

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Avante at Orange County LLC/CON application #10661
5900 Lake Ellenor Drive
Orlando, Florida 32809

Authorized Representative: Tricia Robinson
Chief Executive Officer
(407) 216-0101

2. Service District/Subdistrict

District 7/Subdistrict 7-2 (Orange County, Florida)

B. PUBLIC HEARING

A public hearing was not held or requested regarding the proposed project.

C. PROJECT SUMMARY

Avante at Orange County LLC (CON application #10661) proposes the transfer of CON #10634 from Avante Group, Inc. which was approved to establish a 120-bed community nursing home District 7, Subdistrict 7-2 (Orange County, Florida). Avante indicates that other than the ownership change and additional time added to the project's CON termination date, there are no changes proposed with this application. The project is stated to be located in Winter Garden. Avante at Orange County LLC will also be referred to as Avante or the applicant.

Avante states that it has over 20 years of experience managing health care facilities and is the operator/manager of 11 affiliated Florida community skilled nursing facilities and two Broward County Florida assisted living facilities. Avante-affiliated community nursing facilities include:

- Avante at Ocala, Inc. – 133 beds, Subdistrict 3-4

- Avante at Inverness, Inc. – 104 beds, Subdistrict 3-5
- Avante at Leesburg, Inc. – 116 beds, Subdistrict 3-7
- Avante at Mt. Dora, Inc. – 116 beds, Subdistrict 3-7
- Avante Villa at Jacksonville Beach, Inc. – 165 beds, Subdistrict 4-3
- Avante at Ormond Beach, Inc. – 133 beds, Subdistrict 4-4
- Avante at Melbourne, Inc. – 110 beds, Subdistrict 7-1
- Avante at Orlando, Inc. – 118 beds, Subdistrict 7-2
- Avante at St. Cloud, Inc. – 131 beds, Subdistrict 7-3
- Avante at Boca Raton, Inc. – 144 beds, Subdistrict 9-4
- Avante at Lake Worth, Inc. – 138 beds, Subdistrict 9-4

Avante managed nursing facilities are owned by AG Holdings, Inc. (AGH); while AGH has direct ownership of these nursing homes, Avante has been delegated day-to-day operational and management responsibility by AGH via a management agreement. The applicant comments that the shareholders of Avante are the same shareholders of AGH, which owns the Avante nursing homes, so they are under common control.¹

The proposed project includes 84,282 gross square feet (GSF) of new construction. The construction cost is \$18,967,500. The total project cost is \$32,161,750. The total project cost includes land, building, equipment, project development, financing and start-up costs.

According to the applicant's Schedule 10, Avante expects issuance of license in October, 2023 and initiation of service during November, 2023.

Avante indicates it will honor the conditions to approval of CON application #10634:

1. The applicant facility will be located in Orange County, Subdistrict 7-2, Florida.
2. The applicant will seek Joint Commission accreditation during year-two of operation.
3. The applicant will implement the SAIVA system to reduce hospital admissions and re-admissions, or another hospital re-admission reduction program with similar intent that Avante at Orange County LLC determines to be the best available at the time of implementation.
4. The applicant will maintain a COVID-19 specific infectious disease policy and procedure.
5. The applicant will regularly train all employees on how to handle a pandemic situation as it relates to infection control protocols and procedures and minimizing the risk of transmission.

¹ Source: www.floridahealthfinder.gov/ and CON application #10634, Volume 1, Tab 2, page 3.

Avante states that all of the conditions from the Applicant’s Schedule C will be measured by furnishing AHCA with certificates, declaratory statements and other information as needed on an ongoing basis.

Total GSF and Project Costs of CON application #10661

Applicant	CON app. #	Project	GSF	Project Costs	Cost Per Bed
Avante	10661	120-bed SNF	84,282	\$32,161,750	\$268,015

Source: CON application #10661, Vol. 1, Schedule 1, Tab 5 and Vol. 1, Schedule 9, Tab 4

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.

Note: Section 408.043(3), Florida Statutes, prohibits accreditation by any private organization as a requirement for the issuance or maintenance of a certificate of need, so Joint Commission accreditation will not be cited as a condition to approval.

Issuance of a CON is required prior to licensure of certain health care facilities and services. The review of a CON application and ultimate approval or denial of a proposed project is based upon the applicable statutory criteria in the Health Facility and Services Development Act sections 408.031-408.045, Florida Statutes and applicable rule criteria within Chapters 59C-1 and 59C-2, Florida Administrative Code. An approved CON does not guarantee licensure of the proposed project. Meeting the applicable licensure requirements and licensure of the proposed project is the sole responsibility of the applicant.

