

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

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Orange County SNF OPCO II LLC/CON application #10805

4042 Park Oaks Boulevard, Suite 300
Tampa, Florida 33610

Authorized Representative: Gerry-Lynn Stohr
Vice President and CFO
(813) 675-2325

2. Service District/Subdistrict

District 7/Subdistrict 7-2 (Orange County)

B. PUBLIC HEARING

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

C. PROJECT SUMMARY

Orange County SNF OPCO II LLC (CON application #10805) also referenced as the applicant or Orange OPCO II, is a not-for-profit limited liability company established on May 9, 2024, proposing the transfer of CON #10730 from Orange County SNF OPCO LLC which was approved to establish a 120-bed community nursing home in District 7, Subdistrict 7-2 (Orange County). CON #10730 transferred CON #10661, from Avante at Orange County LLC which transferred the original CON #10634 issued to Avante Group, Inc. The applicant indicates a potential site is on Dowden Road near State Road 417. The facility will include 68 private rooms and 26 semi-private suites (52 beds).

Orange OPCO II states that its parent company is NHNFP Healthcare Inc. d/b/a AbleHearts Healthcare Foundation (AbleHearts) and that all AbleHearts facilities, including its proposed facility, contract with AbleHearts Communications d/b/a AbleHearts Consulting Services LLC,

as a management company, which will provide clinical support and consulting services, as well as back-office functions such as financial, accounting, human resources, payroll, and ancillary support. Further, key members of AbleHearts Consulting Services LLC have “years of experience” and are currently operating multiple sites of care across multiple states, including Florida. The applicant states this experience providing quality long-term care includes managing a total of 17 skilled nursing facilities across three states, including three in Florida:

- The Lakes of Clermont Health and Rehabilitation Center – 80 beds, Subdistrict 3-7 (Lake County)
- The Club at Lake Gibson - 120 beds, Subdistrict 6-5 (Polk County)
- Apopka Health and Rehabilitation Center - 180 beds, Subdistrict 7-2 (Orange County)

The project consists of 70,926 gross square feet (GSF) of new construction. Total construction cost is \$20,213,900. The applicant indicates that total project cost which includes land, building, equipment, project development, financing, and start-up costs is \$31,794,500. However, the applicant is subtracting \$50,000 from the CON #10730 project cost. The applicant also does not include the previous two \$10,000 transfer fees paid for in CONs #10661 and #10730, the original CON and two other CHOW transfer fees (\$70,000 total) were paid and for this application there is an additional fee. While the applicant may contend the rule does not account for previous transfer applications, there is no rational basis to take out fees that were paid. CON application fees go on line 26 of the Schedule 1 which is not included in the project cost subject to fee. The applicant is indicating all CON application fees total \$10,000 when in fact they total \$80,000. The correct total project cost is \$31,864,500.

Orange OPCO II expects issuance of license in December of 2026 and initiation of service in January of 2027.

Orange County SNF OPCO II LLC proposes the following conditions:

1. The applicant will implement systems, policies, and procedures to reduce hospital admissions and readmissions.
2. The applicant will maintain a COVID-19 specific infectious disease policy and procedure.
3. The applicant will regularly train all employees on how to handle a pandemic situation as it relates to infection control protocols and procedures and minimizing the risk of transmission.

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

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

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

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

1. Is need for the project evidenced by the availability, quality of care, accessibility and extent of utilization of existing health care facilities in the applicant's service area? ss. 408.035(1)(2) and (5), Florida Statutes.

As of February 9, 2024, Subdistrict 7-2 had 36 licensed community nursing homes with a total of 4,372 licensed community nursing home beds and 261 approved beds. Subdistrict 7-2 nursing homes reported 84.07 percent occupancy in the six months, and 83.69 percent occupancy during the 12 months ending December 31, 2023.

CON application #10805 is 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 7-2 (Orange County) will remain unchanged. Gerry-Lynn Stohr, Vice President and CFO AbleHearts Consulting Services LLC, as authorized representative of Orange County SNF OPCO LLC, signed the affidavit by the transferor needed for the transfer of the CON.

