

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

**A. PROJECT IDENTIFICATION**

1. Applicant/CON Action Number

**Retirement Five, LLC/CON #10504**

20001 Gulf Boulevard, Suite 10  
Indian Shores, Florida 33785

Authorized Representative: Mr. Terry Russell  
(727) 489-0857

2. Service District/Subdistrict

District 3, Subdistrict 3-4 (Marion County)

**B. PUBLIC HEARING**

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

**C. PROJECT SUMMARY**

**Retirement Five, LLC, (CON application #10504)** also referenced as Retirement Five or the applicant, is a newly formed private-for-profit entity and affiliate of KR Management, LLC (also referenced as KRM). The applicant seeks to transfer CON #10257 from Marion County Development, LLC, (also referenced as MCD) to Retirement Five, LLC to construct a new 120-bed community nursing home in District 3, Nursing Home Subdistrict 3-4, Marion County, Florida.

KR Management, LLC operates three skilled nursing facilities (SNFs) in Florida:

- Buffalo Crossing Healthcare and Rehabilitation Center
- Oak Manor Healthcare and Rehabilitation Center
- Wrights Healthcare and Rehabilitation Center

**CON Action Number: 10504**

CON #10257 was issued to MCD on August 4, 2016, to establish a 120-bed community nursing home, in District 3, Nursing Home Subdistrict 3-4, Marion County. CON #10257 was conditioned on the following:

- Site-specific location in Marion County approximately three acres of a 110-acre tract of land adjacent to The Villages located off County Road 42 between Highway 201/35 and Federal Highway 441/27 to be controlled by Titan Senior Living
  - The facility will be accessible to the Villages via golf cart
- Inclusion of a specialized weight training equipment for therapy and rehabilitation purposes<sup>1</sup>
- Provision of on-site physicians and/or physician extender services seven days per week
- Participation in the Center of Medicare and Medicaid Services (CMS's) Bundled Care Payment Initiative Model 3

The result of the proposed transfer would not increase the total number of community nursing home beds in the district, the nursing home subdistrict or in the state. The applicant includes a signed and notarized Schedule 12-Affidavit by the Transferor to another entity who will be an applicant for approval of that transfer.

The project involves 77,594 gross square feet (GSF) of new construction. The construction cost is \$15,675,000. Total project cost is \$26,518,003. Project costs include land, building, equipment, project development, financing and start-up costs. If approved, the proposed project anticipates licensure in December 2019, with initiation of service in January 2020.

The applicant includes the following Schedule C conditions:

1. A site-specific location in Marion County within ZIP code 32162, part of The Villages, in the southern area of Marion County. The proposed site is located off County Road 42, bordering Southeastern 73<sup>rd</sup> Avenue, which is between Highway 301/305 and Highway 441/27
2. A facility providing access to residents covered by Medicaid Managed Care, with 20 percent of patient days allocated to this payer source
3. A facility operating 92 private rooms and 14 semi-private rooms

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

<sup>1</sup> Modified July 1, 2017 from "inclusion of a specialized pool for the provision of aqua-therapy"

Agency will not impose conditions on already mandated reporting requirements.

<b>Total GSF and Project Costs of CON #10257 and CON Application #10504</b>					
<b>Approved Project</b>	<b>CON #</b>	<b>Project</b>	<b>GSF</b>	<b>Costs \$</b>	<b>Cost Per Bed</b>
MCD	10257	New 120-Bed Facility	91,400	\$25,753,579	\$214,613
<b>Proposed Project</b>	<b>CON #</b>	<b>Project</b>	<b>GSF</b>	<b>Costs \$</b>	<b>Cost Per Bed</b>
Retirement Five	10504	New 120-Bed Facility	77,594	\$26,518,003	\$220,983

Source: CON #10257 and CON application #10504, Schedules 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 #10504 as an expedited review and as such, the fixed need pool does not apply. The number of licensed and approved nursing home beds in Subdistrict 3-4 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.**

Retirement Five plans to construct the 120-bed nursing home in the southern part of Marion County on a nine-acre parcel of land in ZIP Code 32162. The applicant states the proposed site borders Southeast Highway 42 and Southeast 73<sup>rd</sup> Avenue and is in close proximity to U.S. Highway 301.

