

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

**A. PROJECT IDENTIFICATION**

1. Applicant/CON Action Number

**Oak Hill Health and Rehabilitation, LLC/CON #10491**  
1800 N. Wabash Avenue, Suite 300  
Marion, Indiana 49652

Authorized Representative: Ryan M. Ott  
(765) 664-5400

2. Service District/Subdistrict

District 3/Subdistrict 3-6 (Hernando County)

**B. PUBLIC HEARING**

No public hearing was held regarding the proposed project and no letters of support were submitted.

**C. PROJECT SUMMARY**

**Oak Hill Health and Rehabilitation, LLC (CON application #10491)**, also referenced as Oak Hill or the applicant, a newly formed entity and an affiliate of Tender Loving Care (TLC) Management, Inc. (parent company), seeks to transfer Exemption #E160018 from Colony SNF Operations, LLC to establish a new 109-bed community nursing home in District 3, Subdistrict 3-6, Hernando County, Florida.

Colony SNF Operations, LLC was originally issued CON #10261 on February 8, 2016, to establish a 59-bed community nursing home in Subdistrict 3-6, Hernando County. CON #10262 was issued to Millennium II, also on February 8, 2016, to establish a 50-bed community nursing home in Subdistrict 3-6, Hernando County. Neither CON #10261 or CON #10262 The Agency issued Exemption #E160018 on July 22, 2016 combining CON #10261 and CON #10262 to create a 109-bed community nursing home with Colony SNF Operations, LLC as the CON holder.

The applicant's parent (TLC) operates one skilled nursing facility (SNF) in Florida:

- Astoria Health and Rehabilitation Center

Oak Hill includes a signed and notarized Schedule 12-Affidavit by the Transferor, dated June 30, 2017, to transfer Exemption #E160018 (issued to Colony SNF Operations, LLC) to another entity who will be an applicant for approval of that transfer.

The project involves 78,470 gross square feet (GSF) of new construction. The construction cost is \$11,183,400. Total project cost is \$19,452,000. Project cost includes land, building, equipment, project development and start-up costs.

The applicant proposes no conditions for the proposed project however, in the applicant's Schedule C, Oak Hill states that it agrees to any reasonable conditions imposed by the Agency, based on statements within the proposal predicated on award. The reviewer notes that neither Colony SNF Operations, LLC (CON #10262), the current CON holder for Exemption #E160018 or Millennium II (CON #10261) had any conditions associated with the issued CONs or exemptions.

**Total GSF and Project Costs of Applicant**

<b>Applicant</b>	<b>CON #</b>	<b>Project</b>	<b>GSF</b>	<b>Costs \$</b>	<b>Cost Per Bed</b>
Oak Hill Health and Rehabilitation, LLC	10491	New 109-Bed Facility	78,470	\$19,452,000	\$178,459.71

Source; CON application #10491, Schedule 1 and 9

**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 district, applications are comparatively reviewed to determine which applicant best meet 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 Dwight Aldridge analyzed the application in its entirety with consultation from the financial analyst Eric West, Bureau of Central Services, who evaluated the financial data and Scott Waltz of the Office of Plans and Construction, 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 sections 408.035, and 408.037, Florida Statutes, and applicable rules of the State of Florida, 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.**

The applicant has submitted CON application #10491 (transferring Exemption #E160018) for expedited review and not in response to the fixed need pool. The number of licensed and approved nursing home beds in Subdistrict 3-6 will remain unchanged as a result of the proposed transfer.

- 1. 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)(a) and (b), Florida Statutes.**

The applicant states that Hernando County has 660 licensed community nursing home beds, distributed across five facilities that support an elderly population of 50,109 age 65+. Oak Hill notes that utilization reports for calendar year 2016 reveal an average occupancy rate of 88.23 percent among the five facilities. The applicant also notes that the two closest facilities to the project site, Evergreen Woods and Spring Hill Health and Rehabilitation Center, both have high occupancy rates (96 percent and 95 percent respectively) for 2016. Oak Hill expresses that the high occupancy rate underscores the need to establish additional

skilled nursing beds in Hernando County to support residents’ needs and ensure availability.

