13,751	41.86%	20,023	60.95%
Waterford Nursing and Rehab Center* (Signature Healthcare Center of Waterford District - 11)	-	214	63,202	80.91%	59,253	75.86%
Washington Rehab and Nursing Center* (District - 2)	-	180	44,870	68.30%	43,099	65.60%
Total		3,778	1,015,308	73.90%	1,083,612	75.06%

Source: CON application #10729, page 4-6, Table 4-1 from AHCA Florida Nursing Home Bed Need Projections by District and Subdistrict for the periods indicated.

Notes: Miami Springs was f/k/a Fair Havens Center and Sierra Lakes was f/k/a Golden Glades Nursing & Rehab.

*Pending issuance of license for change of ownership.

Mercy provides the occupancy for these facilities for the 12-month periods ending on June 30, 2021 and June 30, 2022 and notes that all of these facilities experienced a significant increase in occupancies compared to the previous year. Further, high occupancy rates are often an indicator of quality and its facilities are in high demand and play an important role in the health care delivery system of Miami-Dade County.

Mercy contends that when acquiring facilities, particularly older facilities that may have life safety issues due to aging physical plants and equipment, it takes time to improve quality deficiencies. The applicant notes that the pandemic has had put added stress on facilities, facing many challenges from staffing shortages to the impact of soaring inflation on operational expenses. Further, two of its facilities (Miami Springs and Sierra Lakes) were purchased out of bankruptcy. Mercy contends that quality is expected to improve under its management.

Mercy states that it is affiliated with an experienced group of managers and experienced leaders that have the ability to initiate quality improvement, implement timely corrective action plans, and turnaround facilities through its quality initiatives. Further, its leadership has the knowledge and skills to operate the proposed facility, providing a variety of services required by residents.

The following table summarizes Ventura affiliated nursing homes star ratings according to AHCA's Nursing Home Guide and CMS. Mercy includes these reports in the application's Exhibit 5 - Additional Information section and states that its responses demonstrate the capability to implement a program of quality assurance with elements that lead to continuous quality improvement in the federal and state rating systems and achieve national recognition for quality improvement.

**Ventura Services Florida Affiliated Nursing Homes
CMS Overall Ratings (Out of 5 Stars)**

Facility Name	Subdistrict	CMS Star Rating
De Luna Health and Rehab. Center*	1-1	5
Olive Branch Health & Rehab. Center*	1-1	5
Washington Rehab. and Nursing Center	2-1	5
Okeechobee HealthCare Facility	9-3	5
Claridge House Nursing & Rehab Center	11-1	4
Harmony Health Center	11-1	2
Miami Springs Nursing & Rehab Center*	11-1	1
North Dade Nursing & Rehab Center	11-1	3
Regents Park At Aventura	11-1	2
Sierra Lakes Nursing & Rehab Center*	11-1	3
Signature Healthcare Center of Waterford	11-1	3
South Dade Nursing & Rehab Center	11-1	2
Average		3.3

Source: CON application #10729, page 4-7, Table 4-2.

Ratings are issued on a performance measure (star basis), with SNFs being issued stars ranging from one to five stars, with five stars being the highest rating.

**Skilled Nursing Facilities Affiliated with Ventura Service Florida
Nursing Home Guide Inspection Ratings**

VSF Affiliated SNF	HF Overall Inspection Star Rating	CMS Overall Rating
Claridge House Nursing & Rehab Center - AHCA File Number 111306	★★★★	★★★★
De Luna Health and Rehab. Center - AHCA File Number 35961086	★★★★★	★★★★★
Harmony Health Center - AHCA File Number 111314	★★	★★
Miami Springs Nursing & Rehab Center - AHCA File Number 111309	★	★
North Dade Nursing & Rehab Center - AHCA File Number 111324	★★	★★★
Okeechobee HealthCare Facility - AHCA File Number 94701	★★★★★	★★★★★
Olive Branch Health & Rehab. Center - AHCA File Number 35961064	★★	★★★★★
Regents Park at Aventura - AHCA File Number 111345	★★	★★
Sierra Lakes Nursing & Rehab Center -1 AHCA File Number 11310	★★★★	★★★
Signature Healthcare Center of Waterford - AHCA File Number 111341	★★	★★★
South Dade Nursing & Rehab Center - AHCA File Number 111313	★★★	★★
Washington Rehab. and Nursing Center - AHCA File Number 26701	★★★★	★★★★★
Average	3 Stars	3.3 Stars

