

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

JDM Health Services, LLC /CON application #10739

124 Peters Court
Freeport, Florida 32439

Authorized Representative: Duane Gallagher
(850) 830-6355

2. Service District/Subdistrict

District 1/Subdistrict 1-2 (Okaloosa County)

B. PUBLIC HEARING

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

C. PROJECT SUMMARY

JDM Health Services, LLC (CON application #10739) also referenced as JDM, or the applicant, is a for-profit, limited liability company that proposes the expedited transfer of CON #10711 from of Villages Health Services, LLC to construct an 84-bed community nursing home in Subdistrict 1-2 (Okaloosa County). The original CON #10579 was awarded to JDM Health Services, LLC on February 11, 2020.

JDM states that the proposed 84-bed skilled nursing facility will remain within Zip Code 32579 near Shalimar and Eglin Air Force Base where there is an independent and assisted living retirement community (the Air Force Enlisted Village).

Mr. Duane Gallagher, principal with Villages Health Services, LLC, is also JDM Health Services, LLC's principal. JDM states that the approval of this application ensures the project continues under development with new management affiliated with Clear Choice Health Care Health Services, LLC, which currently manages thirteen senior properties in Florida.

Mr. Gallagher is stated to oversee two Florida nursing homes — The Manor at Blue Water Bay (Subdistrict 1-2) and Community Health and Rehabilitation Center (Subdistrict 2-2).

The proposed project includes 54,500 gross square feet (GSF) of new construction which is an increase of 22 GSF from CON #10711. Total construction cost is \$10,283,500, a decrease of \$267,964 from CON #10711. Total project cost is \$17,193,800, a decrease of \$96,441 from CON #10711, which includes land, building, equipment, project development, financing, and start-up costs.

JDM Health Services, LLC

| CON Application # | GSF | Total Project Cost | Cost Per Bed |
|--------------------------|------------|---------------------------|---------------------|
| 10739 | 54,500 | \$17,193,800 | \$204,688.10 |

Source: Schedules 1 and 9, CON application #10739

The applicant expects issuance of license in May 2026 and initiation of service in June of 2026.

JDM Health Services, LLC indicates it will comply with the original conditions on the project. These include:

- 1. Locate within the Shalimar zip code, 32579, proximate to the Air Force Enlisted Village, a retirement community of independent and assisted living residences.** The applicant's license will be used to confirm the facility location.
- 2. Contain two bariatric rooms.** The applicant will provide photos of the finished rooms upon completion of construction. The applicant will also provide the number of residents requiring a bariatric room on an annual basis.
- 3. Provide a Parkinson's disease program.** Upon implementation of the program, the applicant will provide the policies specific to the program and indicate the number of residents served annually by the program.
- 4. Offer 50 private rooms.** The applicant will submit architectural drawings to the Office of Plans and Construction, showing 50 private rooms. The applicant also documents the number of private rooms on the initial licensure application form and maintains the beds through the licensure renewal process.

- 5. Contain an Activities of Daily Living suite within the Therapy Department.** The submission of architectural drawings to the Office of Plans and Construction identifies the therapy area and shows the activities of daily living area within the overall therapy department.

CON application #10739, Exhibit A includes a letter from Brooke P. McLean, CMSgt., USAF, Ret., President, and CEO of the Air Force Enlisted Village (AFEV), which explains that the AFEV has been working with Mr. Gallagher since 2019 “but due to delays in beginning the project” the 12-acre tract of land to be used for the original project (CON #10579) was “earmarked for other uses”. Further, “COVID-19 created a multi-pronged dilemma and delayed the building of this much-needed SNF”. The AFEV and the U.S. Air Force signed a Purchase and Sale Agreement in October 2021 setting the terms and conditions for the sale of 80 acres of government land to the AFEV that will be purchased by October 2024. President/CEO McLean assures that it is AFEV's intent to provide Mr. Gallagher a leased portion of this land for this project.