Oak Hill points out that, as a measure of nursing home bed availability, Subdistrict 3-6 has a lower bed to elderly population rate than District 3 or the state. The applicant adds that, based on January 1, 2017 population estimates per 1,000 population age 65+, Hernando County (660 beds), District 3 and the state have the following use rates:

- Hernando County - 13 beds per 1,000
- District 3 - 17 beds per 1,000
- State of Florida 21 beds per 1,000

The applicant contends that Hernando County is under-bedded in comparison to the rest of the district and state. The applicant provides the following table to illustrate bed availability prior and post implementation of the proposed project.

<b>Bed Availability Before And After Implementation</b>						
	<b>BEFORE PROJECT</b>			<b>AFTER PROJECT</b>		
<b>Planning Area</b>	<b>Licensed Comm. Beds 3-1-17</b>	<b>Jan. 1, 2017 Pop. 65+</b>	<b>Beds Per 1000</b>	<b>Licensed and Approved Beds</b>	<b>2021 Pop. 65+</b>	<b>Beds Per 1,000</b>
Subdistrict 3-6	660	50,109	13	769	55,857	14
District 3	7,632	442,806	17	8,819	509,181	17
Florida	80,435	3,879,874	21	84,121	4,399,153	19

Source: CON application #10491, page 1-5

The applicant indicates by year two of operation (2021), the bed availability in Subdistrict 3-6 will increase to 14 beds per 1,000 elderly age 65+, District 3 will maintain 17 beds per 1,000 and the state’s rate will drop from 21 to 19 beds per 1,000 assuming all approved beds are implemented throughout the state. Oak Hill asserts that given the impact of population growth, the successful completion of the proposed project insures future availability of skilled nursing beds to Hernando County residents, bringing the subdistrict in closer alignment with district and statewide rates.

Oak Hill states over the next five years the elderly population will increase from approximately 42,000 to over 47,000 persons 65+ living within a 10-mile radius of Oak Hill’s proposed facility, representing 80 percent of the elderly population within Hernando County. Oak Hill provides a map on page 1-10 of CON application #10491 which illustrates the applicant’s proposed site ZIP code 34613, as well as adjacent ZIP Codes 34606, 34608 and 34609 are projected to have the largest concentration of elderly. Oak Hill reports that the population age 65+ and over currently represent 29 percent of the total population for both Hernando County and the 10-mile radius. The applicant notes that the growth for the age cohort 65+ over the next five years will exceed that

of those under age 65, subsequently bringing the concentration of seniors up to 32 percent of the population within the 10-mile radius and 31 percent of the county’s total population. Oak Hill provides the following population estimates and growth rates for the elderly and total population within the 10-mile radius.

<b>Current 2016 and Projected 2021 Population Estimates, Increase and Growth Rate for Hernando County and the Ten-Mile Radius of the Project</b>							
		<b>CURRENT POPULATION</b>			<b>PROJECTED POPULATION</b>		
<b>ZIP Code</b>	<b>Geography Name</b>	<b>2016 POP. 0-64</b>	<b>2016 POP. 65+</b>	<b>Total 2016 POP.</b>	<b>2021 POP. 0-64</b>	<b>2021 POP. Age 65+</b>	<b>Total 2021 POP.</b>
34604	Brooksville	8,871	1,924	10,795	9,066	2,280	11,346
34606	Spring Hill	15,935	9,665	25,600	15,464	10,160	25,624
34607	Spring Hill	5,425	2,927	8,352	5,246	3,372	8,618
34608*	Spring Hill	24,079	8,040	32,119	24,242	8,982	33,224
34609*	Spring Hill	30,086	10,075	40,161	30,997	11,751	42,748
34613*	Brooksville	10,695	8,061	18,756	10,345	9,219	19,564
34614	Brooksville	5,974	1,340	7,314	6,386	1,627	8,013
<b>10-Mile Radius Total</b>		<b>101,065</b>	<b>42,032</b>	<b>143,097</b>	<b>101,746</b>	<b>47,391</b>	<b>149,137</b>
<b>10-Mile Distribution</b>		<b>71%</b>	<b>29%</b>	<b>100%</b>	<b>68%</b>	<b>32%</b>	<b>100%</b>
<b>Hernando County</b>		<b>127,670</b>	<b>50,907</b>	<b>178,577</b>	<b>127,573</b>	<b>57,567</b>	<b>185,140</b>
<b>Hernando Distribution</b>		<b>71%</b>	<b>29%</b>	<b>100%</b>	<b>69%</b>	<b>31%</b>	<b>100%</b>
<b>5-YEAR INCREASE</b>				<b>5-YEAR GROWTH RATE</b>			
<b>ZIP Code</b>	<b>Geography Name</b>	<b>POP. 0-64</b>	<b>POP. 65+</b>	<b>Total POP. Increase</b>	<b>POP. 0-64</b>	<b>POP. Age 65+</b>	<b>Total POP. Growth</b>
34604	Brooksville	195	356	551	2.2%	18.5%	5.1%
34606	Spring Hill	-471	495	24	-3.0%	5.1%	0.1%
34607	Spring Hill	-179	495	266	-3.3%	15.2%	3.2%
34608*	Spring Hill	163	942	1,105	0.7%	11.7%	3.4%
34609*	Spring Hill	911	1,676	2,587	3.0%	16.6%	6.4%
34613*	Brooksville	-350	1,158	808	-3.3%	14.4%	4.3%
34614	Brooksville	412	287	699	6.9%	21.4%	9.6%
<b>10-Mile Radius Total</b>		<b>681</b>	<b>5,359</b>	<b>6,040</b>	<b>0.7%</b>	<b>12.7%</b>	<b>4.2%</b>
<b>Hernando Total</b>		<b>-97</b>	<b>6,660</b>	<b>6,653</b>	<b>-0.1%</b>	<b>13.1%</b>	<b>3.7%</b>