Regarding availability, the applicant discusses nursing home Subdistrict 3-4 demographics, stating that there are presently 10 community nursing homes operating 1,380 total community beds. The applicant notes that as of July 2016, Subdistrict 3-4 had 97,533 elders aged 65+ with a bed ratio of 14.15 community beds per 1,000, which according to the applicant is lower than both the district rates of 17.58 and the state rate of 20.09 community beds per 1,000 elders. The applicant states and the reviewer confirms that Marion County experienced a nursing home occupancy rate of 89.45 percent for CY 2016. The applicant emphasizes that there are only two nursing located in the southern part of Marion County, south of Ocala. The applicant notes that one of the two nursing homes (The Club Health and Rehabilitation Center at the Villages) is located in the same ZIP Code (32162) as the proposed facility and does not serve Medicaid<sup>2</sup> recipients.

Retirement Five discusses quality of care stating that parent company KRM, has the capability to provide consistent quality services for the care of nursing home residents. The applicant provides Agency Nursing Home Inspection Ratings (CON application #10504, page 15) for both KRM

<sup>2</sup> According to Florida Nursing Home Utilization by District and Subdistrict January 1, 2016 through December 31, 2016, The Club Health & Rehab Center at The Villages reported zero Medicaid patient days.

affiliated nursing homes<sup>3</sup>, noting that they both achieve five-star ratings in more than one inspection component. The reviewer notes that Agency Nursing Home Inspections Ratings, last updated November 2017, indicate that KRM affiliates Oak Manor Healthcare and Rehabilitation Center and Wrights Healthcare and Rehabilitation Center had Three-Star and Five-Star ratings respectively, for the period April 2015 through September 2017.

Regarding access, the applicant provides a map (CON application 10504, page 1-5) illustrating that most of the existing subdistrict nursing homes are clustered around the city of Ocala. The applicant states that there is only one Marion County nursing home within a 10-mile radius of the proposed site, yet population projections indicate that the Marion County will experience a population of 35,323 persons aged 65+ within the 10-mile radius by 2022. The applicant further states that the elder population projections does not include Marion County seniors residing in ZIP Code 32162 (The Villages home ZIP Code). The applicant indicates that ZIP Code 32162, which primarily lies in Sumter County, is also applied to Marion County residents residing in the Villages.

The applicant reiterates that Club Health and Rehabilitation Center at The Villages does not serve Medicaid patients and thus is inaccessible to individuals covered under a Medicaid Managed Care Plan. The applicant asserts that all KRM affiliated nursing homes participate in the Medicare and Medicaid programs and accepts other insurance as well, including private pay, to promote financial access. The applicant indicates that hospital discharges will be that major source of nursing home admissions. The applicant provides a table depicting CY 2016 hospital discharges by major diagnostic category (MDC) of Marion County elder residents who were discharged to nursing homes. According to the applicant, Marion County elders accounted for 23,705 hospital discharges in 2016, with 4,636 (19.6 percent) requiring nursing home post-acute care. The applicant reports that elder residents living in ZIP Code 32162, which encompasses both Marion and Sumter Counties, had an additional 1,449 hospital discharges to nursing homes in CY 2016. See the table below.

<sup>3</sup> Buffalo Crossing Healthcare and Rehabilitation Center was licensed June 2017. Health inspections are conducted annually by the Agency, therefore inspection data is not available.

