

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

OpusCare of Florida LLC/CON #10639

6900 SW 80th Street
Miami, Florida 33143

Authorized Representative: Sirichai Assapimonwait
Chief Financial Officer
(305) 591-1606

2. Service District/Subdistrict

Hospice Service Area 11 (Miami-Dade and Monroe Counties)

B. PUBLIC HEARING

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

C. PROJECT SUMMARY

OpusCare of Florida LLC (CON application #10639), also referenced as OpusCare FL, or the applicant is a private-for-profit, newly formed/development stage entity parented by OpusCare Holdings, LLC. The applicant proposes the transfer of CON #10470, issued to Comprehensive Home Health Care, Inc. to establish a new 13-bed freestanding inpatient hospice facility in Miami-Dade County¹. The facility will be known as OpusCare Freestanding Hospice Inpatient Facility and is located at 9730 East Fern Street, Miami, Florida 33157.

The applicant states that the management company presently operating Comprehensive Home Health Care, Inc. – OpusCare Management, LLC staff will remain providing management services to Opus Care FL.

¹ CON #10470 was issued September 21, 2017, pursuant to Final Order in Case Number 17-1910CON.

OpusCare FL indicates that the project cost is \$425,744. The project cost includes: building, equipment, and project development costs. However, OpusCare FL does not provide the gross square feet (GSF) - new construction GSF and renovation GSF. The reviewer notes that CON #10470, issued September 21, 2017, included a project description of 2,260 GSF of new construction (\$675,000 new construction cost) and 5,250 GSF of renovation (\$1,181,250 renovation cost).

CON application #10639, Schedule 10-Trn indicates issuance of license in March 2022 and initiation of service in April 2022.

The applicant includes a signed and notarized affidavit in Schedule 12-Trn/Affidavit by the Transferor, dated September 17, 2020 to transfer CON #10470 to OpusCare of Florida LLC.

OpusCare FL offers no Schedule C conditions and CON #10470 was issued with no conditions.

Project Cost of CON application #10639				
Applicant	Number of Beds	GSF	Costs \$	Cost Per Bed
OpusCare of Florida LLC	13	7,500	\$425,744*	\$32,750*

Source: Schedule 1-Trn & CON #10470 application and AHCA architectural review

Note: * As stated above, the actual construction cost is \$675,000 in new construction and \$1,181,250 for renovation.

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 Steve Love analyzed the application in its entirety with consultation from the financial analyst Everett “Butch” Broussard, Bureau of Central Services, who evaluated the financial data and Said Baniahmad 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.**

OpusCare FL has submitted CON application #10639 as an expedited review, pursuant to Rule 59C-1.010(4), Florida Administrative Code. The Agency does not publish fixed need pools for inpatient hospice facilities. Need for the project was addressed in the original CON #10470.

The proposed transfer of CON #10470 changes the legal entity from the current CON holder Comprehensive Home Health Care, Inc. d/b/a Opus Care of South Florida, to OpusCare of Florida, LLC. Both entities are affiliated with OpusCare Holdings, LLC.

- 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 need for the 13-bed freestanding inpatient hospice facility was originally addressed in CON #10470 and was approved pursuant to Final Order in Case Number 17-1910CON.

OpusCare FL states and the Agency confirms that Catholic Hospice, Inc. is currently the only provider of licensed inpatient hospice beds in HSA 11. The Agency has also issued CON #10565 to VITAS Healthcare Corporation of Florida to establish a 16-bed freestanding inpatient hospice facility in HSA 11.

The applicant comments that the sole freestanding inpatient hospice facility in HSA 11 - Catholic Hospice, Inc. - is located in a hospital – Catholic Hospice Inpatient Care Center, St. Catherine’s West Rehabilitation Hospital, 8850 NW 112nd Street, Hialeah Gardens, Florida 33018. OpusCare FL stresses that inpatient hospice services within a hospital lack the home-like environment, staffing and amenities proposed by this project and that the true hospice philosophy of care is often bypassed or forgotten in the hospital setting. The applicant contends that movement and noise levels in hospital units does not allow patients to have the peace, quiet and tranquility that they should receive. Further, family members and caregivers that are going through the grieving process also need an environment that is tailored to these conditions.