Source: CON application #10491, page 1-11

\*Five-mile radius of proposed facility

Oak Hill states the proposed facility will be centrally located allowing residents from all parts of the county access within a 30-minute drive. The applicant indicates this 30-minute drive time contour also reaches into south Citrus County and north Pasco County along highway 19 where no nursing homes exist, therefore the proposed facility will be accessible by major roads and highways. The applicant provides a map on page 1-9 of CON application #10491, which illustrates Hernando County nursing homes and acute care hospitals within a five and 10-mile radius of the proposed facility location.

Regarding quality of care, the applicant states that TLC is family-owned and has been in business 25 years, employing 2,500 employees. The applicant adds that TLC embraces the continuum of care for aging and adopts a “fill the gap” approach to assuring access and availability of care to seniors. TLC notes that the nursing home it operates in Polk

County, Astoria Health and Rehabilitation Center, is currently a four-star facility, based on the recent Florida inspections. The reviewer confirms, via [floridahealthfider.gov](http://floridahealthfider.gov), an overall four-star inspection rating as of May 2017. Oak Hill declares the proposed project will offer all private rooms in the nursing facility. The applicant notes that the adjacent assisted living facility offers studios, one-bedroom and two-bedroom apartments, as well as 20 memory care units. The applicant states the mix of accommodations and services ensure assures that residents may age in place. Oak Hill discusses the limited private room inventory in Hernando County nursing homes, noting that there are only 22 private rooms among the five facilities. The applicant indicates that the proposed facility will be located in a planned senior living campus—a 15-acres site approximately 1,500 feet from Oak Hill Hospital on Cortez Boulevard in Brooksville, with approximately seven acres for the proposed nursing home. The applicant provides the following table illustrating the private bed inventory for Hernando County.

<b>Inventory of Private Rooms in Existing Hernando County Nursing Homes</b>					
<b>Facility</b>	<b>Number of Beds</b>	<b>Private Rooms</b>	<b>Semi-Private Rooms</b>	<b>Three-Bed Rooms</b>	<b>Four-Bed Rooms</b>
Brooksville Healthcare Center	180	2	81	0	4
Evergreen Woods	120	4	58	0	0
Heron Pointe Health & Rehabilitation	120	8	56	0	0
Northbrook Health & Rehabilitation	120	4	56	0	0
Spring Hill Health & Rehabilitation	120	4	58	0	0
<b>Existing Total</b>	<b>660</b>	<b>22</b>	<b>311</b>	<b>0</b>	<b>4</b>
<b>Total with Oak Hill</b>	<b>769</b>	<b>131</b>	<b>311</b>	<b>0</b>	<b>4</b>

Source: CON application 10491, page 1-7

Oak Hill makes note that Brooksville Healthcare Center still utilizes a four-beds per room layout. The applicant proclaims that the proposed facility will only offer private rooms, with four designed for residents requiring bariatric accommodations, fostering resident centered care for subdistrict residents and raising the bar for quality.