Orange OPCO II submits a need assessment within the context of the following characteristics which are briefly described:

- Availability
- Quality of Care
- Access
 - Geographic Access
 - Financial Access
 - Access to Services
- Extent of Utilization

Orange OPCO II states that Orange County's population growth is higher than the Florida growth rates for all age groups adding that as of July 1, 2023, there were 205,673 Orange County residents aged 65 and older, which is projected to increase by 44,996 or by 21.88 percent reaching 250,669, compared to Florida's 65+ growth rate of 16.08 percent (see the table below).

**Current and Projected Population by Age Cohort,
Orange County and Florida, 2023-2028**

Area	July 2023 Population Estimates			July 2023 Population Distribution		
	0-64	65+	Total	0-64	65+	Total
Orange County	1,307,793	205,673	1,513,466	86.41%	13.59%	100.0%
Florida	17,700,178	4,985,405	22,685,583	78.02%	21.98%	100.0%
Area	July 2028 Population Estimates			July 2028 Population Distribution		
	0-64	65+	Total	0-64	65+	Total
Orange County	1,399,275	250,669	1,649,944	84.81%	15.19%	100.0%
Florida	18,352,969	5,787,109	24,140,078	76.03%	23.97%	100.0%
Area	Five Year Increase			Five Year Growth Rate		
	65+	Total	0-64	65+	Total	0-64
Orange County	91,482	44,996	136,478	7.00%	21.88%	9.02%
Florida	652,791	801,704	1,454,495	3.69%	16.08%	6.41%

Source: CON application #10805, page 1-2, Table 1-1, from Agency Population Estimates and Projections by District 2020 to 2030, published January 2024.

Orange OPCO II presents Figure 1-1, page 1-3 (graph) displaying the 2019 through 2023 community nursing home occupancy rates for SD 7-2 (Orange County) and Florida. The applicant notes Orange County's community nursing home occupancy rate in 2019 was 89.41 which fell to 82.91 percent in 2020 and further to 78.48 percent in 2021. While lower than the county's rates prior to the pandemic, the applicant contends that the increases in 2022 to 83.44 percent and 83.69 percent in 2023 demonstrate the potential for occupancy rates to rise once again to levels prior to the pandemic. Orange OPCO II concludes that the increase in senior population will increase demand for health and social services, including nursing home care.

Orange OPCO II shares that it is associated with AbleHearts Healthcare Foundation and the project will benefit from an experienced manager, having the knowledge, tools, and expertise to continuously maintain high quality standards. The applicant assures its staff engages in quality improvement initiatives and education and is actively involved and participates in the quality initiatives of the American Health Care Association and National Center for Assisted Living. Orange OPCO II asserts that by tailoring care to patients with similar needs, a higher level of service and higher staffing ratios can be implemented efficiently to establish a viable program with excellent results for those it serves. Further, the facility will provide long-term care and be developed with rehabilitation in mind to promote patient recovery and return to the community. AbleHearts management is stated to be dedicated to improving the quality-of-care standards and consistently invest in upgrades and renovations.

Orange OPCO II in its discussion of geographic access presents Figure 1-2 on page 1-5 showing the 15-minute drive time contour with hospital and nursing home locations identified, demonstrating that the proposed facility site extends beyond a 10-mile radius, ensuring accessibility to a majority of the county's population, adding that three acute care hospitals shown provide a potential referral source.

Orange OPCO II states it will participate in both Medicare and Medicaid programs and will seek contracts with managed care providers and commercial insurance companies with the variety of payment options to allow the facility to maximize access. Further, the proposed facility will be sufficiently sized to provide a wide range of services with separate neighborhoods for various patient needs, such as short-term rehabilitation, complex care, and long-term care needs and it will make every effort to remove any financial barriers that could impede access to nursing home care, working closely with hospital discharge planners and those who may make direct admissions. Orange OPCO II states that AbleHearts affiliates' long-standing relationships with several Medicare and Medicaid managed care providers assure the facility will be able to contract with a variety of providers and managed care organizations.

