

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

**The Christian and Missionary Alliance Foundation, Inc.
d/b/a Shell Point Retirement Community/CON #10240**
1500 Shell Point Blvd., Suite 100
Fort Myers, Florida 33908

Authorized Representative: Peter Dys, President
(239) 454-2156

2. Service District/Subdistrict

District 8/ Subdistrict 5 (Lee County)

B. PUBLIC HEARING

A public hearing was not held or requested on the proposed project to add 20 sheltered nursing home beds through the delicensure of 20 community nursing home beds.

C. PROJECT SUMMARY

The Christian and Missionary Alliance Foundation, Inc. d/b/a Shell Point Retirement Community (CON application #10240) throughout this application, Shell Point Retirement Community may also be referred to as Shell Point. Shell Point proposes to add 20 sheltered beds through the conversion of 20 community nursing home beds to a sheltered bed designation.

The applicant received its certificate of authority on July 15, 1980 from the Florida Department of Insurance to operate a continuing care retirement community (CCRC) in Florida regulated under Chapter 651, Florida Statutes (F.S.). Shell Point has a total of 1,239 independent units and 357 assisted living facility beds, 160 community nursing beds and 59 sheltered nursing home beds. The applicant could be approved

for up to 399 sheltered beds. If approved, the proposed project will reduce the number of community beds to 140 while the number of sheltered beds will increase to 79.

Section 651.118 (4) F.S., directs the Agency to approve on sheltered nursing home bed for every four proposed residential units, including those that are licensed under Part I, Chapter 429, in a continuing care facility, unless the provider demonstrates the need for a lesser number of sheltered nursing home beds based on actual utilization and demand by current residents. The applicant's proposed total sheltered nursing home bed compliment of 79 beds is allowable.

Total project cost is \$55,675.00. The project does not involve renovation or new construction. Total project costs include project development costs.

The applicant proposes no conditions on its Schedule C.

D. REVIEW PROCEDURE

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, F.S.; and applicable rules of the State of Florida, Chapters 59C-1 and 59C-2, Florida Administrative Code (F.A.C.). 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(s) best meets the review criteria.

Rule 59C-1.010(3) (b), F.A.C., 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.

The application was filed pursuant to Rule 59C-1.004(2) (a), F.A.C., which allows applications for sheltered nursing home beds to be reviewed as expedited applications rather than competitive batch review applications.

As part of the fact-finding, the consultant, Dwight Aldridge analyzed the application with consultation from the financial analyst, Felton Bradley, 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 F.S., sections 408.035 and 408.037; applicable rules of the State of Florida, Chapter 59C-1 and 59C-2, F.A.C. Sheltered nursing homes are regulated under Chapter 651, F.S.

Pursuant to s. 651.118 (2), F.S.: The Agency for Health Care Administration shall issue a certificate of need to any holder of a provisional certificate of authority pursuant to s. 651.022 to construct nursing home beds for the exclusive use of the prospective residents of the proposed continuing care facility if the holder of the provisional certificate of authority meets the Agency's applicable review criteria, utilizing the bed need provisions of subsection (4).

Subsection (4) contains the following language: The Agency for Health Care Administration shall approve one sheltered nursing home bed for every four proposed residential units, including those that are licensed under part III of chapter 400, in the continuing care facility unless the provider demonstrates the need for a lesser number of sheltered nursing home beds based on proposed utilization by prospective residents or demonstrates the need for additional sheltered nursing home beds based on actual utilization and demand by current residents.

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), F.A.C.

As noted above, this project is being reviewed under Rule 59C-1.004(2) (a), F.A.C. Expedited reviews may be submitted at any time and do not respond to fixed need pool publications. The applicant proposes to add

20 sheltered nursing home beds and reduce 20 community nursing home beds to the skilled nursing facility's (SNF) existing 59 sheltered and 160 community nursing homes beds. This will result in 140 community nursing beds and 79 sheltered beds upon approval of CON application.