The applicant discusses geographic access, stating that the existing five SNFs provide for the subacute care needs of residents discharged from among the three acute care hospitals in Hernando County, these being Oak Hill Hospital (280 beds), Bayfront Health Brooksville (120 beds) and Bayfront Health Spring Hill (124 beds). Oak Hill asserts that the proposed facility will provide short-term rehabilitation to community residents and will be a “step-down” facility from acute care for those residents who utilize nearby Oak Hill Hospital as well as the other two hospitals.

Oak Hill expresses the importance of increasing access by offering a wide range of services, thus ensuring that the varying needs of individuals are served. The applicant indicates that the provision of both short-term and

long-term rehabilitation care services will include a wide array of restorative, rehabilitative and long-term care, appropriate for a variety of patient needs. Oak Hill maintains that the proposed facility will enhance access for those living in the planning area with chronic debilitating diseases as well as those recuperating from a hospital stay. In addition to being geographically accessible, the applicant states the proposed facility will be dually Medicare and Medicaid-certified and will be financially accessible to all persons.

In regards to extent of utilization, Oak Hill notes that over the last three years, Hernando County has experienced an overall occupancy rate of approximately 89 percent. The applicant provides occupancy data for each SNF in Hernando County for the three-year period 2014-2016, noting that three of the five facilities operate at an occupancy rate of 93 percent or higher, while one facility experienced an occupancy rate below 80 percent thus indicating that utilization is not equally distributed across existing facilities. See the table below.

<b>Subdistrict 3-6, Hernando County SNF Occupancy Rates</b>							
		<b>CY 2016</b>		<b>CY 2015</b>		<b>CY 2014</b>	
<b>Facility</b>	<b>Beds</b>	<b>Resident Days</b>	<b>Total Occup.</b>	<b>Resident Days</b>	<b>Total Occup.</b>	<b>Resident Days</b>	<b>Total Occup.</b>
Brooksville Healthcare Center	180	53,387	81.0%	55,186	84.0%	56,105	85.4%
Evergreen Woods	120	42,250	96.2%	42,122	96.2%	42,182	96.3%
Heron Pointe Health & Rehab	120	41,147	93.7%	42,431	96.9%	41,796	95.4%
Northbrook Health & Rehab	120	34,568	78.7%	34,957	79.8%	33,100	75.6%
Spring Hill Health & Rehab Center	120	41,786	95.1%	42,881	97.9%	41,737	95.3%
<b>Total</b>	<b>660</b>	<b>213,138</b>	<b>88.2%</b>	<b>217,577</b>	<b>90.3%</b>	<b>214,920</b>	<b>89.2%</b>

Source: CON application #10491, page 1-13

Oak Hill states that the two facilities located within a five-mile radius of the proposed Oak Hill nursing facility, Evergreen Woods and Spring Hill Rehabilitation Center, both experienced a three-year occupancy rate of 95 percent or higher, indicating the need for additional capacity in this part of Hernando County. The applicant notes that Spring Hill Health and Rehabilitation is located in the same ZIP Code (34613) as the proposed facility.

Utilizing state population estimates published February 2015 by the Agency, the applicant states that Hernando County had a total population estimate of 185,007, with 49,346 estimated to be age 65+ in July 2016. Oak Hill states when applying the population of 65+ to the resident days, the use rate of skilled nursing care in the subdistrict is 4,319 days per 1,000 population for the elderly of Hernando County, the applicant held the use rate constant to project the utilization for 2021, year two of operation for the proposed 109-bed facility. Oak Hill states

that applying the use rate for the population in 2021 generates 243,878 resident days, with an average daily census of 668 residents. For the proposed 109-bed facility, Oak Hill applies a 92 percent use rate, and presents the following forecasted nursing home resident days for 2021. See the table below.