Orange OPCO II includes an analysis of Orange County residents aged 65 and older hospital discharges in its Table 1-2, on the application's page 1-7. There were 9,492 Orange County residents Aged 65+ discharged to skilled nursing facilities during July 1, 2022—June 30, 2023. Orange OPCO II contends that access issues are evident, especially for short-term rehabilitative care and offers that its analysis determined that 1,826 cases were associated with (MDC 08) musculoskeletal system, including joint replacements and fractures; 1,472 cases were associated with (MDC 18) infectious diseases, 1,455 cases were associated with (MDC 05) cardiac patients, 1,065 cases were associated with (MDC 01) nervous system diseases and disorders and 907 cases were associated with (MDC 11) kidney and urinary tract diseases. These top five represent 71 percent (6,725 of 9,492) of the total discharges.

The reviewer partially reproduces the applicant's MDC discharge table below, showing the five most frequently occurring and combining the others in the "*Remaining 19 MDCs*".

**Discharges to Nursing Homes for Orange County Residents Aged 65 and Older,
July 1, 2022 — June 30, 2023, From All Orange County Hospitals**

MAJOR DIAGNOSTIC CATEGORY	All Orange Hospitals		Reviewer
	Cases	Percent	Percent
08 Diseases & Disorders Of the Musculoskeletal System and Conn Tissue	1,826	19.45%	19.24%
18 Infectious & Parasitic Diseases, Systemic or Unspecified Sites	1,472	15.53%	15.51%
05 Diseases & Disorders of the Circulatory System	1,455	15.51%	15.33%
01 Diseases & Disorders of the Nervous System	1,065	11.17%	11.22%
11 Diseases & Disorders of the Kidney & Urinary Tract	907	9.40%	9.56%
Total Top five MDCs	6,725	71.06%	70.86%
<i>Remaining 19 MDCs</i>	2,767	28.96%	29.15%
Grand Total	9,492	100.0%*	100.0%*

Source: CON application #10805, page 1-7, Table 1-2 (partially reproduced) from July 1, 2022—June 30, 2023 Agency Hospital Discharge Data.

*Note: The total percentages are slightly over 100%, which is likely due to rounding.

The reviewer notes that the percentages provided by the applicant are slightly off as shown within the reviewer’s table above and the stated discharges do not appear to include Orange County residents discharged from Florida hospitals not located in Orange County. Regardless, the applicant provides the top five MDC hospital discharges to nursing homes, to indicate what services are appropriate. Orange OPCO II assures that these patients will benefit from AbleHearts' Rapid Recovery program for orthopedic rehabilitation, cardiac rehabilitation, and respiratory care. The 68 private rooms will allow residents with infectious diseases and illnesses to remain isolated during recovery and it will ensure programs are in place to treat and rehabilitate those who need it most.

As previously stated, Orange OPCO II cites the subdistrict’s increasing occupancy and states it is expected to return to the higher rates seen prior to the pandemic. The applicant contends that the introduction of a new facility will increase utilization and access for residents of Orange County. Orange OPCO II notes that for CY 2023, Subdistrict 7-2 facilities reported 1,334,435 patient days resulting in an average occupancy rate of 83.69 percent. The subdistrict’s CYs 2019-2023 utilization is shown in the table below.

**Community Nursing Home Bed Utilization
Subdistrict 7-2**

Subdistrict 7-2, Orange	2019	2020	2021	2022	2023
Patient Days	1,370,206	1,287,401	1,255,231	1,330,227	1,334,435
Occupancy	89.41%	82.91%	78.48%	83.44%	83.69%
Medicaid Days	883,114	819,159	786,751	805,437	821,750
Medicaid Occupancy	64.45%	63.63%	62.68%	60.55%	61.58%

Source: CON application #10805, Table 1-3, Page 1-8 from Agency Nursing Home Bed Need Projections by District and Subdistrict for the periods shown.