Source: <https://www.floridahealthfinder.gov/index.html> April 2020 - September 2022, and <https://www.medicare.gov/care-compare/results?searchType=NursingHome&page=1&state=FL&sort=alpha> Last Updated: November 2022 and December 7, 2022, respectively.

According to CMS’s Medicare.gov website, overall quality ratings are issued the following ratings (on a one to five-star scale):

- ★★★★★ Much Above Average
- ★★★★ Above Average
- ★★★ Average
- ★★ Below Average
- ★ Much Below Average

The reviewer notes that none of the facilities listed above are Gold Seal Award facilities. De Luna Health and Rehabilitation Center, Olive Branch Health and Rehabilitation Center, and Regents Park at Aventura are on the Agency Watch List. The Watch List identifies nursing homes that are operating under bankruptcy protection or met the criteria for a conditional status during the past 30 months.

During the 36 months ending December 20, 2022, Mercy Center affiliated nursing homes had a total of 14 substantiated complaint categories cited. This does not include complaints that occurred prior to

Ventura Services Florida operating the facility. Below is a table of the substantiated complaints by the applicable complaint category.

**Mercy Center OPCO, LLC Affiliates
Substantiated Complaint History by Category
36 Months Ending December 20, 2022**

Complaint Category	Number Substantiated
Infection Control	5
Resident/Patient/Client Abuse	3
Quality of Care/Treatment	2
Resident/Patient/Client Neglect	1
Elopement	1
Falsification of Records/Reports	1
Dietary Services	1
Total	14

Source: AHCA Substantiated Complaint History.

- c. What resources, including health personnel, management personnel and funds for capital and operating expenditures, are available for project accomplishment and operation? 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 audited financial statements, where the short-term and long-term measures fall on the scale (highlighted in gray) for the most recent year.

CON application #10729 Mercy Center OPCO, LLC		
	Dec-21	Dec-20
Current Assets	\$250,000	\$0
Total Assets	\$2,332,502	\$1,600,000
Current Liabilities	\$85,357	\$1,825
Total Liabilities	\$85,357	\$1,825
Net Assets	\$2,247,145	\$1,598,175
Total Revenues	\$0	\$0
Excess of Revenues Over Expenses	(\$1,030)	(\$1,825)
Cash Flow from Operations	(\$483,532)	(\$1,825)
Short-Term Analysis		
Current Ratio (CA/CL)	2.9	0.0
Cash Flow to Current Liabilities (CFO/CL)	-566.48%	-100.00%
Long-Term Analysis		
Long-Term Debt to Net Assets (TL-CL/NA)	0.0%	0.0%
Total Margin (ER/TR)	NA	NA
Measure of Available Funding		
Working Capital	\$164,643	(\$1,825)

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

Capital Requirements and Funding:

The applicant indicates on Schedule 2 capital projects totaling \$39,603,093, which includes this project (\$313,993), CON #10665 (original 120-bed CON - \$36,289,100), the addition of 30 beds, and other capitalization (\$3,000,000). In addition to the capital costs, the applicant will have to finance a projected year one operating loss of \$3,065,806.

The applicant states on Schedule 3 that funding for this project will come from cash on hand (\$250,000) and non-related company financing (\$63,993). The applicant provided a letter, dated November 11, 2022, from Waterstone Capital stating they would provide construction financing. The applicant also provided audited financial statements showing over \$250,000 in cash.

Conclusion:

Funding for this project should be available as needed.