<b>Forecasted Nursing Home Resident Days for the Subdistrict and New 109-Bed Facility Assuming a 92 Percent Occupancy Rate, Year Two of Operation</b>	
Resident Days, CY 2016	213,138
Average Daily Census, CY 2016	582
Hernando County Pop 65+, 2016	49,346
Days per 1,000 Pop 65+, CY 2016	4,319
Hernando County Pop 65+, 2021	56,463
Resident Days Forecasted for 2021	243,878
<b>Average Daily Census, 2021</b>	<b>668</b>
Proposed Oak Hill Days at 92%	36,687
Less Forecasted Oak Hill Resident Days	207,191
<b>Average Daily Census, 2021, Remaining Days</b>	<b>568</b>

Source: CON application #10491, page 1-14

The applicant states that data above shows that in year 2021, Hernando County will have an average daily census (ADC) of 668 residents. With no added beds, Oak Hill contends that the existing 660 licensed beds would render eight county residents without access. The applicant reiterates that the subdistrict has a lower use rate and a lower number of beds per 1,000 for age cohort 65+ than the district or state. Oak Hill notes that when applying the District 3 use rate (5,716 days per 1,000 population) to Hernando County, the forecast shows an ADC of 784. The applicant maintains that without the proposed facility, the result is a deficit of 124 beds based on existing licensed beds, with this deficit increasing when the state use rate (6,704 days per 1,000) is applied to Hernando County's age cohort 65+. Oak Hill states that the lower bed to population rate indicates pent up demand and expects the construction of the proposed facility to increase utilization within the county.

The applicant provides additional responses to the project's conformity with health access criteria pursuant to Rule 59C-1.030(2) on pages 1-15 through 1-18 of CON application #10491.

- b. Does the applicant have a history of providing quality care? Has the applicant demonstrated the ability to provide quality care? ss. 408.035(1)(c), Florida Statutes.**

Oak Hill is a new entity and does not have a history of providing care but indicates, as an affiliate of TLC Management, it will adopt the policies and procedures that produce conformity with quality assurance objectives within the national STAR rating system used in nursing homes. The applicant states it will also adopt TLC Management's tools to assure quality throughout the provision of services. The applicant



discusses TLC's commitment to quality and provides the parent company's mission statement: "*TLC Management, Inc. is committed to restoring our residents to their highest potential through kind, compassionate medical care*".

The applicant states that it will implement a Strategic Quality Plan and have will have a systematic and facility-wide performance improvement process. Oak Hill asserts the Performance Improvement Committee establishes a process for identifying, responding to and implementing performance improvement activities to meet and exceed customer's expectations. The applicant indicates that all staff is educated on the Quality Assurance and Performance Improvement (QAPI) process with the following points addressed:

- Continually improving the delivery of care/services to residents
- Involving all departments on an on-going basis
- Addressing key facility practices
- Serving as a liaison between the facility and company management

The applicant outlines that the QAPI team will review quality measure scores monthly to review issues that may require performance improvement measures, as the goal is to prevent failure in core processes that could cause a substandard quality of care. The applicant maintains that the quality control process detects any problems early so adverse conditions can be minimized and corrective action initiated. Oak Hill provides a copy of TLC's five-page QAPI policy on page 2-12 of CON application #10491.

Oak Hill discusses plans to adopt the online system Abaqis Providigm<sup>1</sup>, which promotes conformity with the CMS<sup>2</sup> quality of care guidelines. In addition the applicant states the intent to utilize the INTERACT (Interventions to Reduce Acute Care Transfers) program to reduce the frequency of transfers to acute care hospitals. Oak Hill discusses resident rights and provides a copy of TLC's Residents' Rights and Policy Material in Exhibit 2-2 of CON application #10491.

<sup>1</sup> Abaqis Quality Management System is an assessment and reporting system utilized to improve quality efforts. <https://www.providigm.com/solutions/>

<sup>2</sup> Centers for Medicare & Medicaid Services is a federal agency that administers the Medicare, Medicaid and Child Health Insurance programs. <https://www.cms.gov/>

The applicant reports that each of TLC’s facilities are credited by Providigm QAPI, and plans to also seek Providigm accreditation, which is composed of the following four standards of excellence:

- *Comprehensive* -facility staff complete and enter a sufficient number of assessments into the Abaqis web based program. The assessment consists of the admission record review, census record review, family interview, resident interview as well as the resident observation and staff interview.
- *Continuous* – facility staff perform quality activities on an ongoing basis of two alternating quarters.
- *Coverage* – assessments cover a sufficient number of unique residents, using an admission record review and/or a census assessment. The same resident assessment cannot be used repeatedly
- *Corrective* – areas needing improvement undergo an improvement process, known as stage 2 activities.

Oak Hill states facility staff will evaluate these four standards on a quarterly basis.

