

**STATE AGENCY ACTION REPORT  
ON APPLICATION FOR CERTIFICATE OF NEED**

**A. PROJECT IDENTIFICATION**

**1. Applicant/CON Action Number**

**Palm Gardens Operator LLC/CON #10802**

1608 Route 88, Suite 301  
Brick, New Jersey 08724

Authorized Representative: Mr. Shlomo Freundlich  
(732) 903-1971

**2. Service District/Subdistrict**

District 9/Subdistrict 9-4 (Palm Beach County)

**B. PUBLIC HEARING**

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

**C. PROJECT SUMMARY**

**Palm Gardens Operator LLC (CON application #10802)**, also referenced as Palm Gardens or the applicant, proposes to construct a new 90-bed community nursing through the delicensure of 90 community nursing home beds (inactive) licensed to Jupiter Medical Center Pavilion, Inc. in Subdistrict 9-4 (Palm Beach County).

The applicant states it is affiliated with Tryko Partners LLC (real estate investment group) and Marquis Health Consulting Services (a nursing home consulting company). Tryko Partners LLC owned facilities are stated to be supported by Marquis Health Consulting Services, an experienced operator and developer of nursing homes. Company affiliates are stated to include 64 skilled nursing facilities (SNFs) in seven states—one (West Gables Health Care Center) in Miami, Florida.

Palm Gardens Operator LLC indicates that the project will be licensed in December 2026 and begin service in January 2027.

The project includes 73,845 gross square feet (GSF) of new construction and a total construction cost of \$20,400,000. Total project cost is \$27,229,000, and includes land, building, equipment, project development and financing costs.

The applicant does not propose any conditions to project approval.

*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. 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 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, Gregory Keeter, 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, and Chapters 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.**

In Volume 50, Number 63 of the Florida Administrative Register dated March 29, 2024, a fixed need pool (FNP) of zero community nursing home beds was published for Subdistrict 9-4 for the January 2027 planning horizon.

As of February 9, 2024, Subdistrict 9-4 has 53 community nursing homes with 5,927 licensed beds and 174 CON approved community nursing home beds pending licensure. However, CON #10663, which approved a 14-bed addition to Royal Palm Beach Health and Rehabilitation Center was withdrawn on March 14, 2024. Subdistrict 9-4 community nursing homes reported 80.22 percent occupancy during the six months ending December 31, 2023.

Palm Gardens' project will utilize 90 inactive community nursing home beds held by Jupiter Medical Center Pavilion, Inc., located at 1230 South Old Dixie Highway, Jupiter, Florida. To facilitate the project, Jupiter Medical Center Pavilion, Inc., has agreed to relinquish its license, as evidenced by a notarized letter from Mr. Steven Seeley, Senior Vice President and Chief Operating Officer, who is authorized to act on behalf of the company.

Palm Gardens addresses Rule 59C-1.008(2)(e)2., Florida Administrative Code, criteria listed below to support need for the project.

- Population demographics and dynamics
- Availability, utilization, and quality of like services
- Medical treatment trends
- Market conditions

Table 1-1 on page 1-4 of CON application #10802 displays the current (July 1, 2023) and projected July 1, 2028 population data categorized by age cohorts for Palm Beach County, District 9 and the State of Florida. As of July 1, 2023, the age 65 and over population (391,472) represents 25.44 percent of Palm Beach County’s total population. By July 1, 2028, the age 65 and over cohort is expected to increase to 444,102 residents or 27.44 percent of the county’s total population.

A map of Palm Beach County is presented with locations of hospitals, nursing homes, and assisted living facilities. Using Agency population estimates and projections along with the most recent nursing home bed published data, Palm Beach County had 15 beds per 1,000 persons 65 and over as of July 2023. By July 2028, Palm Beach County will drop to 14 beds per 1,000, which is almost the Florida rate of 15, assuming all currently approved beds are licensed by that date. The applicant concludes that even with all approved beds becoming licensed the nursing home bed availability decreases slightly when viewed relative to the population. See the chart below.