The applicant argues that the opportunity to place beds in a new facility will ensure continued access to skilled nursing beds in a highly utilized market and notes the need was demonstrated in the fixed need pool for the January 2023 planning horizon. Orange OPCO II's Table 1-4 on page 1-8 of the application shows the AbleHearts affiliated nursing home occupancy during CYs 2020-2023. Orange OPCO II provides three graphs (Figures 1-4, 1-5 and 1-6) and three Tables 1-5 through 1-8 on pages 1-9 through 1-11 to illustrate the three AbleHearts Florida facilities occupancy rates by quarter since their initiation of service. The applicant contends that new facility development results in higher utilization as choice and service improves and the project is expected to increase utilization as access improves for Orange County residents. Orange OPCO II addresses Rule 59C-1.030 Florida Administrative Code Health Care Access Criteria on the application's pages 1-12 and 1-13.

Orange OPCO II concludes that the development of the new 120-bed nursing home will improve availability and access, including Medicaid access. The applicant also concludes that its "responses to the health care access criteria indicate conformity, accepting a range of payers and individuals who require skilled care and medical management for either acute or chronic conditions, consistent with the Medicare and Medicaid Programs' Conditions of Participation".

2. 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.

As stated previously, Orange County SNF OPCO II is a newly formed not-for-profit limited liability company proposing the transfer of CON #10730, for the construction of a 120-bed community nursing home in SD 7-2. AbleHearts (the applicant's management company) will provide clinical support and consulting services, as well as back-office functions such as accounting, human resources, payroll, and ancillary support. The applicant informs that AbleHearts support will assure consistency and uniformity with the continuity of care, staff training and development providing the basis for tracking progress and developing ongoing monitoring of the facility's care.

Orange OPCO II states that it will work towards improving quality of care to reach the standards set by the American Health Care Association (AHCA) National Quality Awards, noting that all three affiliated AbleHearts Florida facilities achieved the *2022 AHCA/NCAL Bronze*

National Quality Award. The applicant lists 13 ‘Services offered at AbleHearts Florida Facilities’ which include Alzheimer’s Care, Dialysis Care, Hospice Care, Respite Care, Behavior Management, etc.

Orange OPCO II states the facility’s 68 private rooms and 26 semi-private suites (52 beds) will allow residents to benefit from a continuum of care that lets seniors age in place in an environment of care that emphasizes both comfort and privacy while also providing support, medical, and nursing services that meet clinical standards. The applicant’s project design description includes a list of specialty services, support and amenity areas (CON application #10805, pages 6-7 and 6-8).

The applicant states AbleHearts mission is to "Embrace everyone as family" and to follow the Safety First, Family Always standards:

- **F**inding solutions, together
- **A**ct with compassion
- **M**ake every moment count
- **I**mprove constantly
- **L**augh often
- **Y**ou matter

AbleHearts mission statement is—"At AbleHearts we believe that your family is our family too, and family always deserves the help they need to live better, healthier, happier lives. From simple, essential support to life-changing aid, we are here to help and embrace everyone as family."

Orange OPCO II states that AbleHearts mission along with the company's motto, "Love Without Limits," together reflect the core of the company's values and business principles. The company aims "to offer services without boundaries or compromise, providing personalized and holistic care plans that help meet the emotional, spiritual, physical, and mental needs...", treating everyone as family. Further, its "Concierge" philosophy approach (seven steps cited) to patient care, which includes the HEART method for handling complaints are part of AbleHearts employee training and team members are encouraged to utilize these practices. The applicant contends AbleHearts facilities demonstrate their commitment to upholding a high standard of care for its customers and loved ones.

HEART Method:

- **H**ear: Listen to what the client is saying without interruptions!
- **E**mpathize: Let them know you understand. It's okay to say, 'I can see why that would be very frustrating', or even would feel angry too'.