<b>Marion County Residents Aged 65+ by MDC Discharged to Nursing Homes CY 2016</b>			
<b>MDC</b>	<b>Cases</b>	<b>Percent</b>	<b>Cumulative Percent</b>
08 Diseases & Disorders of Musculoskeletal System & Conn Tissue	1,303	28.1%	28.1%
05 Diseases & Disorders of the Circulatory System	781	16.8%	45.0%
04 Diseases & Disorders of the Respiratory System	473	10.2%	55.2%
01 Diseases & Disorders of the Nervous System	424	9.1%	64.3%
18 Infectious & Parasitic Diseases , Systemic or Unspecified Sites	359	7.7%	72.0%
11 Diseases & Disorders of the Kidney & Urinary Tract	355	7.7%	79.7%
Subtotal	3,695	79.7%	79.7%
All other MDCs	941	20.3%	100.0%
<b>Total</b>	<b>4,636</b>	<b>100.0%</b>	<b>100.0%</b>

Source: CON #10504, page 1-6

The applicant states that 80 percent of all hospital discharges of elderly Marion County residents to nursing homes were clustered in six MDCs. The largest number of discharges were associated with orthopedic conditions, MDC 8, represented 28 percent of nursing home admissions among elderly county residents, followed by MDC 5, cardiac circulatory conditions, representing 16.8 percent of discharges. Retirement Five states that these diagnoses require SNF to focus on orthopedic rehabilitation as well as therapies essential to care for the other conditions reflected in the discharge data. The applicant asserts that Retirement Five will offer a variety of services, including physical, occupational and respiratory therapy.

Regarding utilization the applicant states that for CY 2016, Marion County facilities reported an annual occupancy rate of 89.5 percent, higher than the District occupancy rate of 88.8 percent. The applicant maintains that all nursing homes experienced an occupancy rate of 85 percent or higher with four facilities exceeding 91 percent occupancy. See the table below.

<b>Marion County Nursing Home Utilization, CY 2016</b>						
<b>Facility Name</b>	<b>Beds</b>	<b>Bed Days</b>	<b>Resident Days</b>	<b>Occup.</b>	<b>M'Caids Days</b>	<b>M'Caids Occup.</b>
Avanta at Ocala, Inc.	133	48,678	41,641	85.5%	24,833	59.6%
Club Health & Rehab Center at The Villages	68	24,392	20,841	85.4%	0	0.0%
Hawthorne Health and Rehab of Ocala	120	43,920	40,310	91.8%	22,191	55.1%
Life Care Center of Ocala	120	43,920	37,430	85.2%	15,720	42.0%
Oakhurst Center	180	65,880	58,361	88.6%	41,028	70.3%
Ocala Health and Rehabilitation Center	180	65,880	61,483	93.3%	46,051	74.9%
Ocala Oaks Rehabilitation Center	120	43,920	38,932	88.6%	30,637	78.7%
Palm Garden of Ocala	180	65,880	59,949	91.05	42,134	70.3%
The Lodge Health & Rehabilitation Center	99	36,234	34,566	95.4%	21,154	61.2%
TimberRidge Nursing & Rehab Center	180	65,880	57,849	87.8%	29,244	50.6%
<b>Total</b>	<b>1,380</b>	<b>504,584</b>	<b>451,362</b>	<b>89.5%</b>	<b>272,992</b>	<b>60.5%</b>

Source: CON application #10504, page 1-7,

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The applicant states that although eight beds were added to the subdistrict, Marion County continued to increase resident days between 2014 and 2015. Retirement Five provides a chart (CON application #10504, page 1-8) depicting Marion County total resident days for CY 2012-2016. The applicant maintains that elderly Marion County residents used nursing homes at a lower rate than experienced by District 3 or the state in 2016. The applicant reports that Marion County use rate based on the Agency's population estimates for July 1, 2016, shows there were 4,628 days per 1,000 elderly population in 2016. In District 3, the use rate was 5,716 days per 1,000, which was over 1,000 days higher than Marion County's rate and the state use rate was even higher at 6,704. Retirement Five states that a lower use rate may be the result of Marion County's market factors. The applicant explains that private rooms are limited with Marion County having 216 private rooms, representing only 15.7 percent of the licensed bed inventory. The applicant lists additional factors influencing utilization such as nursing home location, patient preference and payer access.

Retirement Five states that six Marion County ZIP Codes lie within the 10-mile radius around the proposed nine-acre site, representing 31,319 elders aged 65+ in 2017, with a projected compound annual growth rate (CAGR) of 2.4 percent through 2020. The applicant notes ZIP Code 34491 (adjacent to the proposed site), represents a large elderly cohort of almost 14,000 in 2017 and a CAGR of 3.0 percent. The applicant provides the age cohort 65+ CAGR and 65+ population for the six Marion County ZIP Codes within 10-mile radius of the proposed location. See the table below.