The applicant indicates that several TLC facilities are silver and bronze recipients of National Quality Awards. Oak Hill states and the reviewer confirms that Astoria Health and Rehabilitation Center, as of May 2017, had a four-star overall quality rating out of five possible stars according to FloridaHealthFinder.gov’s Nursing Home Guide. The applicant also states that Astoria Health and Rehabilitation Center received an CMS five-star overall quality rating however, according to the Medicare and Nursing Home Compare Care website <https://www.medicare.gov/nursinghomecompare/search.html>, as of July 26, 2017, Astoria received a three out of five-star overall quality rating.

Agency complaint records indicate, for the three-year period ending July 25, 2017, Astoria Health and Rehabilitation Center had eight substantiated complaints. A single complaint can encompass multiple complaint categories. The substantiated complaint categories are listed below:

<b>Astoria Health and Rehabilitation Center, affiliate of Tender Loving Care Management, Inc.</b>	
<b>Complaint Category</b>	<b>Number Substantiated</b>
Quality of Care/Treatment	4
Resident/Patient/Client Rights	1
Dietary Services	1
Infection Control	1
Resident/Patient/Client Assessment	1

Source: Florida Agency for Healthcare Administration Complaint Records

- c. **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), Florida Statutes.**

**Analysis**

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 capital (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 benchmarks 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 applicant only provided audited financial statements for a company in its startup phase.

**Capital Requirements and Funding**

The applicant indicates on Schedule 2 capital projects totaling \$19,452,000 which consists solely of this project. The applicant also indicates on Schedule 3 of its application that funding for the project will be provided by \$4,863,000 in cash on hand and \$14,589,000 from non-related company financing. To demonstrate the applicant's ability to fund the project, applicant provided two letters from Regions Bank, one demonstrating interest to provide up to 75% of the funds in financing and the other stating that the applicant had access to sufficient capital from the principals in the project. However, the audited financial statements that were submitted only show \$250,000 available. Additionally, an interest in providing a loan is not the same as committing to providing the loan.

**Conclusion**

Funding for this project is in question.

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

**Analysis**

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 (2014, 2015, and 2016 cost report years). For our comparison group, we selected skilled nursing facilities with similar Medicaid utilizations to the utilization projected by the applicant on a per patient day basis (PPD). Comparison group data was adjusted for inflation to match the second year projection (inflation factor was based on the New CMS Market Basket Price Index as published in the 3rd Quarter 2016, 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	14,818,841	404	2,109	489	362
Total Expenses	13,087,790	357	1,891	479	364
Operating Income	1,731,051	47	173	13	-51
Operating Margin	11.68%		<b>Comparative Group Values</b>		
	Days	Percent	Highest	Median	Lowest
Occupancy	36,686	92.21%	96.94%	89.22%	68.75%
Medicaid	10,969	29.90%	40.02%	34.17%	22.75%
Medicare	17,610	48.00%	60.40%	41.17%	14.14%

**Staffing**

Section 400.23(3)(a)(1), Florida Statutes, specifies a minimum certified nursing assistant staffing of 2.5 hours of direct care per resident per day and a minimum licensed nursing staffing of 1.0 hour of direct resident care per resident day. Based on the information provided in Schedule 6, the applicant’s projected staffing meets this requirement.

The projected NRPD and profit fall within the group range in proximity to the median values and are considered reasonable. The CPD falls slightly below the lowest value. In addition, the total cost appears to include at least the minimum

**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? ss. 408.035(1)(g), Florida Statutes.**

**Analysis**

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 costs 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. Since nursing home services are limited to available beds and the total number of beds in the service area will remain unchanged, the impact on market share is foreseen as limited.

However, through the construction of a new facility and increase in the number of private rooms available, the project may have an impact on the quality of service offered in the service area, but the existing health care system's barriers to price-based competition via fixed price payers limits any significant gains in cost effectiveness that would be generated.

**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), Florida Statutes; Ch. 59A-4, Florida Administrative Code.**

The applicant has submitted all information and documentation necessary to demonstrate compliance with the architectural review criteria. The cost estimate for the proposed project provided in Schedule 9, Table A and the project completion forecast provided in Schedule 10 appear to be reasonable. A review of the architectural plans, narratives and other supporting documents did not reveal any deficiencies that are likely to have 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. Approval from the Agency for Health Care Administration’s Office of Plans and Construction is required before the commencement of any construction involving a hospital, nursing home, or intermediate care facility for the developmentally disabled (ICF/DD).