- **Apologize:** It can be as simple as ‘I’m sorry that this happened.’ Or ‘I’m sorry that we made you feel that way.’
- **Respond:** You need to share with them how you are going to respond to what they have just shared.
- **Thank:** Thank your client for taking the time to reach out and share their story.
- Lastly fill out a grievance form. Write down the issue and how it was resolved. We must take credit for our actions.

Orange OPCO II contends that AbleHearts has developed and implemented organization-specific programs that promote delivery of quality care that is needed with the increased complexity of the long-term care environment, along with the growing demands and expectations on the regulatory process.

Orange OPCO II states AbleHearts has voluntary programs that are beyond mandatory quality assessment and performance improvement requires. These include its Believe Balanced Assessment, Operation Make a Difference, Care Line, Benchmarking, Focus Leveling Monitoring Steps, Quality Assurance/Risk Management Standards and Guidelines and Electronic Health Care Library. Details on these programs are provided on the application’s pages 2-4 through 2-7.

Quality Assurance through Resident Council is addressed on the application’s page 2-8. Orange OPCO II states the resident council is “an independent group of families and friends of residents, who together protect and improve the quality of life for residents and provide families with a voice in decisions affecting their loved ones”. Orange OPCO II adds that facility staff “coordinate and attend meetings of the resident council to give residents and families the opportunity to voice concerns and make suggestions”. Orange OPCO II lists 27 rights each resident has and assures these rights encompass a resident's role within the nursing home as it pertains to their choice, safety, and quality of life.

Quality of life is addressed with the applicant stating residents select activities they find enjoyable and reflect leisure pursuits that enrich their lives. Residents will have multiple opportunities to participate in various forms of recreation for improving mind and body and family members are encouraged to participate. The facility will offer a range of activities each week and a list of these is included with the applicant noting the facility is not limited to just providing the 16 activities.

Orange OPCO II concludes that it has demonstrated the capability to implement a program of quality assurance with elements that lead to continuous quality improvement and that the overall programmatic

approach reflects the Safety First, Family Always standards and the motto to Love Without Limits". Further, AbleHearts' network facilities demonstrate the effectiveness of the approach by seeking national recognition and Joint Commission Accreditation. The application's Tab 3 includes brief bios of AbleHearts Florida Healthcare's corporate leadership, recruitment and retention processes and an overview of the training and education provided to employees and volunteers.

The reviewer notes that none of AbleHearts affiliated facilities have earned Gold Seal Award recipient status. Apopka Health and Rehabilitation Center and The Lakes of Clermont Health and Rehabilitation Center are on the Agency Watch List. The Watch List identifies nursing homes that are operating under bankruptcy protection or met the criteria for a conditional status during the past 30 months.

AbleHearts Affiliated SNFs	HF Overall Inspection Star Rating	CMS Overall Rating
Apopka Health and Rehabilitation Center 35961094	★★	★★
Lakes of Clermont Health and Rehabilitation Center, The 35961087	★★★	★★★
The Club at Lake Gibson 35961093	★★★	★★

Source: <https://quality.healthfinder.fl.gov/Facility-Provider/> Rating Time Period: October 2021 - March 2024, last updated May 2024 and <https://www.medicare.gov/care-compare/?providerType=NursingHome> last updated: July 31, 2024.

During the 36 months ending July 9, 2024, AbleHearts affiliated nursing homes had a total of 14 substantiated complaints with 15 complaint categories cited. Below is a table of the substantiated complaints by the applicable complaint category.

Orange County SNF OPCO II LLC Affiliates Substantiated Complaint History by Category 36 Months Ending July 9, 2024

Complaint Category	Number Substantiated
Quality of Care/Treatment	10
Resident/Patient/Client Rights	1
Elopement	1
Administration/Personnel	1
Admission, Transfer & Discharge Rights	1
Falsification of Records/Reports	1
Total	15

Source: AHCA Substantiated Complaint History.

