

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Sabal Palm Nursing and Rehab Center, LLC/CON application #10733
P.O. Box 3376
Ridgeland, Mississippi 39158

Authorized Representative: Mr. Donald E. Eicher, III, JD
(601) 853-2667

2. Service District/Subdistrict

District 7/Subdistrict 7-4 (Seminole County, Florida)

B. PUBLIC HEARING

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

C. PROJECT SUMMARY

Sabal Palm Nursing and Rehab Center, LLC (CON application #10733) also referenced as the applicant or Sabal Palm, is a for-profit limited liability company established in 2018, that proposes the transfer of CON #10666 from Seminole County Nursing and Rehab, LLC which was approved to establish a 171-bed community nursing home District 7, Subdistrict 7-4 (Seminole County, Florida). The project's proposed location is Zip Code 32771 in the northern portion of Seminole County.

The applicant is affiliated with Briar Hill Management LLC, an integrated health care services management company concentrating on the delivery of comprehensive long-term care services. David and Robert Rotolo, Briar Hill Management LLC's two principals are licensed nursing home administrators with a combined experience of over 72 years in the nursing home business. Briar Hill Management LLC operates six nursing homes in Mississippi. Sabal Palm informs that its experience includes the development of two nursing homes in the State of Arkansas, from concept inception, obtaining a permit which is equivalent to Certificate of

Need application process, to facility permitting, construction, and licensure, which includes Medicare and Medicaid certification.

Tab 19 of CON application #10733 includes detailed biographies of the principal owners as well as a brochure and statement of the capabilities and services that can be performed by the management company, Briar Hill Management, LLC.

A copy of CON #10666 is included in the application's Tab 20.

The proposed project includes 109,807 gross square feet (GSF) of new construction. The construction cost is \$24,706,580. The total project cost is \$38,116,841 and includes land, building, equipment, project development, financing, and start-up costs.

Total GSF and Project Costs of CON application #10733

Applicant	CON App. #	Project	GSF	Project Costs	
Sabal Palm Nursing and Rehab Center, LLC	10733	171-bed SNF	109,807	\$38,116,841	\$222,906

Source: CON application #10733, Schedule 1, Tab 6 and Schedule 9, Tab 12

According to the applicant's Schedule 10, Sabal Palm expects issuance of license and initiation of service in March of 2025.

Seminole County Nursing and Rehab states it will accept the conditions as stated on CON #10666: All beds will be dually certified for both Medicaid and Medicare. This is conditioned on the original CONs #10516, 10531, 10555, and 10629 as well.

Should the proposed project be approved, the applicant's conditions would be reported in the annual condition compliance report, as required by Rule 59C-1.013(3), Florida Administrative Code.

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 sections 408.031-408.045, Florida Statutes and applicable rule criteria within Chapters 59C-1 and 59C-2, 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; and applicable rules of the State of Florida, Chapters 59C-1 and 59C-2, Florida Administrative Code. These criteria form the basis for the goals of the review process. The goals represent desirable outcomes to be attained by successful applicants who demonstrate an overall compliance with the criteria. Analysis of an applicant's capability to undertake the proposed project successfully is conducted by evaluating the responses and data provided in the application, and independent information gathered by the reviewer.

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

Rule 59C-1.010(3)(b), Florida Administrative Code, prohibits any amendments once an application has been deemed complete. The burden of proof to entitlement of a certificate rests with the applicant. As such, the applicant is responsible for the representations in the application. This is attested to as part of the application in the Certification of the Applicant.

As part of the fact-finding, the consultant, Sarah Zimmerman, analyzed the application in its entirety 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, Florida Administrative Code.

1. Fixed Need Pool

- a. Does the project proposed respond to need as published by a fixed need pool? Or does the project proposed seek beds or services in excess of the fixed need pool? Rule 59C-1.008(2), Florida Administrative Code.**

The applicant has submitted CON application #10733 as an expedited review, which may be submitted at any time and is not in response to a fixed need pool publication. The number of licensed and approved nursing home beds in Subdistrict 7-4 (Seminole County) will remain unchanged.

Sabal Palm Nursing and Rehab Center, LLC includes a notarized letter, Schedule 12 Affidavit, Tab 15, from Donald E. Eicher, III, JD In-house Counsel and authorized representative of Seminole County Nursing and Rehab LLC, authorizing the transfer of certificate of need #10666.

