

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Palms NH Management, LLC/CON #10526

4770 Biscayne Boulevard, Suite 1400
Miami, Florida 33137

Authorized Representative: Abraham Galbut
(305) 674 - 4848

2. Service District/Subdistrict

District 11, Subdistrict 11-1 (Miami - Dade County)

B. PUBLIC HEARING

A public hearing was not held regarding the proposed project and no letters of support were submitted.

C. PROJECT SUMMARY

Palms NH Management, LLC (CON application #10526) also referenced as PNM or the applicant, is seeking to transfer CON application #10417 from Plaza North, Inc., to Palms NH Management, LLC, in order to establish a community nursing home of 104 beds in Subdistrict 11-1 Miami-Dade County. CON application #10417 was previously issued to establish a community nursing home of 104 beds through the voluntary delicensure of 104 community nursing home beds at Hebrew Home of South Beach, which closed as of December 31, 2015. The proposed transfer will add 104 beds to the subdistrict but will not change the number of approved beds within the subdistrict.

The project cost is \$15,672,400. The project cost includes: land, building, equipment, project development, financing and start-up costs. The project involves 47,276 gross square feet (GSF) of construction including 29,132 GSF of new construction and 18,144 GSF of renovation construction.

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The applicant includes a signed and notarized affidavit in Schedule 12-Trn/Affidavit by the Transferor, dated April 17, 2018 to transfer CON application #10417 to Palms NH Management, LLC.

The applicant conditions approval of the project to the following Schedule C conditions:

- Renovation and new construction at the former site of an 85-bed licensed nursing home known as Plaza North. The address is as follows: 14601 Northeast 16th Avenue, North Miami, Florida 33161¹
- Medicaid managed care days at 60.0 percent of total resident days of care

The applicant expects issuance of licensure in December 2019 and initiation of service in January 2020.

Project Cost of CON application #10526				
Applicant	Number of Beds	GSF	Costs \$	Cost Per Bed
Palms NH Management, LLC	104	47,276	\$ 15,672,400	\$ 150,696.15

Source: Schedule 1-Trn, Schedule 9, CON application #10526

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

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.

¹ The applicant indicates that the project will operate in zip code 33136 (Schedule A – Trn).

As part of the fact-finding, the consultant Bianca Eugene analyzed the application in its entirety with consultation from the financial analyst Everett Broussard, 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 submitted the application to transfer CON #10417 for expedited review and not in response to the fixed need pool. The fixed need pool published on March 30, 2018 forecasted need for zero additional community nursing home beds in Subdistrict 11-1. As of the publication date of the fixed need pool (March 30, 2018) there have not been any exemptions or expedited CON applications submitted to add community nursing home beds to any existing licensed nursing home facilities. CON application #10417 was previously issued to Plaza North, Inc., which proposed to establish a 104-bed skilled nursing facility (SNF) through the voluntary delicensure of 104 beds from Hebrew Home of South Beach, which per Agency records and FloridaHealthFinder.gov, closed on December 31, 2015.² The number of approved nursing home beds in Nursing Home Subdistrict 11-1 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.**

Palms NH Management, LLC indicates that the transfer of the proposal will result in the same architectural plans and staff as Plaza North, Inc.

² At the time of the submission of CON application #10417, the fixed need pool published on October 2, 2015 indicated need for 109 community nursing home beds within Subdistrict 11-1.

The applicant expects for architectural staff to continue progress as the transfer process continues. Palms NH Management, LLC commits to providing an environment of care that blends medical advances with compassionate service delivery and provides the best in nursing care. Palms NH Management's mission statement is provided below:

"...foster a service delivery system that places the resident at the center of the treatment process. The leadership of the resident in cooperation with dedicated staff and therapists implement a program of medical management and clinical care reflected in kindness, understanding, knowledge and expertise. Residents receive dignity and respect from all who serve them, and attain the highest quality of life whether a resident for the short or the long term."

Source: CON application #10526, Page 1-1

Additional descriptions of the applicant's organizational vision are provided on page 1-2.