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

The immediate and long-term financial feasibility of the project is tied to expected profitability. The purpose of our analysis for this section is to evaluate the reasonableness of the applicant’s profitability projections and, ultimately, whether profitability is achievable for this project. Our analysis includes an evaluation of net revenue per patient day (NRPD), cost per patient day (CPD), nurse staffing ratios, and profitability. We compared the NRPD, CPD, and profitability to actual operating results from skilled nursing facilities as reported on Medicaid cost reports (2018 and 2019 cost report years). For our comparison group, we selected skilled nursing facilities with similar Medicaid utilizations to the utilization projected by the applicant on a per patient day basis (PPD). Comparison group data was adjusted for inflation to match the second-year projection (inflation factor was based on the New CMS Market Basket Price Index as published in the 2nd Quarter 2022, Health Care Cost Review).

NRPD, CPD, and profitability or operating margin that fall within the group range are considered reasonable projections. Below is the result of our analysis.

	PROJECTIONS PER APPLICANT		COMPARATIVE GROUP VALUES PPD		
	Total	PPD	Highest	Median	Lowest
Net Revenues	22,691,524	435	537	387	291
Total Expenses	22,054,484	423	526	389	292
Operating Income	637,040	12	59	3	-129
Operating Margin	2.81%		Comparative Group Values		
	Days	Percent	Highest	Median	Lowest
Occupancy	52,155	86.60%	97.91%	89.95%	52.21%
Medicaid	31,788	60.95%	70.54%	62.78%	51.27%
Medicare	13,977	26.80%	35.93%	15.58%	0.41%

Staffing:

Section 400.23(3)(b)(1), Florida Statutes, specifies a minimum certified nursing assistant staffing of 2.0 hours of direct care per resident per day, a minimum licensed nursing staffing of 1.0 hour of direct resident care per resident day, and 3.6 hours of total direct care staffing. Based on the information provided in Schedule 6, the applicant’s projected staffing meets this requirement.

The projected NRPD, CPD, and profit fall within the group range and are considered reasonable. In addition, the total cost appears to include at least the minimum staffing required. Therefore, the overall profitability appears achievable.

Conclusion:

This project appears to be financially feasible based on the projections provided by the applicant.

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

Strictly from a financial perspective, the type of competition that would result in increased efficiencies, service, and quality is limited in health care. Cost-effectiveness through competition is typically achieved via a combination of competitive pricing that forces more efficient cost to remain profitable and offering higher quality and additional services to attract patients from competitors. Since Medicare and Medicaid are the primary payers in the nursing home industry, price-based competition is limited. With a large portion of the revenue stream essentially fixed on a per patient basis, the available margin to increase quality and offer additional services is limited. In addition, competitive forces truly do not begin to take shape until existing business' market share is threatened. The publication of need in this area suggests that there is an unmet and untapped customer base for a new entrant to absorb. Since nursing home services are limited to available beds and the need formula suggest excess capacity in the market to fill those beds, the impact on market share would be limited. The combination of the existing health care system's barrier to price-based competition via fixed price payers and the existence of unmet need in the subdistrict limits any significant gains in cost-effectiveness and quality that would be generated from competition.

Conclusion:

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

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

The applicant has submitted all information and documentation necessary to demonstrate compliance with the architectural review criteria. The cost estimate for the proposed project provided in Schedule 9, Table A and the project completion forecast provided in Schedule 10 appear to be reasonable. A review of the architectural plans, narratives

and other supporting documents did not reveal any deficiencies that are likely to have a significant impact on either construction costs or the proposed completion schedule.

The plans submitted with this application were schematic in detail with the expectation that they will be necessarily revised and refined prior to being submitted for full plan review. The architectural review of this application shall not be construed as an in-depth effort to determine complete compliance with all applicable codes and standards. The final responsibility for facility compliance ultimately rests with the applicant owner. Approval from the Agency for Health Care Administration's Office of Plans and Construction is required before the commencement of any construction.

g. Does the applicant have a history of and propose the provision of health services to Medicaid patients and the medically indigent? Does the applicant propose to provide health services to Medicaid patients and the medically indigent? Section 408.035(9), Florida Statutes

Mercy Center OPCO, LLC - as a newly formed entity, does not have a history of providing care to Medicaid patients and the medically indigent. Ventura Services Florida's Miami-Dade skilled nursing facilities provided 375,603 Medicaid patient days (78.75 percent Medicaid occupancy) and 378,219 Medicaid patient days (74.93 percent Medicaid occupancy) in the 12 months ending June 30, 2021 and June 30, 2022, respectively.