**Current (2023) and Projected (2028) Community Bed Availability**

Area		July 2023	July 2028	July 2028 w/CON Approved Beds
Palm Beach County	Beds	5,927	6,101	6,191
	Pop (65+)	391,472	444,102	444,102
	<b>Beds/1000</b>	<b>15</b>	<b>14</b>	<b>14</b>
Florida	Beds	82,939	85,849	85,939
	Pop (65+)	4,985,405	5,787,109	5,787,109
	<b>Beds/1000</b>	<b>17</b>	<b>15</b>	<b>15</b>

Sources: CON application #10802, Table 1-2, Page 1-6, AHCA's Florida Population Estimates and Projections by AHCA District 2020 to 2030, published January 2024 & AHCA's Florida Nursing Home Utilization by District and Subdistrict January-December 2023.

The applicant concludes there is no negative impact on availability since this proposal shifts 90 existing licensed beds from one part of the county to another. While true, the applicant’s chart adding 90-beds to the subdistrict total is not accurate as Jupiter Medical Center’s 90 inactive beds are in the current licensed 5,927 bed count. Subsequent to the FNP publication, with the withdrawal of CON #10663’s 14-bed project, there are 160 currently CON approved beds to be added to the count. The reviewer provides the table below with the updated Palm Beach County and Florida nursing home beds per thousand population age 65 and over cohort.

<b>Subdistrict 9-4 &amp; Florida</b>			
<b>Community Nursing Home Beds to Population 65+ Ratio</b>			
<b>County/Area</b>		<b>July 1, 2023</b>	<b>July 1, 2028</b>
Palm Beach Co.	Beds	5,927	6,087
	Pop. 65+	391,472	444,102
	Beds/1000	<b>15</b>	<b>14</b>
Florida	Beds	82,939	85,835
	Pop. 65+	4,985,405	5,787,109
	Beds/1000	<b>17</b>	<b>15</b>

Source: Florida Population Estimates and Projections by AHCA District 2020 to 2030, published January 2024 & Florida Nursing Home Utilization by District and Subdistrict January-December 2023.  
 Note: \*Deletes the 14 beds approved by CON #10663, which was withdrawn on March 14, 2024.

Palm Gardens is an affiliate of Marquis Health Consulting Services whose Florida affiliate–West Gables Health Care Center holds a 3-star rating, and it is Joint Commission accredited. The facility also holds an overall rating of 3 stars from the Centers of Medicare and Medicaid services (CMS). The reviewer notes West Gables Health Care Center presently has a 4-star CMS rating.

Palm Gardens states “one reason for increasing demand for skilled nursing care is the proximity to area hospitals, with residents needing access to rehabilitation facilities following a hospital stay”. There are 17 hospitals within Palm Beach County with four (Delray Medical Center, HCA Florida JFK Hospital, Boca Raton Regional Hospital and Jupiter Medical Center) responsible for 53 percent of these discharges. Palm Gardens’ footnote to its Table 1-6 on page 1-10 indicates the above includes long-term care hospitals yet the four hospitals listed do not have long-term care beds on their licenses. Using the top four hospitals’ 53 percent of the total Palm Beach residents 65+ is not the best indicator of the subdistrict’s need.

Palm Gardens does not have a proposed site for the facility and its Table 2-2 on the application’s page 2-9 is a better indicator of the subdistrict need. While the Table’s title does not indicate it is for Palm Beach resident discharges to SNFs, its narrative does. The reviewer condenses this chart below.

**Palm Beach County Hospital Discharges to SNFs by MDC  
 Patients Aged 65 and over,  
 July 1, 2022—June 30, 2023**

<b>Major Diagnostic Category</b>	<b>Cases</b>	<b>Percent</b>
08 Diseases & Disorders – Musculoskeletal & Conn. Tissue	3,712	22.8%
05 Diseases & Disorders of the Circulatory System	2,212	13.6%
18 Infectious & Parasitic Diseases, Systemic or Unspec. Site	1,987	12.2%
04 Diseases & Disorders of the Respiratory System	1,856	11.4%
All Others	6,560	40.2%
<b>Total</b>	<b>16,327</b>	<b>*100.0%</b>

Source: CON application #10802, Page 2-9, Table 2-2 from AHCA Hospital Patient Discharge Data, July 1 2022 – June 30, 2023; data excludes psychiatric hospitals.  
 Note: \*Slight difference (computes to 100.2%) which is due to rounding in several categories.