2. Agency Rule Preferences

- a. **Use of Sheltered Nursing Home Beds.** Under subsection 651.118(7), F.S., sheltered nursing home beds may be used for persons who are not residents of the continuing care facility, and who are not a party to a continuing care contract, for a period of up to five years from the date of issuance of the initial nursing home license for sheltered beds constructed in conjunction with the non-nursing home portion of the continuing care facility. Applicants applying at a later time for additional sheltered nursing home beds without increasing the number of residential units shall restrict the use of the additional sheltered beds to continuing care residents. Applicants who are adding additional residential units shall be allowed to apply for additional sheltered nursing home beds not exceeding a ratio of one nursing home bed per four residential units. Nursing home beds approved under this condition may be used for community residents for a period of up to five years from the date of issuance of the initial license of these beds.

The applicant notes that the average daily census (ADC) of life care residents for calendar year (CY) 2012 and 2013 is 117.5 and 115.9—which exceeds the capacity of the current bed complement of 59 sheltered beds. Shell Point contends that the proposed project will better align utilization while setting a minimum bed allocation for contractees. The applicant notes that the proposed mix of sheltered and community nursing beds will still allow for flexibility to accommodate any swings in census.

- b. **Criteria and Standards.** In addition to meeting the applicable review criteria in Section 408.035, F.S., and the provisions in this rule, applicants for certificates of need for sheltered nursing home beds shall comply with the criteria and standards outlined under Section 651.118, F.S.

Shell Point Continuing Care Retirement Community holds a certificate of authority (#97-59-1166437) issued July 15, 1980. Shell Point has a total of 1,239 independent units and 357 assisted living facility beds, 160 community nursing beds and 59 sheltered nursing home beds. The

applicant could be approved for up to 399 sheltered beds. If approved, the proposed project will increase the current facility's number of sheltered beds to 79.

- c. **Data Collection and Reporting Procedures. Continuing care providers shall submit to the Agency, or its designated Agency, semi-annual bed utilization reports for the purpose of determining community and sheltered nursing home bed utilization based on historical use by residents and non-residents of the continuing care facility. Bed utilization data shall be reported on July 30 for the period of January 1 through June 30, and on January 30 for the period of July 1 through December 31 of each calendar year. Bed utilization data shall include:**
- (a) **Total number of resident admissions during the six-month reporting period.**
 - (b) **Total number of non-resident admissions during the six-month reporting period.**
 - (c) **Total admissions for the six-month reporting period.**
 - (d) **Total resident patient days for the six-month reporting period.**
 - (e) **Total non-resident patient days for the six-month reporting period.**
 - (f) **Total patient days for the six-month reporting period.**

Shell Point asserts that it is actively engaged and reports utilization to Health Planning Council of South West Florida, Inc. Continued reporting will occur.

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? ss. 408.035 (1) (b) and (e), F.S.**

Availability and Accessibility

Shell Point indicates that availability with respect to sheltered nursing home beds are a facility-specific measure. The applicant notes that while it has more community nursing home beds than sheltered beds, continuing care contract holders can and will occupy community nursing home beds. The proposed project will better align existing capacity with actual use.

The applicant maintains that access will not be impeded with the proposed project as contract holders currently occupy community beds, which are indistinguishable within the nursing facility. The applicant notes that accessibility is not an overriding factor as the beds are in existence and will merely change the status from community to sheltered beds within the existing nursing facility.

Shell Point states that the 20 sheltered beds will be will be used for continuing care contract holders. The increase in sheltered beds will result in a reduction of community beds, whose reported occupancy rate would change from 61percent to 70 percent based upon the 140 resulting community nursing home beds of the proposed project. The applicant states that this project does not decrease accessibility for members of the general public to access care at Shell Point--access will be maintained for both the public and continuing care contract holders.

Quality of Care

The applicant notes that Shell Point Nursing Pavilion achieved an overall inspection score of three-stars on their most recent Agency inspection. The reviewer confirmed this information on FloridaHealthFinder.gov. The Agency's Nursing Home Guide was last updated November 2014.

Extent of Utilization

Shell Point maintains that life care contracts account for approximately 65 percent of patient days for the facility and that the proposed project to add to the current sheltered bed inventory is consistent with patient use of the facility.