OpusCare FL maintains that the proposed project will result in better outcomes and lower cost of care, but does not provide a cost of care breakdown for the proposed project compared to existing inpatient hospice arrangements in the area. The applicant states that the proposed project will be the first state of the art centrally located freestanding unit in Miami-Dade County and that the project location (9730 East Fern Street, Miami, Florida 33157) is in a flood zone “X”, which is an “AREA OF MINIMAL FLOOD HAZARD” – indicating that the location is not at risk of storm surge from strong thunderstorms or Category 1 hurricanes.

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.

As stated previously, OpusCare of Florida (CON application #10639) is a newly formed/development stage entity and therefore has no quality history to review. However, the parent, OpusCare Holdings, LLC operates one hospice program in Florida – Opus Care of South Florida (in HSA 11).

The applicant provides a brief description of the proposed facility’s amenities. OpusCare FL also discusses the quality care provided by the current Opus Care of South Florida staff and indicates all staff will remain in place with the change of ownership.

Agency records indicate that as of the three-year period ending September 22, 2020 Comprehensive Home Health Care, Inc. d/b/a Opus Care of South Florida, also an Opus Care Holdings affiliate, had a total of

three substantiated complaints. Each substantiated complaint can encompass multiple complaint categories. Below is a table to depict the substantiated complaints by the applicable complaint category.

**OpusCare Holdings Substantiated Complaint History by Category
Three-Year Period Ending September 22, 2020**

Complaint Category	Number Substantiated
Administration/Personnel	2
Quality of Care/Treatment	1
Resident/Patient/Client Rights	1
Unqualified Personnel	1

Source: Agency for Health Care 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.**

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.

Below is an analysis of the audited financial statements for the facility, where the short-term and long-term measures fall on the scale (highlighted in gray) for the most recent year.

10639--OpusCare Holdings, LLC and Subsidiaries		
	Dec-19	Dec-18
Cash and Cash Equivalents	\$1,088,658	\$891,579
Current Assets	\$2,259,486	\$1,762,157
Total Assets	\$2,726,128	\$1,991,084
Current Liabilities	\$1,278,720	\$978,806
Total Liabilities	\$2,678,720	\$2,378,806
Net Assets	\$47,408	(\$387,722)
Total Revenues	\$9,309,956	\$5,240,485
Excess of Revenues Over Expenses	\$435,130	\$131,624
Cash Flow from Operations	\$337,772	\$192,625
Short-Term Analysis		
Current Ratio (CA/CL)	1.8	1.8
Cash Flow to Current Liabilities (CFO/CL)	26.41%	19.68%
Long-Term Analysis		
Long-Term Debt to Net Assets (TL-CL/NA)	2953.1%	-361.1%
Total Margin (ER/TR)	4.67%	2.51%
Measure of Available Funding		
Working Capital	\$980,766	\$783,351

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

Capital Requirements and Funding:

The applicant projects \$535,744 in total capital expenditure of which \$425,744 is for this CON. The applicant indicates on Schedule 3 of its application that funding for the projected capital requirement of \$425,744 will be provided from \$3.8 million remaining from commitment from owner from a previous CHOW application.

Staff verified the funding surplus from the November 2019 hospice CHOW proof of financial ability to operate (PFA) review, but notes that the applicant did not provide any substantive information in this current CON application regarding the existence and availability of the claimed \$1,405,444 in remaining funds.

As such, while staff acknowledges that at the time of the hospice CHOW PFA review in November 2019 (file 22910049) that a surplus funding capacity of \$1,405,444 existed, at the time of this CON review in September 2020 staff cannot attest to the existence or availability of that same funding capacity. Staff further notes that each application stands on its own as to proving all funds claimed.

The applicant's parent—OpusCare Holdings LLC's 2019 audited financial statements indicate \$1,088,658 in cash and cash equivalents, \$337,772 in cash flow from operations and \$980,766 in working capital. Staff further notes that in addition to capital projects, including this CON, the applicant will also need to fund the projected year one loss of \$70,131.