<b>ZIP Code Population 65+ Within 10 Mile Radius of Proposed Project</b>			
<b>ZIP Code</b>	<b>2017 65+ Population</b>	<b>2022 65+Population</b>	<b>CAGR</b>
34473	4,186	4,560	1.7%
34480	3,040	3,515	2.9%
34491	13,863	16,069	3.0%
34490	3,640	3,921	1.5%
34472	5,420	5,892	1.7%
32195	1,170	1,366	3.1%
<b>Total</b>	<b>31,319</b>	<b>35,323</b>	<b>2.4%</b>

Source: CON application #10504, page 1-10

The applicant asserts that there is a growing concentration of elderly residents in the southern end of Marion County with additional elders residing within The Villages representing another a group who may also access the proposed facility. Retirement Five contends that with only one 68-bed SNF located within the proposed service area, and none serving residents whom rely on Medicaid as a payor source, the proposed facility provides access to more than 30,000 residents, including those utilizing Medicaid Managed Care plans.

**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.**

The applicant states that KRM's affiliate Wright's Healthcare and Rehabilitation Center achieved a five-star rating from CMS and the Agency for the most recent inspection period as well as achieved Bronze Status in 2015 as part of the American Health Care Association/National Center for Assisted Living National Quality Award Program. Retirement Five asserts that these designations demonstrates KRM's commitment and ability to implement quality programs within its SNF. The applicant provides a list of KRM's ten guiding principles (CON application #10504, page 2-2 through 2-3) which are upheld by staff.

The applicant states that the QAPI process integrates into Risk Management Quality Assurance Department with all participating departments. The applicant states that the QAPI encompasses the full range of services, including but not limited to the following:

- Post-acute care
- Long-term care
- Wound care
- Behavior management
- Dementia care
- Rehabilitation
- Hospice care
- Psycho-social needs
- Nutritional management
- Environmental services

Retirement Five states that the QAPI program addresses clinical care, quality of life and care transition while remaining mindful of honoring residents' choices. The applicant maintains that the QAPI program focuses on deliberate positive change to better the lives of residents, creating and maintaining a balance of safety, resident choice and autonomy when making changes in the clinical, environmental or the physical plant. The applicant express that accurate measurements and selection of indicators drive the evaluative process and lead to improved ways of assuring the best in care practices. The applicant provides sample QAPI forms in Exhibit 2 of CON application #10504.

Additionally, the applicant states that the design of scope of the QAPI plan will utilize selected sources of data, reviewed on a regular basis, identifying the areas for improvement, measuring against federal, state and facility benchmarks. Data sources include but are not limited to the following:

- Occurrence reporting



- Infection control monitoring
- Clinical operations
- Resident profiles
- CMS/FHCA/AHCA/DOH websites
- Utilization review
- Risk management/QAPI meetings

Retirement Five discusses governance and leadership, stating that facility leadership is responsible for monitoring data sources for any areas in the accumulated data that fall outside the established benchmarks/threshold from identified sources. Facility leaders also determine the priority for the Performance Improvement Projects (PIPs), which consider the following major areas:

- Resident care and services
- Health and safety
- Regulatory requirements
- Physical plant and environmental services
- Any areas considered high risk, high volume or potentially adverse in nature

Furthermore, the applicant states that for each issue, a PIP-specific workgroup develops the projects charter, implements the PIP and communicates progress to leadership, residents, employees and others. The applicant lists the format for the Plan Do Study Act (PDSA) and discusses systematic analysis and action, as well as evaluation of the QAPI plan on page 2-5 of CON application #10504.