JDM Health Services, LLC states that the CON #10711 (actually these were in the CON #10579) application included approximately 100 letters of support for the nursing home. These were from local health care providers and practitioners, government officials, AFEV residents, and multiple businesses and residents in Okaloosa and Santa Rosa Counties. JDM states that this transfer allows the project to continue in proximity to its original planned location.

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 the project. The review of a CON application and ultimate approval or denial of a proposed project is based upon the applicable statutory criteria in the Health Facility and Services Development Act (408.031-408.045, Florida Statutes) and applicable rule criteria within 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.

CON application #10739 to transfer CON #10711 from Village Health Services, LLC to JDM Health Services, LLC is not in response to the fixed need pool. CON application #10711 was approved for the transfer of the

original CON #10579, which was in response to the 84-bed fixed pool for Subdistrict 1-2 (Okaloosa County).

The project does not change the number of Subdistrict 1-2's approved community nursing home beds. The Florida Nursing Home Bed Need Projections by District and Subdistrict for the July 2026 Planning Horizon, shows Subdistrict 1-2 (Okaloosa County) had eight community nursing homes with 899 licensed beds and 84 CON approved beds as of August 11, 2023.

JDM Health Services, LLC includes a notarized letter from Mr. Gallagher, as authorized representative of Villages Health Services, LLC, authorizing the transfer of certificate of need #10711.

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 indicated earlier, CON #10739 is not in response to the fixed need pool. Subdistrict 1-2 consists solely of Okaloosa County and the Florida Nursing Home Bed Need Projections by District and Subdistrict for the July 2026 Planning Horizon shows it has eight licensed community nursing homes with a total of 899 community nursing home beds and 84 CON approved beds as of August 11, 2023. The subdistrict averaged 73.93 percent during the 12-months ending June 30, 2023, and 74.43 percent occupancy during the six months ending June 30, 2023.

JDM addresses Health Care Access Criteria on the application's pages 1-9 through 1-11. The applicant concludes its responses demonstrate conformity with statutory health planning factors of availability, quality of care, access, and extent of utilization of existing nursing homes in the subdistrict. However, JDMs discussion of availability, access, and extent of utilization of existing nursing homes was not using the most recent data.

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.

JDM Health Services, LLC is a newly created entity to sponsor the application to construct and operate the 84-bed community nursing

home. The applicant contends that its mission is to become the facility of choice in the community and to earn trust each day through high quality delivery that respects the dignity of each individual while promoting recovery, well-being, and independence.

JDM notes that its owner, Mr. Duane Gallagher, also oversees two other facilities in Florida, The Manor at Blue Water Bay and Community Health and Rehabilitation Center. Further, The Manor at Blue Water Bay is a CMS 5-star rated facility and holds Joint Commission accreditation and that prior to the facility sustaining damage from Hurricane Michael, Community Health and Rehabilitation Center held a five-star rating from CMS and Joint Commission Accreditation.

The applicant provides the following table to support Mr. Gallagher's claim regarding the existing five-star and Joint Commission accreditation nursing homes and facilities:

| | Inspection | | | | |
|----------------------------------------------------------------------|----------------------------------|-------------------------------|------------------------|------------------------|----------------|
| Facility / City | Region | Overall Inspection | Quality of Care | Quality of Life | Admin |
| The Manor Care at Blue Water Niceville (The Manor at Blue Water Bay) | Region 1 Pensacola | ★★★★★ | ★★★ | ★★★★★ | ★★★★★ |
| Community Health and Rehabilitation Center (Panama City) | Region 2 Tallahassee | ★★★★★ | ★★★★★ | ★★★★★ | ★★★★★ |
| | Inspection Components | | | | |
| Facility / City | Nutrition & Hydration | Restraints & Abuse | Pressure Ulcers | Decline | Dignity |
| The Manor Care at Blue Water Niceville (The Manor at Blue Water Bay) | ★★★★★ | ★★★★★ | ★★★★★ | ★★★★★ | ★★★★★ |
| Community Health and Rehabilitation Center (Panama City) | ★★★★★ | ★★★★★ | ★★★★★ | ★★★★★ | ★★★★★ |

Source: CON application #10739, Page 2-2.