- g. Does the applicant have a history of providing 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) Florida Statutes.**

The reviewer provides a five-year history of Medicaid patient days and occupancy for the county, subdistrict, district and state in the table below.

<b>Medicaid Patient Days &amp; Medicaid Occupancy in Hernando County, District 3 and Florida</b>					
<b>Medicaid Patients Days</b>					
<b>Facility/Area</b>	<b>CY 2012</b>	<b>CY 2013</b>	<b>CY 2014</b>	<b>CY 2015</b>	<b>CY 2016</b>
Hernando County	130,103	134,484	133,037	126,599	129,236
District 3	1,523,920	1,539,234	1,548,052	1,541,911	1,587,806
Florida	15,733,318	15,700,197	15,932,613	15,959,939	16,144,618
<b>Medicaid Occupancy</b>					
<b>Facility/Area</b>	<b>CY 2012</b>	<b>CY 2013</b>	<b>CY 2014</b>	<b>CY 2015</b>	<b>CY 2016</b>
Hernando County	61.62%	62.85%	61.90%	58.19%	63.99%
District 3	62.13%	62.34%	61.95%	61.76%	60.63%
Florida	61.85%	61.66%	62.17%	62.18%	63.13%

Source: Florida Nursing Home Bed Need Projection by District and Subdistrict, January 2012 –December 2016

Oak Hill asserts that the proposed facility affords access to Medicare and Medicaid Program participants and provides a range of therapeutic services for both long and short-term residents of the nursing home.

The applicant states the expectation of the proposed facility to ease the excess demand exerted on facilities whose occupancy rates exceed 90 percent and reiterates that Oak Hill will be centrally located within the county to enhance access for Hernando County residents, including those whose care is reimbursed by Medicaid.

The applicant states since implementation of Medicaid Managed Care Plans (2014), the Medicaid nursing home occupancy rates remain relatively stable in Hernando County ranging from a high of 61.90 percent in 2014 to a low of 58.19 percent in 2015, averaging 60.63 percent in 2016. Oak Hill notes that CMS continues to promote Medicare Advantage Plans and as a result, the number of enrollees continues to grow. The applicant indicates that by seeking contracts with a variety of payers, including managed care plans and those for Medicaid recipients, the proposed facility promotes access and widens the numbers of persons who can be served.

The applicant indicates that the parent company TLC and its affiliate, Astoria Health and Rehabilitation Center, has a history of providing skilled nursing care to Medicaid patients in addition to its quality, |short-term rehabilitation program. Oak Hill provides a table (CON application #10491, page 7-2) that reflects the historical Medicaid utilization for the five Hernando County SNFs, Subdistrict 3-6, District 3 and Astoria Health and Rehabilitation Center, for the three-year period CY 2014 through CY 2016. The reviewer confirms that data presented in the applicant’s three-year table is accurate. The reviewer provides the following table utilizing Medicaid occupancy data provided by the applicant for Astoria Health and Rehabilitation Center for CY 2014 through CY 2016. See the table below.

<b>Astoria Health and Rehabilitation Center Florida Medicaid Occupancy CY 2014 through CY 2016</b>			
<b>Year</b>	<b>Medicaid Patient Days</b>	<b>Total Patient Days</b>	<b>Medicaid Occupancy</b>
2014	18,900	41,648	61.90%
2015	19,089	41,063	58.19%
2016	19,464	40,520	60.63%
<b>Total</b>	<b>57,453</b>	<b>123,231</b>	<b>60.14%</b>

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict January 2014–December 2016

Oak Hill provides forecasted patient days by payer mix for the proposed 109-bed facility for the first two years of operation. The applicant projects 29.9 percent Medicaid patient days (10,969 patient days) in both year one (2020) and year two (2021) of operation. The applicant states

that charity care is included in the self-pay category in the table below, thus Oak Hill asserts that both Medicaid and charity care are addressed in conformity with the statutory provision. See the table below.