As of February 10, 2023, Subdistrict 7-4 (Seminole County) had 10 licensed SNFs with 1,242 licensed and 171 approved community nursing home beds. Subdistrict 7-4 facilities averaged 84.16 percent total occupancy during the six months ending December 31, 2022. The subdistrict's nursing homes reported 84.01 percent total occupancy in CY 2022.

2. 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? [s. 408.035(1), (2) and (5) Florida Statutes].

As of February 10, 2023, Subdistrict 7-4 (Seminole County) had 10 licensed SNFs with 1,242 licensed and 171 approved community nursing home beds. Subdistrict 7-4 facilities averaged 84.16 percent total occupancy during the six months and 84.01 percent total occupancy during the 12 months ending December 31, 2022.

Sabal Palm reiterates that it is affiliated with Briar Hill Management, LLC stating that Briar Hill has strived to provide the best and efficient delivery of skilled nursing services by using the latest equipment and technology available and supplies its response to the COVID-19 under Tab 6, page 2.

The applicant also states that all Briar Hill affiliated nursing homes use:

- Electronic medical records
- Nurse emergency call system
- Wanderguard protections systems
- Bed occupancy sensors
- Kiosks for staff to all for immediate charting of resident treatment and other activities.

- LTC Treadtracker - a data collection and reporting tool that owned by American Health Care Association, allows for comparison of nursing facilities to their peers.

Sabal Palm indicates that the facility will be in zip code 32771, which is the northern portion of Seminole County, Florida. The applicant contends there is great need for nursing home beds for Seminole County, with northern Seminole County is the most area of need and will not impact the utilization of the existing nursing homes in zip code 32771, defining this area as the greater Orlando area including the counties of Lake, Orange, Osceola, and Seminole with the principle being Orlando, Kissimmee, and Sanford. Support provided by the applicant for this includes multiple tables based on the Agency for Healthcare Administration utilization and population projections, Claritas population data and various maps.

The applicant notes that Zip Code 32771, which is Sanford, currently has one nursing home with 114 beds, Healthcare and Rehab of Sanford. Sabal Palm notes the facility's reported occupancy rate for July 1, 2021 - June 30, 2022, was 84.60 percent, which is above average for all facilities in Seminole County and District 7. The reviewer confirms that the percentage occupancy for this facility is correct and higher than the average of District 7-4, during the reporting period.

Sabal Palm asserts that there is great need for nursing home beds for Seminole County and northern Seminole County is the area of greatest need and its project will not impact the utilization of the existing nursing homes in zip code 32771. Support provided by the applicant for this includes multiple tables with the Agency for Healthcare Administration utilization and population projections, Claritas population estimates by Zip Code and County and maps describing the location of the proposed facility. The applicant contends that with pre-COVID-19 community nursing home beds in Seminole County having a 93.2 percent occupancy rate compared to the State of Florida's occupancy rate of 86.4 percent, the availability for nursing home beds and services in Seminole County is predicted to return to limited and problematic for the residents of Seminole County, even when including this 171-bed nursing home project.

Sabal Palm's Table 1 (see below) includes population estimates that show that the Seminole County aged 65 and older population is expected to increase by the year 2029 by 12.25 percent which is shown as slightly higher than the state increase of 12.20 percent.

Population Projections of Elderly 2023, 2025, and 2029

	State of Florida	Seminole County
July 1, 2023, Population Projection (65 and older)	4,911,417	83,789
2025 Population Projection (65 and older)	5,157,766	88,580
Percentage Increase from 2023	5.02%	5.72%
2029 Population Projection (65 and older)	5,786,771	99,435
Percent Increase from 2025	12.20%	12.25%

Source: CON application #10733, Tab 6, Table 1, Page 10, from Florida Population Estimates and Projections by AHCA District 2015 to 2030, Certificate of Need Office, Published September 2021.

Sabal Palm's Table 2 (below) shows the less availability of nursing home beds per thousand population ages 65 and over and 75 and over in Seminole County compared to the State of Florida.

Beds per Thousand Population 65 and over for Years 2023, 2025, and 2029

	State of Florida (Beds per 1,000)	Seminole County (Beds per 1,000)
July 1, 2023, Population (65 and older)	16.9	14.8
July 1, 2023, Population (75 and older)	36.4	33.1
2025 Population Projection (65 and older)	16.6	16
2025 Population Projection (75 and older)	35.6	35.1
2029 Population Projection (65 and older)	14.8	14.2
2029 Population Projection (75 and older)	31.2	30

Source: CON application #10733, Tab 6, Table 2, Page 10, from Florida Population Estimates and Projections by AHCA District 2015 to 2030, Certificate of Need Office, Published September 2021. For July 1, 2023, the applicant used licensed beds and for 2025 and 2029, the applicant used licensed and CON approved community NH beds as of August 12, 2022.