The applicant notes that continuing care contract holders are entitled to a minimum of 360 days of care in the nursing center as established in statute at rates that are at or below 80 percent of the rates charged to the public. The buy-in and the monthly operating fees cover the entitlement to care offered within the CCRC. Shell Point indicates that the proposed project are for beds that are to be designated as sheltered beds and used only for life care residents.

- c. 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? ss. 408.035 (1) (c) and (j), F.S.**

Shell Point states that it has received recognition for its quality of care, including:

2014

The Communicator Award

- Gold Award of Excellence: Shell Point Life Magazine
- Gold Award of Excellence: LifeQuest Program launch brochure
- Silver Award of Distinction: Email Newsletter
- Silver Award of Distinction: Senior Wellness blog
- Silver Award of Distinction: Shell Point Life Magazine Cover
- Silver Award of Distinction: LifeQuest Program launch brochure, Overall design
- A.V. Powell & Associates: AVP Seal of Recognition

The applicant states that quality is monitored and measured through the Quality Assurance and Risk Management Program. The Quality Assurance and Risk Management Committee (QARMC) is charged with the identification of quality deficiencies and the development of plans of action to correct and respond quickly to any deficiencies. Shell Point notes that purposes of the program are:

- To assess resident care practices
- To review facility quality indicators and measures
- To review incident reports
- To identify and respond to deficiencies in practice and operations as reported by others, including review agencies
- To address resident grievances

Shell Point indicates that the facility achieved an overall inspection score of three-stars on their most recent Agency inspection. The reviewer verified the three-star rating on FloridaHealthFinder.gov. The Agency's Nursing Home Guide was last updated November 2014. Shell Point is not a Gold Seal Program nor is it on the Nursing Home Watch List.

The applicant also explains its Quality Care Initiatives which will deploy to each department to enhance resident services. Quantitative reports of the monitoring process will be shared with the QARMC. Reports include surveys of resident satisfaction and action taken to address resident concerns.

Shell Point had one substantiated complaint during the three-year period ending November 6, 2014 in the "Quality of Care" category.

d. What resources, including health manpower, management personnel and funds for capital and operating expenditures, are available for project accomplishment and operation? ss. 408.035 (1) (d), F.S.

The purpose of our analysis for this section is to determine if the applicant has access to the funds necessary to fund this and all capital projects. Our review includes an analysis of the short and long-term position of the applicant, parent, or other related parties who will fund the project. The analysis of the short and long term position is intended to provide some level of objective assurance on the likelihood that funding will be available. The stronger the short-term position, the more likely cash on hand or cash flows could be used to fund the project. The stronger the long-term position, the more likely that debt financing could be achieved if necessary to fund the project. We also calculate working (current assets less current liabilities) a measure of excess liquidity that could be used to fund capital projects.

Historically we have compared all applicant financial ratios regardless of type to bench marks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities. The below is an analysis of the audited financial statements of The Christian and Missionary Alliance Foundation, Inc. d/b/a Shell Point Nursing Pavilion (Applicant) and where the two short-term and long-term measures fall on the scale (highlighted in gray) for the most recent year.

The Christian and Missionary Alliance Foundation, Inc. d/b/a Shell Point		
	Current Year	Previous Year
Current Assets	\$35,647,401	\$25,749,717
Total Assets	\$461,708,639	\$454,557,928
Current Liabilities	\$16,156,425	\$15,408,979
Total Liabilities	\$395,168,610	\$397,110,831
Net Assets	\$66,540,029	\$57,447,097
Total Revenues	\$105,801,107	\$103,334,141
Excess of Revenues Over Expenses	\$8,084,691	\$5,545,930
Cash Flow from Operations	\$29,362,483	\$22,656,196
Short-Term Analysis		
Current Ratio (CA/CL)	2.2	1.7
Cash Flow to Current Liabilities (CFO/CL)	1.8%	1.5%
Long-Term Analysis		
Long-Term Debt to Net Assets (TL-CL/NA)	569.6%	664.4%
Total Margin (ER/TR)	7.64%	5.37%
Measure of Available Funding		
Working Capital	\$19,490,976	\$10,340,738

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

Capital Requirements and Funding:

The applicant indicates on Schedule 2 capital projects totaling \$60,572,675 which includes this project of \$55,675. The applicant indicates on Schedule 3 of its application that funding for the project will be funded from cash on hand. The applicant has sufficient cash on hand to complete this project. Completion of the entire capital budget however, is in question. Given the relatively small amount of funding for this project, the larger funding need for all capital projects should not impact this project.