PNM states that upon approval of the transfer application, construction of the SNF will commence. The applicant states that CON application #10417 currently holds approval from the Agency's Office of Plans and Construction to build the proposed facility. The reviewer notes that stated approval has expired and that codes and standards for nursing home construction have been updated and the submitted design will require some modifications to comply with current requirements. The applicant states that the location of the proposed facility is in Zip Code 33161, and the project renovates a previously operated SNF to create a two-story 104-bed project offering 22 private rooms and 41 semi-private rooms along with multiple day rooms, family areas and a beauty salon.

Availability

The applicant defines availability as how much of a resource exists and provides a description of the overall service mix of SNFs in Miami-Dade County and the overall occupancy rate. In reference to the Agency's most recent nursing home publication summarizing utilization for CY 2017, PNM notes that nursing homes in Miami-Dade County had an overall occupancy rate of 89.38 percent. The applicant notes that only twelve nursing homes had an occupancy rate that was less than 90.0 percent, which reflects that a majority of Miami-Dade nursing homes are operating at or over the Agency's threshold of 92.0 percent. A map depicting the dispersion of SNFs within Miami-Dade County is provided on page 1-4 of CON application #10526.

PNM states that there are currently 432 community nursing home beds approved within the subdistrict from the following projects: Plaza North, Inc. (104 community nursing home beds), La Mer NH, LLC (establish 150 community nursing home beds through delicensure of 150 beds from University Plaza Rehabilitation and Nursing Center, Inc.), Florida

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International Medical Center, LLC, (240 community nursing home beds) and Victoria Nursing and Rehabilitation Center, Inc. (48 community nursing home beds).

Access

PNM defines access as geographic proximity, eligibility for the service, payers for the service, programs available and use of the service. The applicant determines that utilization impacts access in that a nursing home bed that is occupied is not available when another patient seeks admission.

The applicant provides an analysis of the occupancies of facilities within a five-mile radius of the proposed facility's location (CON application #10526, pages 1-6 and 1-7) and concludes that overall within the last 12 months, the 19 facilities located within the five-mile radius of the proposed site had an overall occupancy of 91.2 percent. Six of these nineteen facilities were found by the applicant to operate below the average of these 19 facilities. A table summarizing the overall occupancy rates of these facilities is provided below:

Nursing Homes within a 5-mile Radius of Proposed Facility (2017 Occupancy Rates)				
Facility Name	Beds	Bed Days	Resident Days	% Occupancy
Arch Plaza Nursing & Rehabilitation Center	98	35,770	33,129	92.6%
Aventura Plaza Rehabilitation & Nursing Center	86	31,390	29,850	95.1%
Claridge House Nursing & Rehabilitation Center	240	87,600	82,977	94.7%
Cross Gardens Care Center	120	43,800	35,652	81.4%
Fountain Manor Health & Rehabilitation Center	146	53,290	49,295	92.5%
Franco Nursing & Rehabilitation Center	120	43,800	41,868	95.6%
Golden Glades Nursing and Rehabilitation Center	180	65,700	65,093	99.1%
Hampton Court Nursing & Rehabilitation Center	120	43,800	41,764	95.4%
Krystal Bay Nursing and Rehabilitation	150	54,750	38,000	69.4%
Miami Shores Nursing and Rehab Center	99	36,135	34,000	94.1%
North Beach Rehabilitation Center	99	36,135	33,539	92.8%
North Dade Nursing and Rehabilitation Center	245	89,425	79,704	89.1%
Palm Garden of Aventura	120	43,800	38,917	88.9%
Pinecrest Rehabilitation Center	100	36,500	32,457	88.9%
Pines Nursing Home	46	16,790	16,265	96.9%
Regents Park at Aventura	180	65,700	62,414	95.0%
Sinai Plaza Nursing & Rehab Center	150	54,750	50,466	92.2%
Treasure Isle Care Center	176	64,240	59,970	93.4%
Villa Maria Nursing Center	212	77,380	69,148	89.4%
Total	2,687	980,755	894,508	91.2%

Source: CON application #10526, page 1-7

The applicant analyzes access in relation to hospital discharges within the proposed service area. The applicant notes that the population age 65+ within Miami-Dade accounted for 19,162 discharges from July 1, 2016 to June 30, 2017. Of these discharges, the applicant finds that there were 767 discharges from hospitals to SNFs for elders residing within Zip Code 33161. The following table depicts the hospital discharge use rate per 1,000 for Miami-Dade County, the applicant's Zip Code 33161 and the five-mile radius around the site.