JDM Health Services, LLC states that with its affiliation with Mr. Gallagher, the 84-bed nursing home is more likely to achieve a five-star and Joint Commission accreditation because of the owner's commitment to achieving these benchmarks. Further, Clear Choice Health Care will manage the day-to-day operations of the proposed project. The application's page 2-3 includes a map showing Clear Choice managed Florida skilled nursing facilities. The applicant's table below shows these facilities' ratings as of January 2017 and November 2021.

| Nursing Home Facilities Managed by Clear Choice Health Care | | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-----------------|-----------------|--------------|
| | Quality Ratings | | | |
| Facility Name | Governor's Gold Seal | CMS Star Rating | City | County |
| Alliance Health And Rehabilitation Center | | 4-star | DeLand | Volusia |
| Belleair Health Care Center | | 5-star | Clearwater | Pinellas |
| Centre Pointe Health and Rehab Center | ✓ | 5-star | Tallahassee | Leon |
| Conway Lakes Health & Rehabilitation Center | ✓ | 5-star | Orlando | Orange |
| East Bay Rehabilitation Center | | 5-star | Clearwater | Pinellas |
| Melbourne Terrace Rehabilitation Center | ✓ | 5-star | Melbourne | Brevard |
| *Orchard Park Health Care Center | | 4-star | Centennial | Arapahoe |
| Port Charlotte Rehabilitation Center | | 4-star | Port Charlotte | Charlotte |
| Spring Lake Rehabilitation Center | | 5-star | Winter Haven | Polk |
| Sun Terrace Health Care Center | | 4-star | Sun City Center | Hillsborough |
| Community Health and Rehabilitation Center | | 5-star | Panama City | Bay |
| Dolphin Pointe Health Care Center | Star Rating Pending (New 2020) | | Jacksonville | Duval |
| Magnolia Ridge Health and Rehabilitation Center | Star Rating Pending (New 2021) | | Gainesville | Alachua |
| Sources & Notes: Agency for Healthcare Administration ("AHCA") Florida Governor's Panel on Excellence in Long-Term Care list of Gold Seal facilities as of January 2017; CMS ranking based on Centers for Medicare & Medicaid Services data as of November 2021. | | | | |

Source: CON application #10739, Page 2-4. *This facility is in the state of Colorado.

The reviewer provides the table below of the most current ratings from the Agency's Healthfinder.gov and CMS websites. The rating period for HealthFinder was October 2020 - March 2023 and was last updated May of 2023 and the CMS data was last updated July 26, 2023.

| Facility Name | Overall Star Rating | |
|-------------------------------------------------|----------------------------|------------|
| | HealthFinder | CMS |
| Clear Choice Facilities | | |
| Alliance Health And Rehabilitation Center | ★★★ | ★★★ |
| Belleair Health Care Center | ★★★★★ | ★★★★★ |
| Centre Pointe Health and Rehab Center | ★★★★ | ★★★★ |
| Community Health and Rehabilitation Center | ★★★ | ★★★★★ |
| Conway Lakes Health & Rehabilitation Center | ★★★★ | ★★★ |
| Dolphin Pointe Health Care Center | ★★ | ★★★★ |
| East Bay Rehabilitation Center | ★★★★★ | ★★★★ |
| Magnolia Ridge Health and Rehabilitation Center | NR | NR |
| Melbourne Terrace Rehabilitation Center | ★★★★★ | ★★★★★ |
| Port Charlotte Rehabilitation Center | ★★★★ | ★★★★ |
| Spring Lake Rehabilitation Center | ★★ | ★★ |
| Sun Terrace Health Care Center | ★★★★★ | ★★★★ |

| Duane Gallagher Owned/Operated | | |
|--------------------------------------------|-------|-------|
| The Manor at Blue Water Bay | ★★★★★ | ★★★★★ |
| Community Health and Rehabilitation Center | ★★★ | ★★★★★ |