<b>Forecasted Admissions and Patient Days for Oak Hill Health and Rehabilitation, First Two Years of Operation</b>			
<b>Payer</b>	<b>Year One: CY 2020</b>	<b>Year Two: CY 2021</b>	<b>Percent of Days</b>
Medicare	4,361	8,145	22.2%
Medicare HMO	5,068	9,465	25.8%
Medicaid HMO	5,873	10,969	29.9%
Commercial Insurance	982	1,834	5.0%
Self-Pay	2,495	4,659	12.7%
Other	864	1,614	4.4%
<b>Total</b>	<b>19,643</b>	<b>36,686</b>	<b>100.0%</b>
<b>Occupancy</b>	<b>49.2%</b>	<b>92.2%</b>	

Source: CON application #10491, page 7-3

The applicant’s Schedule 7 indicates that Medicaid and self-pay represent 29.9 percent and 12.7 percent respectively, year one and year two annual total patient days.

**F. SUMMARY**

**Oak Hill Health and Rehabilitation, LLC (CON application #10491)**, a newly formed entity and an affiliate of TLC Management, Inc., seeks to transfer Exemption #E160018 from Colony SNF Operations, LLC, to establish a new 109-bed community nursing home in Subdistrict 3-6, Hernando County, Florida.

Colony SNF Operations, LLC was originally issued CON #10261 on February 8, 2016, to establish a 59-bed community nursing home in Subdistrict 3-6, Hernando County. CON #10262 was issued to Millennium II, also on February 8, 2016, to establish a 50-bed community nursing home in Subdistrict 3-6, Hernando County. The Agency issued Exemption #E160018 on July 22, 2016 combining CON #10261 and CON #10262 to create a 109-bed community nursing home with Colony SNF Operations, LLC as the CON holder.

TLC operates one SNF in Florida.

Oak Hill included a signed and notarized Schedule 12-Affidavit by the Transferor, dated June 30, 2017, to transfer Exemption #E160018 (issued to Colony SNF Operations, LLC) to another entity who will be an applicant for approval of that transfer.



The project involves 78,470 GSF of new construction. The construction cost is \$11,183,400. Total project cost is \$19,452,000. Project cost includes land, building, equipment, project development and start-up costs.

The applicant proposes no conditions on its Schedule C. The reviewer notes that Colony SNF Operations, LLC (CON #10262), the current CON holder for Exemption #E160018 or Millennium II (CON #10261), did not accept any conditions.

### **Need**

The applicant has submitted CON application #10491 (transferring Exemption #E160022) for expedited review and not in response to the fixed need pool. The number of licensed and approved nursing home beds in Subdistrict 3-6 will remain unchanged as a result of the proposed transfer.

Oak Hill indicates the following regarding the proposed project:

- The proposed site will feature a planned 67-bed assisted living facility to provide a continuum of care on one campus
- The proposed facility will consist of 109 private rooms, including four bariatric rooms
- The proposed facility will increase access and availability as the subdistrict has a lower use rate than District 3 and the state
- By year 2021 the elderly 65+ population in Subdistrict 3-6 will increase by 6,660, representing a 13.1 percent growth rate, the proposed facility will enhance access for those area residents with chronic and debilitating diseases and those recuperating from a hospital stay

### **Quality of Care**

As a newly formed entity, the applicant does not have a history of providing quality care. The applicant indicates that the parent company TLC has a history of providing quality care and will adopt its policies and procedures to assure quality throughout the provision of services.

Agency records indicate that for the three-year period ending July 25, 2017, the parent's affiliated Florida SNF, Astoria Health and Rehabilitation Center, had eight substantiated complaints

### **Cost/Financial Analysis**

Funding for this project is in question. This 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 Analysis**

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 Commitment**

The applicant's Schedule 7 indicates that Medicaid and self-pay represent 29.9 percent and 12.7 percent respectively, for year one and year two annual total patient days. Oak Hill does not offer a Medicaid condition for the proposed project.

**G. RECOMMENDATION**

Approve CON #10491 to transfer Exemption #E160018 from Colony SNF Operations, LLC, to establish a new 109-bed community nursing home in Subdistrict 3-6, Hernando County, Florida. The total project cost is \$19,452,000. The project involves 78,470 GSF of new construction and a construction cost of \$11,183,400.

CONDITION: The applicant will have four private rooms available for residents requiring bariatric accommodation.

**AUTHORIZATION FOR AGENCY ACTION**

The authorized representative of the Agency for Health Care Administration adopted the recommendation contained herein and released the State Agency Action Report.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Marisol Fitch  
**Health Administration Services Manager**  
**Certificate of Need**