Discharge Rates from Hospitals to Nursing Homes For Residents 65 Years and Older July 1, 2016 - June 30, 2017			
Region	Discharges	2017 65+ Pop.	Rate/1,000 Pop.
Miami - Dade County	19,162	436,700	43.9
33161	767	7,063	108.6
Five Mile Radius	4,231	66,191	63.9

Source: CON application #10526, Page 1-8.

The applicant states that based on the analysis provided, the highest discharge use rate is within the Zip Code 33161, reflecting the importance of access to beds for elderly residents within the Zip Code. PNM considers that given that elders requiring SNF care prefer to be proximate to their home, this could partially explain the high occupancy rate for the nursing homes within the facility's five-mile radius. The applicant states that these rates suggest that available beds are required within the Zip Code in order to better accommodate the high discharge to SNF rate.

The applicant examined the Major Diagnostic Categories (MDC) of the age 65+ population discharged to SNFs. PNM notes that the discharges examined were within the five-mile radius of the proposed location from July 1, 2016 through June 30, 2017. From this analysis, the applicant determines that the MDCs shown in the table require orthopedic rehabilitation as well as therapies essential to the provision of care for the other conditions reflected in the discharge data (CON application #10526, Page 1-9). The applicant states that the proposed facility will offer a variety of services including physical therapy, occupational therapy, respiratory therapy and others to improve movement, stamina, strength and breathing. PNM indicates that proposed staffing for the transfer project is provided in Schedule 6 of CON application #10526 which reflects that the applicant plans for the types of therapies needed for resident care plans.

PNM notes that a condition of this proposal is to provide 60.0 percent of bed days for elders covered by Medicaid, thereby providing financial access to patients and elders.

Extent of Utilization

In reference to previous analyses, the applicant notes that the occupancy rate of SNFs within five miles of Zip Code 33161 (91.2 percent) is greater than the occupancy rate of SNFs within Miami-Dade County overall (89.3 percent). Among facilities with active beds, the applicant notes that 68.6 percent of all beds were at or above 92.0 percent and by facility 71.2 percent of all SNFs with community beds experienced occupancies at or above 92.0 percent. A chart summarizing all facilities with occupancies which exceed 92.0 percent is provided on pages 1-10 through 1-11 of CON application #10526. Overall, the applicant concludes that the majority of SNFs within Miami-Dade County are highly utilized.

Conformity with Health Access Criteria

Responses to health access criteria as outlined in Rule 59C-1.030(2), Florida Administrative Code appear on pages 1-11 through 1-16 of CON application #10526.

PNM notes that there are 13 Miami-Dade Zip Codes within a five-mile radius of the Zip Code of the proposed facility, these Zip Codes comprised a 65+ population of 79,730 elders in 2018. The applicant provided the following table depicting the compound annual growth rate (CAGR) of the population within the 13-Zip Code area from 2018 to 2023:

Zip Code Population 65 and Older within 5 Mile Radius of 104-Bed Nursing Home Site			
Zip Code	Total 2018 65+ Population	Total 2023 65+ Population	CAGR
33138	5,270	6,404	4.0%
33141	6,182	7,467	3.8%
33150	4,349	5,090	3.2%
33154	4,070	4,650	2.7%
33160	12,358	14,721	3.6%
33161	7,431	9,071	4.1%
33162	6,181	7,603	4.2%
33167	3,050	3,555	3.1%
33168	3,866	4,741	4.2%
33169	5,508	6,608	3.7%
33179	8,044	9,792	4.0%
33180	10,300	12,004	3.1%
33181	3,121	3,896	4.5%
Total	79,730	95,602	3.7%

Source: CON application #10526, Page 1-13.

From this analysis the applicant determines that within the Zip Code 33161, the growth rate (4.1 percent) is higher than across all Zip Codes within the five-mile radius of the location of the proposed site (3.7 percent). PNM concludes that the population growth and population concentration is sufficient to support the proposed SNF with respect to the proposed facility's location.