The applicant indicates that two KRM systems will be utilized by staff in support of their QAPI efforts, with the first being monthly educational opportunities including the following trainings: disaster, accident and medical error prevention, CPR, risk factors for falls as well as other topics. The second system, as stated by the applicant, is the electronic health record system (EHR), PointClickCare. Retirement Five indicates the software contains a library of tools, such as various assessments and links with pharmacies for prescribing medication. According to the applicant, staff are able to quickly summarize clinical information, visualize the resulting data, create a performance improvement plan and perform other quality functions as part of the system. The applicant affirms the deployment of these systems at the proposed facility and includes additional information pertaining to EHR and PointClickCare in Tab 10 of CON application #10504.

Regarding resident rights' the applicant states that each resident and employee receives a publication provided by Florida's Long-Term Care Ombudsman Program, which establishes the importance of interacting with residents to assure dignity, respect of privacy and providing lifetime

personal protections. The applicant states plans to implement a Resident Council, providing the facility with a conduit to directly engage with residents on matters of importance to them, further assuring ongoing support of residents. According to the applicant, the Resident Council will hold monthly meeting that provide for the election of officers, duties and responsibilities as well as maintain minutes and develop agendas encompassing the necessary documentation. The applicant states that existing KRM facilities operate Resident Councils.

Retirement Five discusses activities expected to be offered at the proposed facility, declaring that that pursuit of engaging and meaningful experiences enhance the lives of residents and provide socialization, enjoyment, education and stimulation-including physical and mental exercises. The applicant maintains that the activity director interacts with each resident during admission review and assessment process to identify each person's interest and hobbies, leisure time use and other opportunities for social interactions. The applicant lists the following activities that will be available for residents' enjoyment at the proposed facility:

- Morning exercise
- Daily chronicle
- Volleyball
- Wii bowling
- Giant crossword
- Basketball
- Kickball
- Board, care and other games
- Sensory stimulation games
- Church services
- Movies

According to the Agency's FloridaHealthFinder.gov website (<http://www.floridahealthfinder.gov/CompareCare/CompareFacilities.aspx>), for the rating period April 2015 – September 2017 and updated November 2017, the applicant's/parent's affiliate SNFs had the following overall nursing home inspection ratings (of a possible five stars):

- Wright Healthcare and Rehabilitation Center (five stars)
- Oak Manor Healthcare and Rehabilitation Center (three stars)

Neither of these two facilities has the Gold Seal designation but Oak Manor Healthcare and Rehabilitation Center is on the Nursing Home Watch List. Agency records indicate that for the three-year period ending November 14, 2017, the applicant's/parent's two affiliated Florida SNFs zero substantiated compliant:

- 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 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 applicant is a development stage company with no operations to date. No audited financials were submitted for a parent company.

**Capital Requirements and Funding:**

The applicant lists total capital projects in the amount of \$26,518,003 which consists solely of the project currently under review. However, architectural review indicates that the cost for the capital project could be higher. Therefore, the total cost of the project is unknown. The applicant plans to fund the project from non-related company financing and assets converted from other use. The applicant submitted a letter from Citizens First Bank expressing strong interest to provide the necessary financing. However, a letter of interest is not a firm commitment to lend.

**Conclusion:**

Given that the funding is supported by a letter of interest and that the total project cost is unknown, we have no basis to conclude that funding will be available for this project.

**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 SNFs as reported on Medicaid cost reports (2015 through 2017 cost report years). For our comparison group, we selected SNFs 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 2017, 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	17,969,355	513	1,254	484	337
Total Expenses	17,228,929	492	1,525	458	363
Operating Income	740,426	21	42	-5	-223
Operating Margin	4.12%		<b>Comparative Group Values</b>		
	Days	Percent	Highest	Median	Lowest
Occupancy	35,040	80.00%	99.84%	93.14%	32.32%
Medicaid	7,008	20.00%	30.03%	24.23%	0.74%
Medicare	21,024	60.00%	64.47%	45.93%	2.62%

**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, CPD and profitability fall within the group range. Given the type of service expected to be provided, the overall projections appear reasonable.