3. 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 \$50,000 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 \$31,794,500, which includes this project only. In addition to the capital costs, the applicant will have to finance a projected year one operating loss of \$1,903,600.

The applicant indicates on Schedule 3 of its application that funding for the project will be provided by cash on hand (\$50,000) & non-related company financing (\$31,744,500). The applicant provided a letter of interest, dated May 15, 2024, from Greystone Housing Impact Investors LP 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.

4. 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	16,316,700	404	1,594	460	371
Total Expenses	15,987,500	395	1,662	459	351
Operating Income	329,200	8	72	0	-166
Operating Margin	2.02%		Comparative Group Values		
	Days	Percent	Highest	Median	Lowest
Occupancy	40,431	92.06%	97.54%	79.24%	50.44%
Medicaid	21,801	53.92%	63.93%	56.63%	44.20%
Medicare	16,648	41.18%	39.98%	20.16%	5.93%

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, & profit falls 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.

5. 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 existing health care system's barrier to price-based competition via fixed price payers 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.

6. 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 a significant impact on either construction costs or the proposed completion schedule.

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

7. 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.

Orange OPCO II is a developmental stage enterprise and has no licensure history. The applicant's Table 7-1 on page 7-2 shows AbleHearts three Florida affiliates Medicaid occupancy during CYs 2020-2023 increased from 34.39 percent in CY 2020 to 51.03 percent in CY 2023. Orange OPCO II projects 12,510 Medicaid Managed Care patient days in year one (2027) and 21,801 in year two (2028) or 53.9 percent of each year's total annual patient days.

F. SUMMARY

Orange County SNF OPCO II LLC (CON application #10805) proposes the transfer of CON #10730 from Orange County SNF OPCO LLC which was approved to establish a 120-bed community nursing home in District 7, Subdistrict 7-2 (Orange County).

The project consists of 70,926 GSF of new construction. Total construction cost is \$20,213,900. The applicant indicates the total project cost is \$31,794,500. The correct total project cost is \$31,864,500.

Orange County SNF OPCO II expects issuance of license in December of 2026 and initiation of service in January of 2027.

The applicant proposes three conditions to the approval of the project.

Need

- The original CON #10634 was in response to the FNP, this application is to transfer CON #10730, which transferred CON #10661, which transferred CON #10634
- As of February 9, 2024, Subdistrict 7-2 had 36 licensed community nursing homes with 4,372 licensed community nursing home beds and 261 CON approved beds pending licensure
- Subdistrict 7-2 facilities averaged 84.07 during the six months ending December 31, 2023
- The project will not change the number of licensed and approved nursing home beds in the subdistrict

Quality of Care

- The applicant provided a detailed description of its ability to provide quality care
- AbleHearts affiliated nursing homes had 14 substantiated complaints with 15 complaint categories cited during the 36 months ending July 9, 2024

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 cost estimate and the project completion forecast 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/Charity Care

- Orange County SNF OPCO II LLC is a development stage entity but notes that its three AbleHearts affiliates provided 51.03 percent of their total patient days to Medicaid patients in CY 2023
- Medicaid Managed Care patients are projected to comprise 53.9 percent of the total facility's year one (CY 2027) and year two (CY 2028) annual patient days

G. RECOMMENDATION

Approve CON #10805 to transfer CON #10730 from Orange County SNF OPCO LLC to establish a 120-bed community nursing home in District 7, Subdistrict 2, Orange County. The total project cost is \$31,864,500. The project involves 70,926 (GSF) of new construction and a total construction cost of \$20,213,900.

CONDITIONS:

1. The applicant will implement systems, policies, and procedures to reduce hospital admissions and readmissions.
2. The applicant will maintain a COVID-19 specific infectious disease policy and procedure.
3. The applicant will regularly train all employees on how to handle a pandemic situation as it relates to infection control protocols and procedures and minimizing the risk of transmission.

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 27, 2024



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Certificate of Need



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