Overall, the applicant maintains that information has been provided to establish the benefit of the proposed project while addressing statutory health planning factors. PNM concludes that detail with respect to the provisions in rule for health care access demonstrate consistency and benefit, warranting approval of the CON.

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.

PNM indicates that the Patient Protection Affordable Care Act possesses directives that promote quality in the provision of health care services through mobilizing best practices in nursing home Quality Assurance Performance Improvement (QAPI). The applicant asserts that national directives foster consistency and uniformity through the application of standards that apply to all SNFs participating in Medicare and Medicaid programs. The applicant outlines the 12 steps of quality assurance and performance improvement evaluation in SNFs as outlined by the Center for Medicare and Medicaid Services (CMS) which is reproduced below:

- Step 1: Leadership, responsibility, and accountability
- Step 2: Develop a deliberate approach to teamwork
- Step 3: Take your QAPI “Pulse” with a self-assessment
- Step 4: Identify your organization’s guiding principles
- Step 5: Develop your QAPI plan
- Step 6: Conduct a QAPI awareness campaign
- Step 7: Develop a strategy for collecting & using QAPI data
- Step 8: Identify your gaps and opportunities
- Step 9: Prioritize quality opportunities and charter performance improvement (PIPs)
- Step 10: Plan, conduct, and document PIPs
- Step 11: Get to the “root” of the problem
- Step 12: Take systemic action

PNM states that the transfer of CON #10417 will result in the construction of a 104-bed nursing home in Zip Code 33161. The applicant maintains that the construction, approved architectural plans, contracted engineers, architects and builders to fully construct and renovate the property as originally envisioned will take place without creating further delays. The applicant intends to retain a nursing home management company to operate the facility. PNM notes that while the selection of the management company has begun, a definitive agreement has not been reached until the CON is issued and PNM assumes responsibility for the project. PNM maintains that the information contained in this section pertains to the quality function performed by a nursing home and is not specific to a particular quality data collection tool or electronic health record.

PNM provides the following outline of CMS standards for QAPI plans to state or federal surveyors, consisting of 22 mandatory elements documented below:

- Purpose of the QAPI Plan
- List of services provided to residents
- How the QAPI Plan addresses key issues
- Current Quality Assessment and Assurance activities
- Use of best available evidence
- Responsibility and accountability
- Resources to support QAPI
- Plan for mandatory QAPI staff training and orientation
- Framework for QAPI
- How QAPI activities are reported to the governing body
- Fair and just culture implementation
- Data sources to analyze performance, identify risk and solicit feedback/input
- Process for Performance Improvement Projects (PIPs)
- Process for identifying potential PIPs
- Criteria for prioritizing and selecting PIPs
- How and when PIP charters are developed
- How PIP teams are identified
- How the PIP team conducts the PIP
- Process of documenting and communicating performance improvement and trends in performance measures
- Systemic approach to quality improvement
- Approach to preventing future events and promoting sustained improvement
- How the facility knows the planned changes/interventions are implemented and effective

The applicant states that the QAPI encompasses a full range of services including but not limited to:

- Post-acute care
- Long-term care
- Wound care
- Behavior management
- Dementia care
- Rehabilitation

- Hospice care
- Psycho-social needs
- Nutritional management
- Environmental services

PNM states that the QAPI addresses clinical care, quality of life and care transitions while remaining mindful of honoring residents' choices. The applicant indicates 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 environment or the physical plant. PNM maintains that accurate measurement and selection of indicators drive the evaluative process and lead to improved ways of assuring the best in care practices.

The applicant indicates that select sources of data will be reviewed on a regular basis in order to identify areas of improvement, which measure against federal, state and facility benchmarks. The applicant identifies the following data sources for quality improvement:

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

PNM describes the role of facility leadership in monitoring the data sources for any areas in the accumulated data that fall outside of the established benchmarks/thresholds from the identified sources. The applicant states that facility leadership will consider the potential ripple effect in unexpected outcomes when determining priority for PIPs. PNM states that the leadership will provide all departments with the opportunity to share information across the following levels of priority:

- Resident care and services
- Health and safety
- Regulatory requirements
- Physical plant and environmental services

The applicant indicates that any areas considered high risk, high volume or potentially adverse in nature may require a structural change or a PIP. PNM states that PIPs are specific to work-groups and structured in Plan Do Study Act formulation, an outline of which is provided on pages 2-4 through 2-5 of CON application #10526. The applicant maintains that

root cause analysis will also be used to analyze problem areas. A blank template of the review process is provided on page 2-6 of CON application #10526.