**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)(g), Florida Statutes.**

**Analysis:**

The type of competition that would result in increased efficiencies, service, and quality is limited in health care. Cost-effectiveness through competition is typically achieved via a combination of competitive pricing that forces more efficient cost to remain profitable and offering higher quality and additional services to attract patients from competitors. Since Medicare and Medicaid are the primary payers in the nursing home industry, price-based competition is limited. With a large portion of the revenue stream essentially fixed on a per patient basis, the available margin to increase quality and offer additional services is limited. In addition, competitive forces truly do not begin to take shape until existing business' market share is threatened. The publication of need in this area suggests that there is an unmet and untapped customer base for a new entrant to absorb. Since nursing home services are limited to available beds and the need formula suggest excess capacity in the market to fill those beds, the impact on market share would be limited. The combination of the existing health care system's barrier to price-based competition via fixed price payers and the existence of unmet need in the district limits any significant gains in cost effectiveness and quality that would be generated from competition.

**Conclusion:**

This project is not likely to have a material impact on competition to promote quality and cost-effectiveness.

- f. **Are the proposed costs and methods of construction reasonable? Do they comply with statutory and rule requirements? 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 project completion forecast provided in Schedule 10 appears to be reasonable. The application proposes a design that complies with current codes and standards; however, the design will not comply with the new codes and standards that will be effective on December 31, 2017. Specifically, the Florida Building 6<sup>th</sup> Edition requires an exterior window that is visible at all times from each resident bed. The semi-private room layouts proposed by the applicant does not

comply with this new requirement. Remedies would likely result in the reduction of beds or an increase in the size and cost of the facility.

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).

The reviewer notes that any changes to the architectural plans or subsequent approval of plans that involve the above noted issues with new building codes and standards will not be considered as governmental action or inaction, as this document puts the applicant on notice of this issue. Any issue relating to a subsequent reduction of beds or an increase in size and cost of the facility cannot be cause for an extension pursuant to 59C-1.018 (3), Florida Administrative Code.

**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 applicant reiterates that KRM’s affiliated SNFs provide care to individuals utilizing Medicaid as a payer source. As the only nursing home in the southern part of Marion County providing service to Medicaid recipients, the applicant maintains that the proposed facility will expand access to elders receiving care under Medicaid Managed Care plans. The applicant notes that current CON holder MCD, did not indicate plans to become Medicaid certified. Retirement Five provides the forecasted resident days by payer and average daily census (ADC) for the proposed facilities first two years of operation. See the table below.

<b>Forecasted Resident Days by Payer and Corresponding ADC for the First Two Years of Operation CY 2020 and CY 2021</b>					
<b>Payer</b>	<b>Year One Patient Days</b>	<b>ADC Year One</b>	<b>Year Two Patient Days</b>	<b>ADC Year Two</b>	<b>Percent of Days</b>
Self-Pay	1,318	4	1,752	5	5.0%
Medicaid Managed Care	5,270	14	7,008	19	20.0%
Medicare	11,858	33	15,768	43	45.0%
Medicare HMO	3,953	11	5,256	14	15.0%
Other Managed Care	3,953	11	5,256	14	15.0%
<b>Total</b>	<b>26,352</b>	<b>72</b>	<b>35,040</b>	<b>96</b>	<b>100.0%</b>
<b>Occupancy Rate</b>		<b>60%</b>		<b>80%</b>	

Source: CON application #10504, page 7-2

The applicant's Schedule 7 indicates that for the proposed 120-bed community SNF, Medicaid HMO and self-pay represent 20.0 percent and 5.0 percent respectively, for both years one (ending December 31, 2020) and year two (ending December 31, 2021) annual total patient days. The applicant proposes to condition approval of the proposed facility on providing access to residents covered by Medicaid Managed Care, with 20.0 percent of patient days allocated to this payer source.

Notes to Schedule 7 indicate that gross and net revenues for each payor group is based on the applicant's experience in other Florida service areas and that patient charges and reimbursement by all payors is projected to increase by 3.0 percent per annum.

**F. SUMMARY**

**Retirement Five, LLC, (CON application #10504)** also referenced as Retirement Five or the applicant, is a newly formed private-for-profit entity and affiliate of KR Management, LLC (also referenced as KRM). The applicant seeks to transfer CON #10257 from Marion County Development, LLC, (also referenced as MCD) to Retirement Five, to construct a new 120-bed community nursing home in District 3, Nursing Home Subdistrict 3-4, Marion County, Florida.