As shown above, four Major Diagnostic Categories (MDCs) account for most discharges to nursing homes among those aged 65 and over: MDC 8 (musculoskeletal system), MDC 5 (circulatory system), MDC 18 (infectious & parasitic diseases), and MDC 4 (respiratory system).

In reference to MDC 8 care, includes patients with musculoskeletal conditions such as fractures and hip and knee replacements – the applicant’s restorative programs will focus on improving mobility, flexibility, and strength through exercises such as weight-bearing activities, progressive therapeutic activities, and physical and occupational therapies.

MDC 5 includes patients with circulatory conditions such as heart failure, heart attacks, and pacemaker implantation and the facility's programs will focus on improving cardiac and circulatory functions through physical and occupational therapies, including cardio-pulmonary activities and strength training.

MDC 18 includes patients with infectious diseases that require isolation. The applicant notes patients will benefit from the facility's private rooms that allow for isolation and monitoring of patients with contagious conditions. Palm Gardens also indicate private rooms can be converted to semi-private rooms to accommodate future demand.

MDC 4 includes patients with respiratory conditions such as chronic obstructive pulmonary disease (COPD) and the facility’s programs will focus on monitored exercises sessions and the use of respiratory equipment such as nebulizers and oxygen concentrators.

Table 1-7 on page 1-11 of CON application #10802 shows Palm Beach County’s CY 2023 nursing home patient days result in a 4,371 day use rate per thousand residents age 65+. This use rate is held constant to project the average daily census based on July 1 population projections. The subdistrict’s licensed and approved beds are added to project Palm Beach County nursing homes will have 85.7 occupancy in 2027 and 87.17 percent in year two, which meet the need threshold.

Palm Gardens’ projected utilization shows that the facility will reach an average occupancy rate of 90.86 percent by the second year of operations. The average length of stay is projected to be 34 days, indicating that the facility will provide both short-term rehabilitation and long-term care services.

Palm Gardens concludes its analysis shows the continued age 65 and over population growth and expected nursing home utilization provides the basis to approve the 90-bed project. The applicant indicates it will

locate the beds in a new facility in an area proximate to several hospitals where demand for SNF care is high. The project should enhance the subdistrict's access and availability to SNF care.

**2. Agency Rule Preferences**

**Does the project respond to preferences stated in Agency rules?  
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 nor does the Agency for Health Care Administration publish specific preferences for these facilities. However, the rule does contain standards the Agency utilizes in assessing the applicant's ability to provide quality care to the residents.

**1. 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 patterns, patient characteristics, expected average length of stay, ancillary services, patient assessment tools, admission policies and discharge polices.**

Palms Gardens indicates it will apply for certification to participate in both Medicare and Medicaid programs. The facility will offer a range of nursing and restorative care services to address the needs of residents who require short-term rehabilitation, long-term care, and management of complex medical conditions. By repurposing the 90 inactive beds in a new facility, the project aims to improve access to these services.

Marquis Health Consulting Services affiliated facilities offer a range of successful programs and services tailored to the clinical needs of patients receiving therapy and recovery services in a nursing home setting. Services are provided by trained and certified staff, equipped with modern and advanced equipment, and delivered in uniquely designed facilities with years of experience in providing high-quality care. The facility will include post-operative subacute care, comprehensive rehabilitation therapy, orthopedic rehabilitation, cardiac care, pulmonary care, stroke recovery, and wound care. Bariatric care, restorative care, TPN and IV antibiotics, among others, will also be offered.

Palm Gardens' clinical protocols will follow established standards of care for various diagnoses and conditions, focusing on preventing hospital readmissions through proactive interventions and personalized care

planning. A range of rehabilitative and restorative services, led by licensed professionals and certified assistants with expertise in physical, speech, occupational, and respiratory therapies will be provided.

Key services include:

- Pulmonary, Cardiac, and Neurologic Specialty Care
- Urgent SNF™ Service: This program provides timely interventions to prevent hospital or long-term care admissions. It focuses on early intervention for individuals with physical histories such as ambulation dysfunction, falls, COPD, IV therapy, uncontrolled diabetes, and more.