PNM also describes how residents' rights form an important aspect of the environment of care and ensure that each resident has protections, rights and recourse. The applicant states that the Florida Long-Term Care Ombudsman Program is provided to facility staff and made available to each resident upon admission. PNM maintains that information establishes the importance of interacting with residents to ensure dignity in all interactions, respect of privacy and providing personal protections for life and the exercise of freedoms. An excerpt of resident rights as outlined in the Florida LTC Ombudsman Program is provided on page 2-7 of CON application #10526.

The applicant describes how in order to ensure ongoing support of residents, facilities implement a resident council to directly engage with residents on matters of importance to them. PNM states that monthly meetings follow bylaws that provide for the election of officers and duties and responsibilities. The applicant notes that maintaining minutes and developing agendas encompass the documentation necessary to resident councils and that a family council may operate in a SNF, with families of the residents participating.

The following activities are outlined as part of an aspect of the lives of residents that allow them to pursue engaging and meaningful experiences—enhancing the lives of residents through socialization, enjoyment, education, stimulation and physical and mental exercises. PNM states that the benefits of the activities accomplish the following objectives:

- To provide a planned range of meaningful/purposeful activities that reflect the residents' interests, skills and enjoyments
- To promote adaptation and restoration of functions
- To continue fostering of individual interests and pursuits for enjoyment, for creativity, for mastery and for purpose
- To maximize the expression of individualism, through groups and family involvement, spiritual development and independence

PNM discusses how an activity director participates with each resident during the admission review and assessment process to identify each person's interests and hobbies, leisure time use and opportunities for social interactions. A list of sample activities is included on page 2-8 of CON application #10526.

- 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. In this case, however, the applicant is a development stage entity with no current operations and total assets and equity consisting of \$308,485 in cash.

Capital Requirements and Funding:

The applicant indicates on Schedule 2 capital projects totaling \$15.7 million, which consist entirely of this project/CON. The applicant states that a related company, Palms NH Realty, LLC, already owns the land, valued at [\$1,450,000] that the building will be built on. The remainder of the required funding is anticipated to come from the cash on-hand (\$308,485 noted above), and a long-term loan from Legacy Bank of Florida (Legacy). To that end, Legacy provided a letter indicating its interest in making a loan for construction and initial operating deficits.

Staff notes that interest in making a loan is not a commitment to lend.

Conclusion

Funding for this project is not guaranteed and will be entirely dependent on obtaining lending for construction and working capital including initial operating loss.

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 (2015, 2016, and 2017 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 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	10,641,684	325	1,398	395	281
Total Expenses	10,176,013	311	1,337	387	249
Operating Income	465,671	14	67	8	-48
Operating Margin	4.38%		Comparative Group Values		
	Days	Percent	Highest	Median	Lowest
Occupancy	32,757	86.29%	97.67%	90.45%	66.62%
Medicaid	19,654	60.00%	70.00%	60.28%	50.58%
Medicare	7,863	24.00%	38.63%	18.84%	3.74%

The projected NRPD, CPD, and profit fall within the group range and are considered reasonable. Therefore, the overall profitability appears achievable.

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 meets this requirement.

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 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 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.

Note: The plans submitted with this application were previously submitted and approved for construction under CON application #10417. The codes and standards for nursing home construction have been updated since the plans associated with CON application #10417 were approved. The design will require some modifications to comply with current requirements. Notably, the 10 resident rooms on the second floor that share a toilet/shower room will require revision since CMS no longer permits this configuration. The necessary modifications to the plans should not have a significant impact on the project schedule or budget.

The architectural review of this application shall not be construed as an in-depth effort to determine complete compliance with all applicable codes and standards. The final responsibility for facility compliance ultimately rests with the applicant owner. Approval from the Agency for Health Care Administration's Office of Plans and Construction is required before the commencement of any construction.