The applicant's Schedule 5 shows that it projects that the facility will have an average occupancy rate of 62.24 percent in 2025, its first year of operation and 92.86 percent in 2026, its second year of operation.

Sabal Palm asserts that because the proposed project consists of all private rooms, to address the need to isolate "cohort" infectious patients, there is need for an isolation unit, featuring all private, single occupancy rooms, that infection rates can be better controlled plus recovery can be enhanced due to better resident quality of rest.

Table 3, Tab 6, page 12, shows an increase in elderly population in the 2022 population estimates when comparing them with the projected 2027 population estimates for the four counties of District 7, Brevard, Orange, Osceola, and Seminole, and Sanford Zip Code 32771.

Sabal Palm contends that District 7's and Zip Code 32771 (Sanford) within Seminole County populations show an increased growth rate of both the 65 and 85 years of age and older cohort over the next five years. The applicant states that there is need for additional community nursing home beds currently and the forecasted growth in Seminole County and

the Sanford Zip Code also support its contention that the proposed project will not have an impact on existing providers.

**Current (2022) and Projected (2027) Population Estimates
by Age Cohort District 7 Subdistricts and Sanford Zip Code 32771**

Sub Dist.	County	2022 POPULATION ESTIMATES				2027 POPULATION ESTIMATES			
		0-64	65+	85+	Total	0-64	65+	85+	Total
1	Brevard	458,370	156,576	19,756	614,946	461,231	179,654	21,828	640,885
2	Orange	1,242,077	189,925	19,888	1,432,002	1,283,764	231,113	22,220	1,514,877
3	Osceola	343,240	56,840	5,392	400,080	358,274	67,264	6,699	425,538
4	Seminole	397,748	81,649	9,477	479,397	402,957	96,854	10,193	499,811
Dist. 7	Total	2,441,435	484,990	54,513	2,926,425	2,506,226	574,885	60,940	3,081,111
Zip Code	32771	50,441	8,498	878	59,441	52,606	9,889	960	62,495
	5-YEAR CHANGE					5-YEAR GROWTH RATE			
Sub Dist.	County	0-64	65+	85+	Total	0-64	65+	85+	Total
1	Brevard	2,861	23,078	2,072	25,939	0.62%	14.7%	10.5%	4.2%
2	Orange	41,687	41,188	2,332	82,875	3.36%	21.7%	11.7%	18.0%
3	Osceola	15,034	10,424	1,307	25,458	4.38%	18.3%	24.2%	6.4%
4	Seminole	5,209	15,205	716	20,414	1.31%	18.6%	7.6%	3.4%
Dist. 7	Total	64,791	89,895	6,427	154,686	2.65%	18.5%	11.8%	5.3%
Zip Code	32771	2,165	1,391	82	3,054	4.29%	16.4%	9.3%	5.1%

Source: CON application #10733, Tab 6, Table 3, Page 12, from Claritas Population Estimates by County and Zip Code, 2022 update.

Sabal Palm cites that its comparison of beds per thousand of District 7 and Zip Code 32771 (Sanford) in Seminole County illustrates that presently and in the next five years that the beds per thousand population will decline in Seminole County and District 7. The applicant notes that there will be an increase in bed per thousand within Sanford Zip Code once the 171-bed nursing home is operational by 2027, but a decrease in the bed rate for Seminole County and District 7, resulting in a higher rate of beds per thousand population 65 and over versus Seminole County and District 7, but the rate in those areas is still lower overall.

**Beds per Thousand Population 65 and over for Years 2022 and 2027
Seminole County, ACHA District 7, and Sanford Zip Code 32771**

Area	7/2022 Lic. Comm. NH Beds	CON approved Comm. NH Beds	Total Lic. & CON approved Comm. NH Beds	2022 Pop 65+	2027 Pop 65+	2022 Bed Rate/1000	2027 Bed Rate/1000
Seminole County	1,242	171	1,413	81,649	96,854	15.2	14.6
District 7	9,620	568	10,188	484,990	574,885	19.8	17.7
Sanford Zip Code 32771	114	171	285	8,498	9,889	13.4	28.8

Source: CON application #10733, Tab 6, Table 4, Page 13, from Claritas Population Estimates by County and Zip Code, 2022 update; AHCA Florida Nursing Home Bed Need Projections by District and Subdistrict, September 30, 2022.