The Urgent SNF™ Service offers a comfortable environment with multi-discipline therapy services available seven days a week. The program also includes individualized ongoing discharge/transitional planning by nurse case managers and licensed social workers, follow-up support, and continued contact by the clinical services team. The applicant also discusses the medical director's role, skilled nursing services available 24/7, specialized activities, psychological services, family support, and assistance with activities of daily living (ADLs). Proposed contract services include physician consultants, X-rays, lab tests, dental services, X-rays, podiatry services, laboratory tests, optometric and ophthalmic services, and psychiatric consults or services. The facility will arrange for additional services as needed, such as oxygen therapy, assistive devices, and durable medical equipment, which are tailored to each resident's individual plan of care. Palm Garden's Exhibit 3 includes samples of brochures and programs overviews.

Admissions and Care Planning is stated to involve an evaluation of each individual, in collaboration with their family, to develop a personalized plan of care. The plan serves as a baseline and is regularly updated throughout the individual's stay to reflect changes, additions, or deletions. Federal guidelines guide the development of care plans, which involve input from various professionals, including the attending physician, director of nursing, nursing assistants, dietary manager, social services manager, activities director, therapists, and consultants as needed.

During the initial evaluation, the admitting nurse assesses the individual's medical diagnosis, skin condition, level of activity and mobility, cognitive status, diet orders, weight, ADL performance, and physical impairments. Care planning areas considered include functional status, rehabilitation/restorative nursing, health maintenance, discharge potential, and medications and daily care needs. Care plan components include problem/concern statements,



goal/objective statements, and approaches that are resident-centered and measurable. Care plans are developed in consultation with staff, residents, responsible parties, and other health care professionals. Goals are realistic and achievable, with a clear timeline for completion. Family members or caregivers receive ongoing reports on the resident's progress and are encouraged to provide feedback on their reaction to care and services. As needed, substitutions are made to allow residents to review options and find those that produce results.

Discharge planning begins at the initial assessment and is continually updated throughout the resident's stay. The discharge plan outlines the necessary medical services, appointments, prescriptions, and interactions with health care and social systems. Discharge plans include arranging for adaptive equipment, referrals to outside services such as home health, private duty care, community services, Meals on Wheels, and transportation. Follow-up appointments with the physician are also scheduled, as well as prescriptions for medications, outpatient therapy, labs, and home evaluations by therapists. A discharge meeting with family, patient, and caregivers is also an important part of the process. The applicant also discusses the seven steps in accessing patient home health care eligibility.

At discharge, the case manager presents the final discharge plan to the resident and family after receiving input from them. The plan includes a summary of the resident's care, including diagnosis, rehabilitation potential, physician orders for immediate care, and other relevant information. The case manager provides copies of the discharge plan to the primary care physician and any other caregivers or health care personnel at the resident's request.

Palm Gardens addresses the 90-bed facility's proposed utilization in Table 2-1 on CON application #10802, page 2-8. As previously stated, the applicant projects the 90-bed facility will have 90.86 percent occupancy in year two. Palm Gardens refers the reviewer to its Schedule 6, which has 77 FTEs in the first year and 113 FTEs in year two and meets staffing standards. Schedule 7 addresses patient days by payor. The applicant also analyzed Palm Beach County hospital discharges to nursing homes for patients aged 65 and over to determine the level of need for specific services (See Item E.1. a. – Fixed Need).

- 2. Quality of Care. In assessing the applicant's ability to provide quality of care pursuant to s. 408.035(3), 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.**

Palm Gardens Operator LLC has not had a nursing facility license denied, revoked, or suspended.

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.**

The applicant has not had a nursing home placed into receivership.

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 provision does not apply to Palm Gardens Operator LLC.

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.**

No conditions are identified in subparagraph 3, so this item does not apply.

5. **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.**

No conditions are identified above, so this item does not apply.

3. **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.**

Palm Gardens Operator LLC states it will provide required data to Suncoast Health Council, Inc. and to the Agency for Health Care Administration as required for licensure and financial requirements.