Conclusion:

Funding for this project, the entire capital budget and projected year one loss will consume the bulk of the liquid assets reported in December 2019. As such, funding will rely on the claimed remaining funds from the referenced CHOW for which the applicant did not provide supporting documentation.

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

The immediate and long-term financial feasibility of the project is tied to expected profitability. Profitability for hospice is driven by two factors, volume of patients and length of stay/condition of the patient. A new hospice program in a service area with published need is more likely than not to be financial feasible since patient volume and mix is presumed to be available in sufficient amounts to sustain a new program. The focus of our review will be on the reasonableness of projections, specifically the revenue.

The vast majority of hospice days are paid by Medicare. As such, revenue is predictable by day and service type. Schedule 7 includes revenue by service type. We have divided the applicant's projected revenues by the estimated Medicare reimbursement rates for each level of service in year two to estimate the total patient days that would be generated by that level of revenue. The results were then compared to the applicant's estimated number of patient days. Calculated patient days that approximate the applicant's projected patient days are considered reasonable and support the applicant's assumptions of

feasibility. Calculated patient days that vary widely from the applicant’s projected patient days call into question the applicant’s profitability assumptions and feasibility. The results of the calculations are summarized below.

HOSPICE REVENUE (Year 2) TABLE 1

CON 10639

OpusCare of Florida LLC

County: Miami/Dade

Year Two: Feb-24

CON 10632	OpusCare of Florida LLC				
Miami/Dade	Wage Component	Wage Index	Adjusted Wage Amount	Unadjusted Component	Payment Rate
Base Rate Calculation					
Routine Home Care 1-60 days	\$131.04	0.9489	\$124.34	\$59.67	\$184.01
Routine Home Care 61+ days	\$103.56	0.9489	\$98.27	\$47.16	\$145.43
Continuous Home Care	\$940.24	0.9489	\$892.19	\$428.18	\$1,320.37
Inpatient Respite	\$238.89	0.9489	\$226.68	\$202.43	\$429.11
General Inpatient	\$640.96	0.9489	\$608.21	\$360.39	\$968.60
Year Two Comparison	Inflation Factor Year Two	Inflation Adjusted Payment Rate	Schedule 7 Revenue Year 2	Continuous Service Hours Provided	Calculated Patient Days
Routine Home Care 1-60 days	1.154	\$212.40	\$0		0
Routine Home Care 61+ days	1.154	\$167.86	\$0		0
Continuous Home Care	1.154	\$1,524.07	\$0	0	0
Inpatient Respite	1.154	\$495.31	\$0		0
General Inpatient	1.154	\$1,118.02	\$3,242,618		2,900
		Total	\$3,242,618		2,900
			Days from Schedule 7		4,225
			Difference		1,325
			Percentage Difference		31.35%

The applicant is projecting average revenue per patient day of \$753 which is less than the adjusted Medicare hospice payment rates of \$968.60 and considerably less than the inflation adjusted Medicare hospice payment rate of \$1,134.55. Operating profits from this project are expected to increase from a loss of \$70,131 in year one to a profit of \$953,016 in year two.

Conclusion:

This project appears to be financially feasible, although patient days may be overstated and/or revenue may be understated.

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

Strictly, from a financial perspective, the type of price-based competition that would result in increased efficiencies, service, and quality is limited in health care in general and in hospice specifically. 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 hospice, price-based competition is almost non-existent. With the revenue stream essentially fixed on a per patient basis, the available margin to increase quality and offer additional services is limited.

Conclusion:

Strictly, from a financial perspective, this project will not have a material impact on price-based competition.

- 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 Agency's architectural reviewer noted that CON #10470 was in Stage II preliminary review which was conducted on November 18, 2019 by the Office of Plans and Construction and that CON #10470 was approved to continue for final plans review (Stage III). Stage III review was approved for construction on June 8, 2020. Therefore, a new CON architectural review is not necessary.

The termination date for CON #10470 is November 18, 2020 as extension requests have documented continued permitting delays involving the Miami-Dade County government as a result of a long-standing moratorium on the construction of any new buildings in the municipality of The Village of Palmetto Bay.