Sabal Palm's Table 3 on page 12 of CON application #10733 uses data from Claritas Population Estimates by County and Zip Code, 2022 update and Tables 4 and 5 also include AHCA Florida Nursing Home Bed Need Projections by District and Subdistrict population and utilization data published September 30, 2022 to support the argument that the population and beds per thousand support the current and future demand for nursing home beds and that other nursing home providers in Seminole County and District 7 will not be impacted by the development of the 171-bed nursing home in the Sanford Zip Code 32771.

Based on AHCA's nursing home utilization¹, Sabal Palms provides the pre-COVID-19 community nursing home beds in Seminole County having a 93.2 percent occupancy (Jan-June 2019). The subdistrict's occupancy dropped to 71.58 percent (Jan-June 2020) due to the impact of COVID-19. During the first six months of 2022, occupancy increased to 83.87 percent and Sabal Palm contends there will be a need for new nursing home beds after its project becomes operational.

Tables included in the application's pages 20-23 cite Agency hospital discharge data for CYs 2018-2021, demonstrating Medicare and Medicare Managed Care accounts for over 95 percent of Seminole County residents age 65 and over hospital discharges. Sabal Palm's Schedule 7 projects Medicare will be the payer source for 65.54 percent of year one and 65.48 percent of year two annual patient days. Medicaid is projected to 34.64 percent and 32.54 percent during the 171-bed facility's years one (2025) and two (2026) of operation.

Sabal Palm concludes that this project is needed to provide availability and access for Seminole County residents particularly those located in the northern most area of Seminole County. The applicant assures that the quality of care of nursing home services will be improved for Seminole

¹ Six month utilization data as published during October 4, 2019 – September 30, 2022.

County residents once this project is complete and operational. Further, the utilization of existing nursing homes in the northern portion of Seminole County overall will not be impacted by the proposed project.

- b. Does the applicant have a history of providing quality of care? Has the applicant demonstrated the ability to provide quality of 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.**

Sabal Palm Nursing and Rehab Center LLC, restates that it is affiliated with Briar Hill Management, which has affiliated facilities with a long history of participation in Medicaid and providing skilled nursing services to the Medicaid population in nursing homes in Arkansas, Louisiana, and Mississippi in the past. Briar Hill affiliates currently provide care to Medicaid eligible residents in its six Mississippi nursing homes.

Sabal Palm notes that it does not and has not operated in Florida and therefore has not had the opportunity to participate in the Gold Seal Program. However, it contends that Briar Hill's affiliate six nursing homes have averaged a four- or five-star rating over the past several years under the star rating of the Centers for Medicare and Medicaid Services (CMS). Sabal Palm believes that it is a worthy goal to seek Gold Seal rating and that it finds no indication that it could not operate at a four- or five-star facility as proposed.

The applicant includes a sample of Briar Hill quality assurance programs in CON #10733's Tab 17. Sabal Palm states that Briar Hill management will be able to replicate and administer a quality nursing home in Florida as it does in its other six nursing homes. The application's Tab 18 includes:

- Brochures of two Briar Hill nursing homes
- Admission Agreement Checklist
- Inservice Topic for a complete calendar year
- Vulnerable Adults forms and reporting in Mississippi
- Vulnerable Adult Reporting and Investigation Procedure
- Ethics Committee Policy
- Privacy and Confidentiality Policy
- Posting of Direct Care Daily Staffing Numbers Policy
- Accidents and Incidents Investigation Reporting
- Abuse Program policy
- Discharge Plan/Summary Policy and Procedure
- Discharge and Transfer Policies Involuntarily
- Pre-Admission Policy
- Admission/Readmission Orders Policy

- Admissions Policy
- Interdisciplinary Care Plan Meeting Policy
- Care Plans Policy
- Admissions Agreement
- Initial Care Plan; and
- Admission/Readmission UDAs Policy.