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)(5), Florida Statutes.**

As of February 9, 2024, District 9 has a total of 8,536 licensed community nursing home beds in operation. District 9 averaged 80.22 percent occupancy in CY 2023. Subdistrict 9-4 has 53 licensed community nursing homes with 5,927 licensed beds and 174 beds under development. Palm Gardens Operator LLC's project will implement the delicensure of 90 inactive community nursing home beds held by Jupiter Medical Center Pavilion, Inc. The project will relocate existing licensed beds, resulting in no net increase in beds within the planning area.

Palm Gardens emphasizes the importance of maintaining the current bed supply to accommodate the increasing population and resulting demand on health care resources. Using population estimates and projections from the Agency, along with recent nursing home bed data, the applicant states Palm Beach County had 15 beds per 1,000 persons aged 65 and older in July 2023, compared to 17 beds per 1,000 for the state. The reviewer notes that using current July 2024 data and accounting for approved beds the rate is 16.55 beds per 1,000 persons aged 65 and older. By 2028, the project will be in its second year of operation and the applicant states that Palm Beach County is expected to have 14 beds per 1,000 persons aged 65 and older by then, which is similar to the statewide rate of 15, assuming all currently approved beds are licensed by that date.

Palm Gardens states it will benefit from its partnership with Marquis Health Consulting Services, which provides administrative and operational support and has a track record of excellence, with 64 skilled nursing facilities across seven states, including eight facilities with a 5-star rating from CMS, 10 with a 4-star rating, and 39 with Joint

Commission accreditation. West Gables Health Care Center in Florida is accredited by the Joint Commission and has an overall 3-star rating from the Agency's Nursing Home Guide Inspection Ratings. It also has a 3-star rating from the Centers for Medicare & Medicaid Services (CMS), with excellent scores in Quality Measures. The reviewer notes that the CMS overall rating for West Gables is 4 stars.

Accessibility refers to the ease with which the target population can access the proposed facility. Key factors that influence accessibility include geographic barriers, distance, travel time, and eligibility criteria for services. Additionally, utilization is also a crucial consideration, as a vacant bed can be inaccessible if there are no patients who can occupy it.

Regarding geographic access, the project does not yet have a specific site identified, but it involves relocating 90 delicensed community nursing home beds from Jupiter Medical Center Pavilion, Inc. to another location within Palm Beach County. The new location will be chosen to ensure that the beds are situated in an area with high population growth and a strong demand for skilled nursing services. The applicant's Figure 3-1 on page 3-3 of the application shows Subdistrict 9-4's licensed community nursing homes and acute care hospitals. As previously stated, the applicant is seeking a suitable site in areas of high growth in Palm Beach County. Regardless of where the proposed facility is eventually located, access to Subdistrict 9-4 hospitals is guaranteed.

Another important aspect of access is the presence of economic barriers to receiving care. Palm Gardens plans to participate in both Medicare and Medicaid programs, as well as contract with managed care providers and commercial insurance companies. By offering various payment options, the facility can increase its accessibility to a broader range of residents, thereby maximizing the number of potential residents. The applicant's Table 3-2 provides the payer mix of the Palm Beach residents aged 65 and older who were discharged from hospitals to SNFs during July 1, 2023—June 30, 2023. Medicare and Medicare Managed Care accounted for 15,701 or 96.17 percent of the total 16,327 discharges to SNFs, Medicaid/Medicaid Managed Care accounted for 129 (0.79 percent), and Commercial Insurance accounted for 340. Although a significant majority of patients discharged to nursing homes are initially covered by Medicare, some may require long-term care and subsequently convert to Medicaid or other coverage. To ensure flexibility in admissions and maximize access to services, the applicant plans to obtain both Medicare and Medicaid certifications.

Eligibility criteria are another important factor in determining access to nursing home care. To be eligible for admission, patients must have a physician's order, a valid payer source, meet the facility's admission

criteria, and have their medical and nursing needs met by the facility. The proposed facility is designed to provide a wide range of services, with separate neighborhoods catering to different patient needs, such as short-term rehabilitation, complex care, and long-term care. A nursing home bed that is occupied by a resident is not available for other elderly individuals who need skilled nursing care. Therefore, it's crucial to consider the extent of utilization in Palm Beach County's facilities to ensure there is a sufficient supply of nursing home beds to meet the needs of residents who require them. Palm Gardens' Figure 3-2 on page 3-7 shows the four most recent quarters occupancy for Palm Beach County and District 9. The subdistrict's occupancy, about 80 percent during the last quarter of 2023 is almost identical to the district's occupancy. Prior to the pandemic, the subdistrict and district's average occupancy rates were above 83 percent. The applicant states that as utilization patterns return to pre-pandemic levels rates are expected to continue growing in line with senior population growth rates, ensuring there will be increased demand for both rehabilitation and long-term skilled nursing care in nursing homes.