- g. Does the applicant have a history of 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.**

As the applicant is not an existing provider, there is no historical record of providing health services to Medicaid patients and the medically indigent available to discuss within the application. The applicant states that Medicaid enrollment reflects state-mandated managed care plans for residents of long-term care facilities. PNM maintains that this change shifts all recipients into managed care plans, with those plans bearing the financial risk for reimbursing nursing homes.

The applicant indicates that notes included with Schedule 7 of CON application #10526 reflect that a resident in a SNF may initially be on Medicaid fee-for-service payment until enrolled in the managed care plan. For this reason PHM anticipates that some Medicaid days will occur outside of Medicaid HMO.

On page 1-14 of CON application #10526, the applicant expresses the intent to conform to Medicare and Medicaid Conditions of Participation in order to provide a full range of medical, social and nursing services.³ In addition, the applicant states that these conditions include nondiscrimination and civil rights provisions to which the applicant adheres.

³ On page 1-15 of CON application #10526, the applicant provides a table which depicts the same forecasted resident payer mix with the inclusion of columns that reflect the percentage of resident days in Years 1 and 2 and the percentage of admits in Years 1 and 2.

PNM provides the following table depicting the utilization by payer within the first and second years' utilization by payer.

Palm NH Management, LLC			
Patient Payer Mix Forecast: CY 2020 and CY 2021			
	Year 1	Year 2	% of Days
	Resident	Resident	
	Days	Days	
Medicaid	1,015	1,965	6%
Medicaid HMO	9,139	17,689	54%
Medicare	1,529	2,960	9%
Medicare HMO	2,533	4,903	15%
Self-Pay	846	1,638	5%
Other Managed Care	1,861	3,602	11%
Total	16,923	32,757	100%
Average Daily Census	Year 1	Year 2	
Medicaid	3	5	
Medicaid HMO	25	48	
Medicare	4	8	
Medicare HMO	7	13	
Self-Pay	2	4	
Other Managed Care	5	10	
Total	46	88	
Occupancy Rate	44.5%	86.3%	

Source: CON application #10526, Page 7-2. Schedule 7. Shaded value is incorrect⁴

The applicant notes that Medicaid days account for 60.0 percent of total patient days--6.0 percent of resident days are allocated to Medicaid Fee-For-Service and 54.0 percent of resident days are allocated to Medicaid Managed Care. PNM intends to serve residents with Medicare, self-pay and other managed care plans. In years one and two of operations, the applicant anticipates that Medicaid/Medicaid HMO will account for 60.0 percent of patient days and self-pay patients will account for 5.0 percent of patients.

Approval of the transfer application is conditioned upon the provision of 60.0 percent of patient days to Medicaid Managed Care.

F. SUMMARY

Palms NH Management, LLC (CON application #10526) is seeking to transfer CON application #10417 from Plaza North, Inc. to Palms NH Management, LLC in order to establish a community nursing home of 104 beds in Subdistrict 11-1 Miami-Dade County. CON application #10417 was previously issued to establish a community nursing home of 104 beds through the voluntary delicensure of 104 community nursing

⁴ Schedule 10 indicates licensure in 2019 and initiation of service in 2020 for the proposal

home beds at Hebrew Home of South Beach, which closed as of December 31, 2015. The proposed transfer will add 104 beds to the subdistrict but will not change the number of currently approved beds within the subdistrict.

The project cost is \$15,672,400. The project cost includes: land, building, equipment, project development, financing and start-up costs. The project involves 47,276 GSF of construction including 29,132 GSF of new construction and 18,144 GSF of renovation construction.

The applicant proposes two conditions on its Schedule C.

The applicant expects issuance of licensure in December 2019 and initiation of service in January 2020.

Need

The applicant submitted the application to transfer CON #10417 for expedited review and not in response to the fixed need pool which was published on March 30, 2018, the fixed need pool projected need for zero community beds in Subdistrict 11-1. CON application #10417 was previously issued to establish a community nursing home of 104 beds through the voluntary delicensure of 104 community nursing home beds at Hebrew Home of South Beach, which closed as of December 31, 2015.