Source: <https://quality.healthfinder.fl.gov> Rating Time Period for HealthFinder October 2020 - March 2023 and <https://www.medicare.gov/care-compare/?providerType=NursingHome> Last updated July 26, 2023

The applicant states that Clear Choice Health Care will manage the day-to-day operations of the proposed project and that Clear Choice manages 11 senior living properties in Florida (skilled nursing, assisted living and independent living)¹. All are stated to have either a four or a five-star CMS rating. JDM indicates that three of these facilities are Gold Seal Award recipients: Centre Pointe Health & Rehab Center in Tallahassee; Conway Lakes Health and Rehabilitation Center in Orlando; and Melbourne Terrace Rehabilitation Center in Melbourne.

JDM states that Clear Choice programs and services that support the clinical success of their facilities include:

- Personalized Goal Setting
 - Trains staff to *work with the patient* to set goals
- Manager on Duty
 - along with on-site nurse supervisor, the manager works late and on weekends
- WOW Factor Program
 - the admission team member, often the CCHC Community Liaison, visits the future patient in the acute care hospital setting and learns about the individual's preferences, hobbies, family members, pets, etc. to get to know the person then provides a personalized gift upon admission
- Guardian Angel Program
 - assigns group of residents to each facility managerial team member that develops and maintains a special relationship with the residents
- 72-Hour Meeting
 - addresses the resident and their needs within the first 72 hours at the facility
- Concierge Service
 - from admissions to the last days, this service services the resident for set up and settled, appointments, etc.

The applicant states that a Clinical Oversight Team consisting of five nursing consultants for just 12 facilities will be established. JDM states that this is well beyond the normal ratio for most skilled nursing homes in Florida.

¹ The reviewer notes the applicant's maps, chart and the clinical oversight team narrative cite 12 Florida community nursing homes managed by Clear Choice Health Care.

Addressing quality assurance and the performance improvement program, JDM states that the administrator and the director of nursing participate as key members of the Quality Assurance Performance Improvement Program (QAPI) Committee and that this committee determines areas for Performance Improvement Projects (PIPs) as well as Plan-Do-Study-Act (PDSA) projects. The QAPI Committee coordinates and evaluates QAPI program activities; reviews and analyzes data; and develops and implements plans to correct identified quality deficiencies. Diagrams of the Plan, Do, Study, Act and the QAPI process are included on the application's page 2-7. Further, all departments and services are involved in the QAPI process, with staff, volunteers, and even residents trained on the QAPI process incorporating input, participation, and responsibility across all departments and at all levels.

Figure 2-2 on the application's page 2-7 provides "Failure Mode and Effects Analysis, Five Whys and Fishbone Diagrams". JDM states the Quality Committee will use these as analytical tools to fully implement quality improvement projects. The applicant states that it will use MatrixCare® for its electronic health record system, which incorporates the CMS Minimum Data Set (MDS), the standardized assessment tool that measures the functional health status of the resident.

In reference to hurricane preparedness, JDM discusses the evacuation and relocation arrangements and services that were provided, along with coordinating with various partners, for the Panama City facility residents and staff, before, during and after Hurricane Michael. The applicant further discusses having on-hand various tools and equipment items for hurricane preparedness (including generators) and asserts that these resources will be available for its new facility and for other communities as far distant as West Palm Beach and Houston, to support nursing homes impacted by hurricanes in those communities.

Regarding resident rights, JDM explains that each person admitted to the new facility receives a Resident Handbook upon admission and a copy of the Resident's Rights. Staff is trained upon hire and annually on resident rights and that a statement will be publicly displayed declaring rights and responsibilities of the residents and the requirements to treat residents in accordance with those provisions. The applicant provides a list of 27 patient rights on the application's pages 2-8 and 2-9.

JDM indicates that the activities it will offer are designed to augment treatments that occur pursuant to the residents' care plans and lists four objectives that activities are to accomplish and 10 activities that may be offered to residents on page 2-10 of the application. The applicant states

that certified pet therapy dogs are used at The Manor at Blue Water Bay facility and that activities will be included as part of its Continuous Quality Improvement (CQI) process.