The 165-bed facility is projected to have 9,953 Medicaid Managed Care patient days (39.30 percent of year one's total patient days) during the 12 months ending June 30, 2026 and 31,788 (60.90 percent of year two's total patient days) ending June 30, 2027. Medicaid managed care is projected as zero in year one and 732 (60.90 percent) of the 15-bed project's total patient days.

F. SUMMARY

Mercy Center OPCO, LLC (CON application #10729), proposes the addition of 15 beds to its approved 150-bed replacement community nursing home through the relocation of 15 beds from North Dade Nursing and Rehabilitation Center, located in Miami-Dade County.

The proposed project includes 8,280 GSF of new construction. The construction cost is \$150,000. The total project cost is \$313,993.

Mercy Center OPCO, LLC proposes no conditions to the approval of the project.

Need/Access:

- The application was not filed in response to published need.
- The project will not change the number of licensed and approved nursing home beds in the subdistrict.
- The proposal:
 - will be part of a new physical plant and part of a replacement facility
 - is located further south in the county than North Dade Nursing and Rehabilitation Center, away from most existing facilities and with more (seven) nearby acute care hospitals therefore, enhancing access by redistributing beds where they are needed most, and
 - will continue existing referral patterns and complementary support services.
- Mercy's major need justifications include:
 - the population growth of Miami Dade's age 65 and older cohort
 - Miami Dade's increasing nursing home utilization, and
 - the 15-bed addition is a positive alternative to maintaining the beds at the current outdated facility with its limited space.
- Specific patient/resident services planned for the project are consistent with the four most commonly occurring CY 2021 MDC discharges to SNFs from Miami-Dade County hospitals and will address:
 - Orthopedic rehabilitation
 - Cardiac rehabilitation
 - Respiratory care
 - Private bedrooms to better accommodate/assure safe isolation measures when necessary.
- The 165-bed facility is projected to have 42.01 percent total occupancy in year one ending June 30, 2026 and 86.06 percent in year two ending June 30, 2027.

Quality of Care:

- The applicant provided a detailed description of the ability to provide quality care.
- Agency records indicate that for the three-year period ending December 20, 2022, Ventura Services Florida affiliated nursing homes had 14 substantiated complaint categories cited.

Financial Feasibility/Availability of Funds:

- Funding for the project should be available as needed.
- The project appears to be financially feasible based on the projections provided by the applicant.

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

Architectural

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

Medicaid/Indigent Care

- Ventura Services Florida affiliated nursing homes provided 375,603 Medicaid patient days (78.75 percent) and 378,219 (74.93 percent Medicaid occupancy) during the 12 months ending June 30, 2021 and June 30, 2022, respectively.
- Mercy Center projects the 165-bed facility will provide 39.34 percent year one and 60.95 percent year two total annual patient days (ending June 30, 2026 and June 30, 2027) to Medicaid HMO patients. Medicaid managed care is projected as zero in year one and 732 (60.90 percent) of the 15-bed project's total patient days.

G. RECOMMENDATION

Approve CON #10729 to add 15 community nursing home beds to the approved 150-bed replacement community nursing home through the delicensure of 15 beds from North Dade Nursing and Rehabilitation Center, District 11, Subdistrict 1, Miami-Dade County. The total project cost is \$313,993. The project involves 8,280 GSF of new construction and a construction cost of \$150,000.

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: February 10, 2023



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



Certificate of Need
2727 Mahan Drive
Building 2
Tallahassee, FL 32308
Ph: 850-412-4401