There are currently 432 community nursing home beds approved within the subdistrict from the following projects: Plaza North, Inc. (104 community nursing home beds), La Mer NH, LLC (establish 150-bed community nursing home beds through delicensure of 150 beds from University Plaza Rehabilitation and Nursing Center, Inc.), Florida International Medical Center, LLC, (240 community nursing home beds) and Victoria Nursing and Rehabilitation Center, Inc. (48 community nursing home beds).

Quality of Care

The applicant is not an existing provider and therefore lacks a historical quality record to discuss in this review. PNM indicates that the Patient Protection Affordable Care Act possesses directives that promote quality in the provision of health care services through mobilizing best practices in SNFs through a QAPI. The applicant indicates that national directives foster consistency and uniformity through the application of standards that apply to all nursing homes participating in Medicare and Medicaid programs. The applicant intends to follow the 12 steps of quality assurance and performance improvement evaluation in SNFs along with the mandatory QAPI plan components as outlined by CMS.

PNM intends to retain a nursing home management company to operate the facility and that the selection of the management company has begun but a definitive agreement has not been reached until the CON is issued and the applicant assumes responsibility for the project.

The applicant states that its QAPI encompasses the full range of services and addresses clinical care, quality of life and care transitions while remaining mindful of honoring residents' choices. PNM indicates that the QAPI program focuses on deliberate positive change to better the lives of residents, creating and maintain a balance of safety, resident choice and autonomy when making changes in the clinical, environmental or the physical plant. The applicant states that accurate measurement and selection of indicators drive the evaluative process and lead to improved ways of assuring the best in care practices.

PNM notes that select sources of data will be reviewed on a regular basis in order to identify areas of improvement, which measure against federal, state and facility benchmarks. The applicant describes how residents' rights form an important aspect of the environment of care and ensure that each resident has protections, rights and recourse. The applicant states that the Florida Long-Term Care Ombudsman Program is provided to facility staff and made available to each resident upon admission. PNM maintains that information establishes the importance of interacting with residents to ensure dignity in all interactions, respect of privacy and providing personal protections for life and the exercise of freedoms.

Cost/Financial Analysis

Funding for this project is not guaranteed and will be entirely dependent on obtaining lending for construction and working capital including initial operating loss.

Based on the information provided in Schedule 6, the applicant meets the statutory staffing requirements of 400.23(3)(a)1, Florida Statutes. 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 applicant has submitted all information and documentation necessary to demonstrate compliance with the architectural review criteria. 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.

Note: The plans submitted with this application were previously submitted and approved for construction under CON application #10417. The codes and standards for nursing home construction have been updated since the plans associated with CON application #10417 were approved. The design will require some modifications to comply with current requirements. Notably, the 10 resident rooms on the second floor that share a toilet/shower room will require revision since CMS no longer permits this configuration. The necessary modifications to the plans should not have a significant impact on the project schedule or budget.

Medicaid/Indigent Care Commitment

Approval of the transfer application is conditioned upon the provision of 60.0 percent of patient days to Medicaid Managed Care.

The applicant notes that Medicaid days account for 60.0 percent of total patient days with 6.0 percent allocated to Medicaid Fee-For-Service and 54.0 percent to Medicaid Managed Care. PNM intends to serve residents with Medicare, self-pay and other managed care plans. In years one and two of operation, the applicant anticipates that Medicaid/Medicaid HMO will account for 60.0 percent of patient days and self-pay patients will account for 5.0 percent of patients.

The applicant intends to conform to the Medicare and Medicaid Conditions of Participation in order to provide a full range of medical, social and nursing services. PNM states that these conditions include nondiscrimination and civil rights provisions to which the applicant adheres.

G. RECOMMENDATION

Approve CON #10526 to transfer CON #10417 from Plaza North, Inc. to Palms NH Management, LLC to establish a community nursing home of 104 beds in Subdistrict 11-1 Miami-Dade County. The project cost is \$15,672,400. The project involves 47,276 GSF of construction including 29,132 GSF of new construction and 18,144 GSF of renovation construction.

CONDITIONS:

- Renovation and new construction at the former site of an 85-bed licensed nursing home known as Plaza North. The address is as follows: 14601 Northeast 16th Avenue, North Miami, Florida 33161
- Medicaid managed care days at 60.0 percent of total resident days of care

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