During the 36 months ending August 23, 2023, the applicants' Clear Choice affiliates (which does not include the two facilities owned by Duane Gallagher), had a total of eleven substantiated complaints. Each substantiated complaint can encompass multiple complaint categories. Below is a table of the substantiated complaints by the applicable complaint category.

| Complaint Category | Number Substantiated |
|------------------------------|-----------------------------|
| Quality of Care/Treatment | 5 |
| Administration/Personnel | 3 |
| Life Safety Code | 1 |
| Misappropriation of property | 1 |
| Infection Control | 1 |
| Elopement | 1 |
| State Licensure | 1 |
| Total | 13 |

Source: AHCA Substantiated Complaint History.

For the three-year period ending August 23, 2023, the two Florida SNFs owned/operated or managed by Mr. Gallagher had a total of two substantiated complaints for each facility. Both cited the Quality of Care/Treatment complaint category.

The reviewer notes that as of August 23, 2023, none of the facilities on the applicant's list were Gold Seal recipients. Further, Dolphin Pointe Health Care Center, East Bay Rehabilitation Center, Magnolia Ridge Health and Rehabilitation Center, and Spring Lake Rehabilitation Center are listed on the Agency's watch list.

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 development stage audit shows cash of \$1,530,504. The applicant indicated that the majority of the funding will be provided by a third-party source.

Capital Requirements and Funding:

The applicant indicates on Schedule 2 capital projects totaling \$17,290,241, which includes this project only.

The applicant indicates on Schedule 3 of its application that funding for the project will be provided by non-related company financing of \$15,890,241 and other financing of \$1,400,000. However, no letter of commitment was provided.

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 (2020 and 2021 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 4th 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 | 11,950,653 | 445 | 2,545 | 479 | 349 |
| Total Expenses | 10,415,023 | 388 | 2,715 | 514 | 343 |
| Operating Income | 1,535,630 | 57 | 107 | -13 | -210 |
| Operating Margin | 12.85% | | Comparative Group Values | | |
| | Days | Percent | Highest | Median | Lowest |
| Occupancy | 26,828 | 87.26% | 95.73% | 78.57% | 56.03% |
| Medicaid | 18,860 | 46.18% | 55.76% | 48.43% | 38.52% |
| Medicare | 29,899 | 42.63% | 51.83% | 21.43% | 6.20% |

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 suggests 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.

The plans submitted differ from the plans previously submitted. The plans are schematic and depict two different layouts. Some of the plans include resident room configurations that do not comply with current codes and standards. These configurations include semi-private rooms with a side-by-side bed arrangement and semi-private rooms with an in-line bed arrangement with a cubicle curtain separation. The later type of layout is permitted by current codes but will not be allowed under the applicable code in effect when the schedule indicates that the project will be submitted for plan review. Only the compliant room layouts will be allowed. A review of the architectural plans, narratives and other supporting documents did not reveal any deficiencies that are likely to have significant impact on either construction costs or the proposed completion schedule.

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

JDM Health Services, LLC is a developmental stage entity that anticipates providing service to Medicaid residents in its new 84-bed facility, thus demonstrating continued service to Medicaid recipients. However, JDM notes that The Manor at Blue Water Bay experienced a 43 percent Medicaid occupancy during the 12-month period ending June 30, 2021. The reviewer notes Medicaid patients accounted for 41.86 percent of The Manor at Blue Water Bay's and 50.42 percent of Community Health and Rehabilitation Center's (Mr. Gallagher's other affiliated facility) total patient days during the 12 months ending June 30, 2023.