The project's conformity with Rule 59C-1.030 Florida Administrative Code, Health Care Access Criteria is addressed on the application's pages 3-9 through 3-11.

Palm Gardens Operator LLC concludes its project demonstrates conformity with the statutory health planning factors—availability, quality of care, access, and extent of utilization. The applicant contends that the project will improve availability and access including Medicaid recipients and will be consistent with the Medicare and Medicaid Programs' Conditions of Participation.

- 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)(10), Florida Statutes.**

Palm Gardens has no record of nursing home quality care but cites affiliation with Marquis Health Consulting Services and once again discusses Marquis and it's Florida facility - West Gables Health Care Center CMS and the Agency's Nursing Home Guide Inspection Ratings, noting the facility excels in areas such as quality of life, nutrition and hydration, restraints and abuse, pressure ulcers and dignity.

Research has shown that few nursing homes hold Joint Commission accreditation, with only 1,059 community nursing homes accredited out of over 15,000 nationally. A McKnights Long-Term Care News article

highlights the positive correlation between Joint Commission accreditation and quality ratings, as well as increased corporate efficiency and quality efforts. The article also notes that Joint Commission accreditation is often a requirement for participating in certain health plan networks.

The applicant states Marquis' mission, vision and core values. Marquis' mission is centered around meeting the clinical, functional, psychological, and emotional needs of residents, providing quality care in a compassionate atmosphere that respects each individual's unique needs and rights. The company's values are rooted in this mission, aiming to enhance the overall experience for patients, residents, and families.

Marquis provides industry-leading expertise to empower providers with advanced technology, innovative tools, and strategies to deliver reliable, efficient, and innovative care. This approach drives exceptional outcomes and increased patient satisfaction. The company's vision is to provide the best resources to enhance the patient experience at every level. Its core values serve as the driving force behind its objectives, aiming to enrich seniors' quality of life and enable them to reach their highest levels of functioning and happiness in daily life.

The applicant lists several programs to support quality of care including community guest services, concierge services, family matters program, care safely, rehabbing care and care navigation.

Marquis facilities have a formal Quality Assessment and Program Improvement (QAPI) program in place, which aligns with state and federal requirements, to ensure continuous quality improvement.

The QAPI program follows a cyclical process known as PLAN, ACT, DO, STUDY. This process begins with planning, where areas for improvement are identified and goals are set. Next, the plan is put into action through implementation of interventions or changes. The intervention is then executed and monitored to assess its effectiveness.

Monitoring is a critical step in the process, as it allows for assessment of how the intervention is working and identification of any necessary adjustments. Based on the results of monitoring, changes are made to ensure that the intervention or a modified version of it improves care and outcomes.

The QAPI process is a response to the recurring problems that occur in nursing homes, which require both short-term and long-term care for patients with diverse conditions. As nursing homes incorporate advanced medical treatments, medications, and equipment, the post-acute care setting becomes increasingly complex.

The list of problem characteristics reflects "preventable adverse events" that health care professionals in skilled care settings may encounter. By alerting staff to these potential issues, the QAPI process enables them to be vigilant in monitoring patients and take proactive steps to avoid these events. Equipped with training and education, staff can recognize the warning signs and take action to prevent these adverse events.

In many ways, the QAPI process provides practical solutions to address signs and symptoms that contribute to preventable adverse events. Nursing homes can assess their operations within the QAPI domains using various tools identified by CMS, which are listed in Exhibit 6 of the application's Additional Information section. This demonstrates the tools necessary for ongoing quality improvement.

The applicant's affiliate—West Gables Health Care Center had no substantiated complaints during the 36 months ending June 19, 2024.