Staffing:

Section 400.23(3) (a) (1), F.S. specifies a minimum weekly average of certified nursing assistants (CNA) and licensed nurse staffing combined of 3.6 hours of direct care per resident per day. In addition, a minimum CNA staffing of 2.5 hours of direct care per resident per day, with a minimum of one CNA per 20 residents is required. For licensed nurses, a minimum licensed nurse staffing of 1.0 hour of direct resident care per resident day, with a minimum of one licensed nurse per 40 residents must be maintained.

Based on the information provided in Schedule 6, the applicant's projected licensed nursing and direct care staffing exceeds the minimum level required in years one and two. The applicant's certified nursing assistant staffing exceeds the minimum levels required in both years.

Conclusion:

Funding for this project should be available as needed.

d. What is the immediate and long-term financial feasibility of the proposal? ss. 408.035 (1) (f), F.S.

The applicant nursing home is part of a CCRC. A CCRC is made up of residential units, an assisted living facility and a nursing home and is regulated as a type of insurance arrangement. The idea is that CCRC residents buy into the community and transition through life from residential, to assisted living, and finally to skilled nursing. Skilled nursing is also available for rehabilitation to residents. The business

model for a CCRC general shows the skilled nursing component as a loss with the residential living and assisted living generating enough profit to cover the loss. In this case, the nursing home is currently operating at a loss on a standalone basis and is projected in the application to continue to do so. The applicant projected an overall profit when the net earnings of the rest of the CCRC are included.

CCRCs are regulated by the Florida Office of Insurance Regulation (OIR). OIR requires CCRCs to maintain a minimum liquid reserve and file financial statements on a regular basis. The existence of a Certificate of Authority issued by OIR and maintenance of a minimum liquid reserve indicates stability of the CCRC. The applicant CCRC has both.

The applicant indicated that this project will have no financial impact since it is converting beds from one type to another (no bed increase). Even if there were an impact, the small number of the beds in question would not likely have a material financial impact.

Conclusion:

This project appears to be financially feasible.

e. Will the proposed project foster competition to promote quality and cost-effectiveness? ss. 408.035 (1) (e) and (g), F.S.

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. 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. In addition, this project is converting a small number of beds within the same location resulting in no new beds to the district.

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? ss. 408.035 (1) (h), F.S.; Ch. 59A-4, F.A.C.**

The Office of Plans and Construction notes that the codes and standards regulating the design and construction of skilled nursing facilities are the same for beds licensed as sheltered beds and community beds.

It is the position of the Office of Plans and Construction that a review of the architectural submissions for this project is unnecessary since the existing nursing beds have already been reviewed and approved by the Agency for use as skilled nursing beds in accordance with F.S. 400.232 and F.A.C. 59A-4.133.

The reviewer notes that any modifications or alterations of the physical plant due to a conversion would need to be reviewed by the Office of Plans and 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? ss. 408.035 (1) (i), F.S.**

Shell Point provided the following information on payer types for the past two full calendar years as well as a portion of CY 2014.

**Total Admissions and Patient Days by Payer at Shell Point Nursing Pavilion
for Recent Calendar Years**

Payer	CY 2012		CY 2013		January – April CY 2014	
Admissions	Number	Percent	Number	Percent	Number	Percent
Patient Days						
Life Care	43,013	64.6%	42,317	65.2%	14,649	65.8%
Private	4,132	6.2%	2,989	4.6%	853	3.8%
Insurance	0	0.0%	0	0.0%	0	0.0%
Medicare	12,145	18.2%	11,826	18.2%	4,317	19.4%
Medicaid	7,293	11.0%	7,7816	12.0%	2,454	11.0%
Total	66,583	100.0%	64,948	100.0%	22,273	100.0%

Source CON application #10240 page 9-1

The applicant notes that Medicaid reimbursed 11 and 12 percent of the total nursing home resident days for 2012 and 2013, respectively. For the current calendar year through April 30, 2014, Medicaid has reimbursed 11 percent of the resident days.