Sabal Palm's Tab 19 includes a discussion of Briar Hill Management, key management members, and services including nursing consultants, billing service, payroll service, accounting service, and therapy service. Briar Hill's nurse consultants provide nursing and technical assistance to the administrator and other personnel on ways to improve patient care, increase operating efficiency, and assist in meeting standards. Further, consultation is provided for medical staff, administration, nursing services, medical records, pharmacy, rehabilitation services, respiratory services, infection control, safety quality assurance, dietary, social services, and discharge planning. Sabal Palm states that the consultant will visit the nursing homes to observe care provided and assess the recipient's satisfaction with the services, as well as the provider's compliance with the regulatory requirements. They will then prepare reports, individually and in cooperation with other consultants, on programs surveyed as a team regarding compliance with state licensing and federal certification requirements, assist in writing corrective action for deficiencies and will make on site follow up visits to determine that corrections have been made. The applicant affirms that Briar Hill consultants have a comprehensive knowledge and the ability to interpret federal and state laws, regulations, and codes applicable to licensure and certification of a skilled nursing facility.

Briar Hill Management information states that its therapists deliver a comprehensive rehabilitation program which includes licensed and credentialed physical, occupational and speech therapy and work to restore residents to their highest level of function. Further, physical therapists evaluate patient and devise individualized therapeutic treatment programs which may include:

- Therapeutic exercise programs to increase muscle function, coordination, endurance, and mobility.
- Gait and functional training for safety and independence
- Muscle re-education
- Joint and soft tissue mobilization to increase range of motion.
- Use of thermal and electrical modalities for pain management

Briar Hill occupational therapist clinical services include:

- Education and training and daily living skills such as dressing, bathing, eating, and grooming.

- Sensori-motor treatments for strength, endurance range of motion and coordination
- Therapeutic activities for memory, orientation, cognitive integration, and daily life skills
- Perceptual testing and training to maximize functional abilities and safety.
- Community reintegration skills to follow for independent performance at home.

Speech language pathologists address communication problems as well as swallowing dysfunction, designing a treatment plan for a relevant to each residence needs that they include:

- Comprehensive skills for written and verbal communication
- Cognitive status which may include memory, orientation, and reasoning skills.
- Oral muscle strength and functioning for speaking and swallowing.
- Swallowing skills and techniques
- Verbal and nonverbal communication, including the use of augmentative systems when necessary.

CON application #10733's tabs 17, 18 and 19 include the following Briar Hill Management information pertinent to Sabal Palm—Model Quality Assurance Program Policy, Brochures, Calendars, Policies, Forms, job descriptions and key personnel bibliographies. Sabal Palm provides an adequate discussion of the ability to provide quality care.

c. What resources, including health manpower, management personnel, and funds for capital and operating expenditures, are available for project accomplishment and operation? Section 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 applicant is a development stage company, meaning there is no operational data to be analyzed for the purposes of this review. The applicant indicated that funding will be provided by a third-party source.

Capital Requirements and Funding:

The applicant indicates on Schedule 2 capital projects totaling \$38,116,841, which includes this project only. In addition to the capital costs, the applicant will have to finance a projected year one operating loss of \$3,999,371.

The applicant indicates on Schedule 3 of its application that funding for the project will be provided by cash on hand (\$50,000) and non-related company financing. The applicant submitted audited financial statements showing \$50,000 in cash. The applicant submitted a letter from Trustmark Bank expressing interest in providing financing for the cost of the project. A letter of interest is not considered a firm commitment to lend.

Given that the funding is supported by a letter of interest, we have no basis to conclude that funding will be available for this project.

Conclusion:

Funding for this project is in question.

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 3rd 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	23,800,712	411	542	493	327
Total Expenses	23,088,855	398	522	462	364
Operating Income	711,857	12	93	11	-30
Operating Margin	2.99%		Comparative Group Values		
	Days	Percent	Highest	Median	Lowest
Occupancy	57,959	92.86%	93.83%	88.69%	63.75%
Medicaid	18,860	32.54%	41.48%	37.87%	28.89%
Medicare	29,899	51.59%	59.00%	38.56%	11.51%

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 (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 district's limits any significant gains in cost-effectiveness and quality that would be generated from competition.

Conclusion:

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

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

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

The plans submitted with this application were schematic in detail with the expectation that they will be necessarily revised and refined prior to being submitted for full plan review. The applicant also does not address site specific requirements for disaster preparedness. This and other requirements will be verified by the Agency during future examination of more developed plans. 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

Sabal Palm states that Briar Hill affiliated facilities have a long history of participation in Medicaid and providing skilled nursing services to the

Medicaid population and have provided care to Medicaid eligible residents in nursing homes in past in Arkansas, Louisiana, and Mississippi and currently provide care to Medicaid eligible residents in six nursing homes in Mississippi.