**c. What resources, including health personnel, management personnel and funds for capital and operating expenditures are available for project accomplishments and operations? 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 with only \$245,000 in cash, with no operations. The applicant indicated that funding will be provided by cash on hand and a third-party interest.

**Capital Requirements and Funding:**

The applicant indicates on Schedule 2 capital projects totaling \$27,229,000, which includes this project only. In addition to the capital costs, the applicant will have to finance a projected year one operating loss of \$1,460,400.

The applicant indicates on Schedule 3 of its application that funding for the project will be provided by cash on hand (\$245,000) and non-related company financing (\$26,984,000). The applicant provided a letter of

interest, dated June 17, 2024, from CIBC Commercial Banking stating their interest in providing construction financing. 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 (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 1st Quarter 2023, 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	13,808,048	461	2,560	537	356
Total Expenses	13,339,000	446	2,731	551	406
Operating Income	469,048	16	107	-38	-284
Operating Margin	3.40%		<b>Comparative Group Values</b>		
	Days	Percent	Highest	Median	Lowest
Occupancy	29,928	90.86%	93.96%	74.30%	44.98%
Medicaid	11,672	39.00%	48.61%	39.67%	29.65%
Medicare	15,263	51.00%	51.83%	28.13%	8.17%



**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 falls within the group range and are considered reasonable. In addition, the total cost appears to include at least the minimum amount of 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 applicant did not specify the Florida Building Code or National Fire Protection Association (NFPA) construction types, but the narrative did provide sufficient information to make an informed inference. 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 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 care services to Medicaid patients and the medically indigent? Section 408.035(9), Florida Statutes.**

Palm Gardens is a developmental stage enterprise with no current operations. To demonstrate historical access to Medicaid, utilization for the applicant's affiliate, West Gables Operator LLC d/b/a West Gables Health Care Center during CY 2020 – CY 2023 is presented.

The applicant indicates the facility will provide 7,137 days in year one and 11,672 days in year two to Medicaid Managed Care residents or 39 percent of the facility's total annual year one and year two patient days.

**F. SUMMARY**

**Palm Gardens Operator LLC (CON application #10802)** proposes to construct a new 90-bed community nursing home through the delicensure of 90 inactive community nursing home beds at Jupiter Medical Center Pavilion, Inc., in Subdistrict 9-4 (Palm Beach County).

The project includes 73,845 GSF of new construction and a total construction cost of \$20,400,000. Total project cost is \$27,229,000.

Palm Gardens Operator LLC indicates that the project will be licensed in December 2026 and begin service in January 2027.

The applicant does not propose any conditions on the project.

**Need:**

- The project will utilize the 90 inactive community nursing home beds licensed to Jupiter Medical Center Pavilion, Inc.
- The applicant's major need justifications include:
  - The 65 and over Palm Beach County population is currently at 25.44 percent of the population and by 2028 this is projected to be 27.44 percent
  - Moving 90 inactive beds to active status to support the growing population in Palm Beach County.
  - Palm Beach County presently has 15 beds per 1,000 seniors aged 65 and older. By July 2028, this falls to 14 beds per 1,000 and with CON approved beds maintains this rate.

**Quality of Care:**

- The applicant provided a detailed description of the ability to provide quality care.
- During the 36 months ending June 19, 2024, the one affiliated Marquis Health Consulting Services Florida nursing home - West Gables Health Care Center had no substantiated complaints.

**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.
- The 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 Florida Building Code or National Fire Protection Association (NFPA) construction types were not specified, but the narrative did provide sufficient information to make an informed inference.
- 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:**

- Palm Gardens Operator LLC as a new entity, does not have a history of serving these patients but provides its affiliate – West Gables Health Care CYs 2021-2023 Medicaid utilization
- Schedule 7 projects the 90-bed facility will provide 39 percent of year one and year two total annual patient days to Medicaid Managed Care residents.

**G. RECOMMENDATION**

Approve CON #10802 to establish a new 90-bed community nursing home through the transfer of 90 beds from Jupiter Medical Pavilion, Inc. in District 9, Subdistrict 4, Palm Beach County. The total project cost is \$27,229,000. The project involves 73,845 (GSF) of new construction and a total construction cost of \$20,400,000.

**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: August 9, 2024



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**Certificate of Need**



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