The applicant provided forecasted patient days by payer for the entire 219-bed facility for the first two years of the proposed project. Shell Point asserts that in sheltered beds, all days are life care contract days at 100 percent.

Forecasted Patient Days by Payer for First Two Years				
Payer	<u>Year 1 ending 12/15</u>		<u>Year 2 ending 12/16</u>	
	Resident Days	Percent of Total Days	Resident Days	Percent of Total Days
Self-Pay	3,825	5.6%	3,223	4.6%
Medicaid	6,035	8.8%	6,306	9.0%
Medicare	3,678	8.51%	3,650	8.44%
Other Payers	4,045	9.36%	4,135	7.96%
Total	43,228	100.00%	43,920	100.00%

Source: CON application #10240, page 9-3

The applicant states that in nursing homes, charity care does not exist because those who do not have assets become enrolled in Medicaid. The charity allowance that appears in cost reports is the difference between a facility's charges and what is paid or collected from the resident.

F. SUMMARY

The Christian and Missionary Alliance Foundation, Inc. d/b/a Shell Point Retirement Community (CON application #10240) proposes to add 20 sheltered beds through the conversion of 20 community nursing home beds.

Shell Point has a total of 1,239 independent units and 357 assisted living facility beds, 160 community nursing beds and 59 sheltered nursing home beds. If the proposed project is approved--the number of community beds will be reduced to 140 while the number of sheltered beds will increase to 79.

Based on the one sheltered bed for every four residential unit formula spelled out in 651.118 (4), the applicant could be approved for up to 399 sheltered beds. The applicant's proposed total sheltered nursing home bed compliment of 79 beds is allowable.

Total project cost is \$55,675.00. The project does not involve renovation or new construction.

The applicant proposes no conditions on its Schedule C.

Need

The proposed project is not submitted in response to the fixed need pool.

The applicant maintains that the proposed project will better align existing capacity with actual use. Shell Point maintains that life care contracts account for approximately 65 percent of patient days for the facility and that the proposed project to add to the current sheltered bed inventory is consistent with patient use of the facility. The applicant notes that some life care contract holders will remain accommodated in community nursing home beds.

Quality of Care

Shell Point states that it has received recognition for its quality of care. The applicant states that quality is monitored and measured through the Quality Assurance and Risk Management Program.

Shell Point indicates that the facility achieved an overall inspection score of three-stars on their most recent Agency inspection. The reviewer verified the three-star rating on FloridaHealthFinder.gov. Shell Point is not a Gold Seal Program nor is it on the Nursing Home Watch List.

Shell Point had one substantiated complaint during the three-year period ending November 6, 2014 in the Quality of Care category.

Financial Feasibility/Availability of Funds

Funding for this project should be available as needed. This project appears to be financially feasible. This project is not likely to have a material impact on competition to promote quality and cost-effectiveness.

Medicaid/Charity Care

The applicant does not propose to condition the project to the provision of Medicaid or indigent care.

Shell Point states that of the facility's 219 licensed nursing beds--160 are community nursing home beds and 59 sheltered beds. Shell Point states that Medicaid recipients are served within the community bed allocation.

The applicant notes that Medicaid reimbursed 11 and 12 percent of the total nursing home resident days for 2012 and 2013, respectively. For the current calendar year through April 30, 2014, Medicaid has reimbursed 11 percent of the resident days.

Architectural

The Office of Plans and Construction notes that the codes and standards regulating the design and construction of skilled nursing facilities are the same for beds licensed as sheltered beds and community beds. Therefore, a review of the architectural submissions for this project was deemed unnecessary as the existing nursing beds have already been reviewed and approved by the Agency for use as skilled nursing beds in accordance with F.S. 400.232 and F.A.C. 59A-4.133.

G. RECOMMENDATION

Approve CON #10240 to add 20 sheltered beds through the conversion of 20 community nursing home beds. The total project cost is \$55,675.00. The project does not involve renovation or new construction.

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: _____

Marisol Fitch
Health Services and Facilities Consultant Supervisor
Certificate of Need