KR Management, LLC operates three SNFs in Florida.

The applicant includes a signed and notarized Schedule 12-Affidavit by the Transferor to another entity who will be an applicant for approval of that transfer.

The project involves 77,594 GSF of new construction. The construction cost is \$15,675,000. Total project cost is \$26,518,003. Project costs include land, building, equipment, project development, financing and start-up costs.

The applicant proposes three Schedule C conditions.

**Need**

The applicant submitted CON #10504 as an expedited review and not in response to a fixed need pool. The number of licensed and approved nursing home beds in Subdistrict 3-4 will remain unchanged as a result of the proposed transfer.

Retirement Five indicates the following regarding the proposed project:

- Site location will benefit a large number of elderly residents as Marion County nursing homes experienced an occupancy rate of 89.45 percent for CY 2016
- According to population ZIP Code data, the proposed project will be located within an area that has a high number of residents age 65+
- There are currently two SNF within a 10-mile radius of the proposed site, in which one does not presently serve Medicaid recipients. The proposed facility will be serve those Medicaid recipients as well as other payor types
- The proposed 120-bed facility adds 92 private rooms to the subdistrict's bed inventory

### **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 KRM has a history of providing quality care and will adopt its policies and procedures to assure quality throughout the provision of services.

Agency licensure records indicate that for the three-year period ending November 14, 2017, the parent's three affiliated Florida SNF had zero substantiated complaints.

### **Cost/Financial Analysis**

Given that the funding is supported by a letter of interest and that the total project cost is unknown, the Agency has no basis to conclude that funding will be available to for the project.

Based on the information provided in Schedule 6, the applicant's projected staffing meets the statutory requirement. The project appears to be financially feasible.

Based solely on the financial analysis, the proposed project is not likely to have a material impact on competition to promote quality and cost-effectiveness.

### **Architectural Analysis**

The applicant has submitted all information and documentation necessary to demonstrate compliance with the architectural review criteria. The project completion forecast provided in Schedule 10 appears to be reasonable. The application proposes a design that complies with current codes and standards, however the design will not comply with the new codes and standards that will be effective on December 31, 2017. Specifically, the Florida Building 6<sup>th</sup> Edition



requires an exterior window that is visible at all times from each resident bed. The semi-private room layouts proposed by the applicant does not comply with this new requirement. Remedies would likely result in the reduction of beds or an increase in the size and cost of the facility.

The reviewer notes that any changes to the architectural plans or subsequent approval of plans that involve the above noted issues with new building codes and standards will not be considered as governmental action or inaction, as this document puts the applicant on notice of this issue. Any issue relating to a subsequent reduction of beds or an increase in size and cost of the facility cannot be cause for an extension pursuant to 59C-1.018 (3), Florida Administrative Code.

### **Medicaid/Indigent Care Commitment**

The applicants Schedule 7 indicates that Medicaid HMO and self-pay represent 20.0 percent and 5.0 percent respectively, for both years one and year two annual total patient days. The applicant proposes to condition approval of the proposed facility on providing access to residents covered by Medicaid Managed Care, with 20.0 percent of patient days allocated to this payer source.

## **G. RECOMMENDATION**

Approve CON #10504 to transfer CON 10257 from Marion County Development, LLC to Retirement Five, LLC to construct a 120-bed nursing home. The total project cost is \$26,518,003. The project involves 77,594 GSF of new construction and a construction cost of \$15,675,000.

### **CONDITIONS:**

1. A site-specific location in Marion County within ZIP code 32162, part of The Villages, in the southern area of Marion County. The proposed site is located off County Road 42, bordering Southeastern 73<sup>rd</sup> Avenue, which is between Highway 301/305 and Highway 441/27
2. A facility providing access to residents covered by Medicaid Managed Care, with 20 percent of patient days allocated to this payer source
3. A facility operating 92 private rooms and 14 semi-private rooms
4. By the end of year two of operation, the facility will have a minimum of 19 Medicaid certified beds.

**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**