**JDM Health Services, LLC
Years One & Two**

| Payer | Year One April 1, 2026 - March 31, 2027 | | | Year Two April 1, 2027 - March 31, 2028 | | |
|-----------------------|----------------------------------------------------|---------------|----------------|----------------------------------------------------|---------------|----------------|
| | Admissions | Days | Percent | Admissions | Days | Percent |
| Self-Pay | 16 | 2,314 | 12.0% | 9 | 1,345 | 5.0% |
| Medicare Managed Care | 47 | 8,426 | 43.8% | 68 | 12,389 | 46.2% |
| Medicare | 252 | 7,559 | 39.3% | 381 | 11,438 | 42.6% |
| Other Managed Care | 15 | 464 | 2.4% | 27 | 828 | 3.1% |
| Other Payers | 8 | 464 | 2.4 | 14 | 828 | 3.1% |
| Total | 338 | 19,227 | 100% | 500 | 26,828 | 100% |

Source: CON application #10739, page 7-2, Table 7-1

JDM indicates that charity care does not exist in nursing homes but "the difference between charges and collections represents a charity care allowance, often referenced as bad debt."

F. SUMMARY

JDM Health Services, LLC (CON application #10739) proposes the transfer of CON #10711 from Villages Health Services, LLC to establish an 84-bed community nursing home in District 1, Subdistrict 1-2 (Okaloosa County). The project consists of 54,500 GSF of new construction at a construction cost of \$10,283,500. Total project cost is \$17,193,800.

The applicant expects issuance of license in May of 2026 and initiation of service in June of 2026.

Schedule C shows the applicant proposes to condition project approval to the same five conditions that were in CON numbers 10579 and 10711.

Need

- The original CON application #10579 was in response to the 84-bed fixed pool for Subdistrict 1-2 (Okaloosa County). This is an expedited review and is not in response to the fixed need pool.
- As of August 11, 2023, Subdistrict 1-2 had eight licensed community nursing homes with 899 licensed beds and the 84 CON approved community nursing home beds in this project.
- 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.
- For the three-year period ending August 23, 2023, Mr. Gallagher's two affiliated facilities had a total of two substantiated complaints and the Clear Choice affiliates had 11 substantiated complaints.
- As of August 23, 2023, no Clear Choice managed facility is a Gold Seal facility. Dolphin Pointe Health Care Center, East Bay Rehabilitation Center, Magnolia Ridge Health and Rehabilitation Center, and Spring Lake Rehabilitation Center are on the Agency's watch list.

Financial Feasibility/Availability of Funds

- Funding for this project is in question.
- 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 layouts for patient rooms will need to be revised to meet the codes that will be in effect at the time the project is subject to Agency plans review.
- 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 a significant impact on either construction costs or the proposed completion schedule.

Medicaid/Charity Care

- Mr. Gallagher's two affiliated facilities have a history of providing care to Medicaid patients.
- All Clear Choice managed Florida nursing home facilities are Medicare and Medicaid Certified.
- JDM projects the 84-bed facility will provide 43.8 percent of year one (ending March 31, 2027) and 46.2 percent of year two (ending March 31, 2028) total annual patient days to Medicaid patients.

G. RECOMMENDATION:

Approve CON #10739 to transfer CON #10711 from Villages Health Services, LLC to establish an 84-bed community nursing home in District 1, Subdistrict 2, Okaloosa County. The total project cost is \$17,193,800. The project involves 54,500 GSF of new construction and a total construction cost of \$10,283,500.

CONDITIONS:

- 1. Locate within the Shalimar zip code, 32579, proximate to the Air Force Enlisted Village, a retirement community of independent and assisted living residences.** The applicant's license will be used to confirm the facility location.
- 2. Contain two bariatric rooms.** The applicant will provide photos of the finished rooms upon completion of construction. The applicant will also provide the number of residents requiring a bariatric room on an annual basis.
- 3. Provide a Parkinson's disease program.** Upon implementation of the program, the applicant will provide the policies specific to the program and indicate the number of residents served annually by the program.
- 4. Offer 50 private rooms.** The applicant will submit architectural drawings to the Office of Plans and Construction, showing 50 private rooms. The applicant also documents the number of private rooms on the initial licensure application form and maintains the beds through the licensure renewal process.
- 5. Contain an Activities of Daily Living suite within the Therapy Department.** The submission of architectural drawings to the Office of Plans and Construction identifies the therapy area and shows the activities of daily living area within the overall therapy department.

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: September 29, 2023



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**Operations and Management Consultant Manager
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