- 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 OpusCare FL 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 it has submitted its new provider enrollment application and will be

able to service Medicaid patients with no limitations post CON transfer/CHOW transaction. OpusCare states it will provide services in the freestanding hospice facility to Medicaid and medically indigent patients.

According to the applicant's Schedule 7A, CON application #10639 will provide four percent of its total patient days to Medicaid HMO patients and one percent of its total patient days to self-pay patients, in each of year one (ending February 28, 2023) and year two (ending February 28, 2024). Notes to the applicant's Schedule 7A indicate that charity care is reflected in its self-pay estimates.

As previously stated in item C of this report, CON application #10639, Schedule 10-Trn indicates issuance of license in March 2022 and initiation of service in April 2022. With the applicant's Schedules 6A and 7A indicating year one ending February 28, 2023, the reviewer notes that the first year of operation would range from no more than 10 to 11 months (not 12 months), with initiation of service projected to be in April 2022 and one year ending February 28, 2023.

F. SUMMARY

OpusCare of Florida LLC (CON application #10639) is seeking the transfer of CON #10470 from Comprehensive Home Health Care, Inc. d/b/a Opus Care of South Florida, to establish a new 13-bed freestanding inpatient hospice facility in Miami-Dade County.

The applicant indicates that the project cost is \$425,744. The project cost includes: building, equipment, and project development costs. The project involves 7,500 GSF of construction including 2,250 GSF of new construction and 5,250 GSF of renovation. New construction costs are \$675,000 and renovation costs are \$1,181,250.

The applicant offers no Schedule C conditions and CON #10470 was issued with no conditions.

Need

Need for the 13-bed freestanding inpatient hospice facility was addressed in CON #10470.

Quality of Care

- OpusCare of Florida LLC is not an existing provider and therefore lacks a historical quality record to discuss in this review.
- The applicant provided a brief description of the proposed facility amenities and emphasized that all OpusCare South Florida personnel will remain with OpusCare of Florida LLC after the change of ownership.
- Agency records indicate that Comprehensive Home Health Care, Inc. d/b/a Opus Care of South Florida, an OpusCare Holdings affiliate had a total of three substantiated complaints during the three-year period ending September 22, 2020.

Cost/Financial Analysis

- Funding for this project, the entire capital budget and projected year one loss will consume the bulk of the liquid assets reported in December 2019. As such, funding will rely on the claimed remaining funds from the referenced CHOW for which the applicant did not provide supporting documentation
- This project appears to be financially feasible, although patient days may be overstated and/or revenue may be understated
- Strictly, from a financial perspective, this project will not have a material impact on price-based competition

Architectural Analysis

- The Agency's architectural reviewer noted that CON #10470 (the project to be transferred) was in Stage II preliminary review which was conducted on November 18, 2019 and it was determined that it was approved to continue for final Stage III plans review
- Stage III review was approved for construction on June 8, 2020.
- OPC has determined that a new CON architectural review does not seem to be necessary

Medicaid/Indigent Care

- The applicant states that it will provide services in the freestanding hospice facility to Medicaid and medically indigent patients
- The applicant's Schedule 7A indicates that the project will provide four percent of its total patient days to Medicaid HMO and one percent to charity care patients in years one and two-ending February 28, 2023 and February 28, 2024, respectively

- Schedule 7A notes state charity care is reflected in the self-pay estimates

G. RECOMMENDATION

Approve CON #10639 to transfer CON #10470 from Comprehensive Home Health Care, Inc. d/b/a Opus Care of South Florida to OpusCare of Florida LLC to establish a new 13-bed freestanding inpatient hospice facility in Miami-Dade County.

The project cost is \$425,744. The project cost includes: building, equipment, and project development costs. The project involves 7,500 GSF of construction including 2,250 GSF of new construction and 5,250 GSF of renovation. New construction costs are \$675,000 and renovation costs are \$1,181,250.

AUTHORIZATION FOR AGENCY ACTION

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

DATE: _____

James B. McLemore
Operations & Management Consultant Manager
Certificate of Need