The applicant reviewed the State of Florida Medicaid Managed Care (SMMC) long-term care program and its awarded contracts as of July 1, 2022, for CYs 2018 to 2024. Sabal Palm states that it “anticipates contracting with the providers as of January 1, 2019, in District 7: Aetna Better Health, Florida Community Care, Humana Medical Plan, Simply Healthcare and Sunshine Health”. These five providers were included in the applicant’s Table 21, which stated the contracts were awarded as of November 1, 2022.

Sabal Palm shares that this project is to construct and operate a new 171-bed community nursing home with all private single occupancy rooms in District 7 Subdistrict 7-4, Seminole County which will result in the maximum utilization and usefulness to all types of residents, whether on Medicare or Medicaid, including SMMC. The reviewer notes that the project having all private single occupancy rooms is not a condition to CON approval.

The applicant projects Medicaid will be 34.64 percent of year one (13,457 of 38,846 total patient days) and 32.54 percent of year two (18,860 of 57,959) total annual patient days.

Admissions, Days, and Percent of Days by Payer for Sabal Palm Nursing and Rehab Center, LLC First Two Years of Operations

Payer	Year One Ending Ending 2025		Percent of Days	Year Two Ending Ending 2026		Percent of Days
	Admits	Days		Admits	Days	
Self-pay	35	5,249	13.51%	60	9,200	15.87%
Medicaid	37	13,457	34.64%	70	18,860	32.54%
Medicare	3,311	20,140	51.85%	4,915	29,899	51.59%
Total	3,383	38,846	100.0%	5,045	57,959	100.0%

Source: CON application #10733, Schedule 7, Tab 10.

F. SUMMARY

Sabal Palm Nursing and Rehab Center, LLC (CON application #10733) proposes the transfer of CON #10666 from Seminole County Nursing and Rehab, LLC to establish a 171-bed community nursing home in District 7, Subdistrict 7-4 (Seminole County, Florida). The project consists of 109,807 GSF of new construction at a construction cost of \$24,706,580. Total project cost is \$38,116,841.

The applicant expects issuance of license and initiation of service during March 2025.

Sabal Palm Nursing and Rehab Center, LLC states it will accept CON #10666's condition which is "All beds to be dually certified for both Medicaid and Medicare".

Need

- The application is not in response to the fixed need pool.
- As of February 10, 2023, Subdistrict 7-4 (Seminole County) has ten licensed SNFs with 1,242 licensed beds and this project's 171 CON approved community nursing home beds pending licensure.
- Subdistrict 7-4 facilities averaged 84.16 percent total occupancy during the six months ending December 31, 2022. The subdistrict's nursing homes reported 84.01 percent total occupancy in CY 2022.
- The applicant provides data supporting the need for the project in ZIP Code 3277, northern Seminole County and Subdistrict 7-3 overall.
- The project will not change the number of licensed and approved nursing home beds in the subdistrict.

Quality of Care

- The applicant provided an adequate description of its ability to provide quality care.
- Descriptions and details of Briar Hill affiliated facilities care plans, quality assurance, services, key personnel and job descriptions to be used at the facility were included.

Financial Feasibility/Availability of Funds

- Funding for this project is in question.
- Based on the information provided in Schedule 6, the applicant's projected staffing meets this requirement.
- The project appears to be financially feasible based on the projections provided by the applicant.
- This project is not likely to have a material impact on competition to promote quality and cost effectiveness.

Architectural

- The applicant 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 does not reveal any deficiencies that are likely to have significant impact on either construction costs or the proposed completion schedule.

Medicaid/Charity Care

- Sabal Palm Nursing and Rehab Center, LLC projects the 171-bed facility will provide 34.64 percent of year one (ending 2025) and 32.54 percent of year two (ending 2026) total annual patient days to Medicaid patients.
- The applicant discusses Briar Hill affiliated facilities history of providing care to Medicaid eligible residents in nursing homes in Arkansas, Louisiana, and Mississippi.

G. RECOMMENDATION:

Approve CON #10733 to transfer CON #10666 from Seminole County Nursing and Rehab, LLC to establish a new 171-bed community nursing home in District 7, Subdistrict 4, Seminole County. The total project cost is \$38,116,841. The project involves 109,807 GSF of new construction and a construction cost of \$24,706,580.

CONDITION: All beds will be dually certified for both Medicaid and Medicare.

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: April 13, 2023



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