D. REVIEW PROCEDURE

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes; and applicable rules of the State of Florida, Chapters 59C-1 and 59C-2, Florida Administrative Code. These criteria form the basis for the goals of the review process. The goals represent desirable outcomes to be attained by successful applicants who demonstrate an overall compliance with the criteria. Analysis of an applicant’s capability to undertake the proposed project successfully is conducted by evaluating the responses and data provided in the application, and independent information gathered by the reviewer.

Applications are analyzed to identify strengths and weaknesses in each proposal. If more than one application is submitted for the same type of project in the same district, applications are comparatively reviewed to determine which applicant best meets the review criteria.

Rule 59C-1.010(3)(b), Florida Administrative Code, prohibits any amendments once an application has been deemed complete. The burden of proof to entitlement of a certificate rests with the applicant. As such, the applicant is responsible for the representations in the application. This is attested to as part of the application in the Certification of the Applicant.

As part of the fact-finding, the consultant, James B. McLemore, analyzed the application in its entirety with consultation from financial analyst Everett “Butch” Broussard of the Bureau of Central Services, who evaluated the financial data, and Scott Waltz of the Office of Plans and Construction, who reviewed the application for conformance with the architectural criteria. There were no architectural changes from the original CON #10634 application, which was reviewed by Mr. Waltz.

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 Florida Statutes, sections 408.035 and 408.037; applicable rules of the State of Florida, Chapter 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 #10661 as an expedited review and not in response to a fixed need pool. The number of licensed and approved nursing home beds in Subdistrict 7-2 will remain unchanged as a result of the proposed transfer.

Avante states that the transfer of CON #10634 only changes the legal entity to which the CON applies. Avante Group, Inc, the current holder of the CON and Avante at Orange County LLC, the entity to which the CON will be transferred, are affiliated with AG Holdings, Inc. and Avante Group, Inc.

As of February 19, 2021, Subdistrict 7-2 had 36 facilities with 4,393 licensed and 278 approved community nursing home beds. Subdistrict 7-2 community nursing homes reported 82.91 percent occupancy during CY 2020. Subdistrict 7-2 community nursing home occupancy during CY 2020 is shown in the table below.

**Subdistrict 7-2, Orange County
Community Nursing Home
Utilization CY 2019**

Facility	Community NH Beds	Community NH Bed Days	Patient Days	Total Occupancy
AdventHealth Care Center – Apopka North	120	43,920	40,407	92.00%
AdventHealth Care Center – Orlando East	120	43,920	38,431	87.50%
AdventHealth Care Center – Orlando North	120	43,920	39,808	90.64%
Apopka Health and Rehabilitation Center (Lic. 10/27/20)	180	11,880	890	7.49%
Avante at Orlando, Inc.	118	43,188	37,490	86.81%
Colonial Lakes Health Care	180	65,880	58,267	88.44%
Commons at Orlando Lutheran Towers	93	34,038	33,937	99.70%
Conway Lakes Health & Rehabilitation Center	120	43,920	38,049	86.63%
Courtyards of Orlando Care Center	120	43,920	33,834	77.04%
Delaney Park Health and Rehabilitation Center	89	32,574	28,829	88.50%
Guardian Care Nursing & Rehabilitation Center	120	43,920	32,383	73.73%
Health Central Park (Delicensed 110 beds on 2/17/20)	118	47,888	42,002	87.71%
Hunters Creek Nursing and Rehab Center	116	42,456	36,040	84.89%
Life Care Center of Orlando (Added 12 beds on 3/23/20)	132	47,328	38,543	81.44%
Mayflower Healthcare Center	24	8,784	7,044	80.19%
Metro West Nursing and Rehab Center	120	43,920	34,025	77.47%
Ocoee Health Care Center	120	43,920	28,414	64.69%
Orlando Health and Rehabilitation Center	391	143,106	125,242	87.52%
Orlando Health Center For Rehabilitation (+100 - 2/17/20)	110	35,560	22,346	62.84%
Palm Garden of Orlando	132	48,312	40,727	84.30%
Parks Healthcare and Rehabilitation Center	120	43,920	37,921	86.34%
Parkview Rehabilitation Center at Winter Park, The	138	50,508	32,896	65.13%
Regents Park of Winter Park	120	43,920	38,231	87.05%
Rehabilitation Center of Winter Park, The	180	65,880	51,514	78.19%
Rio Pinar Health Care	180	65,880	62,993	95.62%
Rosewood Health and Rehabilitation Center	120	43,920	37,542	85.48%
Savannah Cove	39	14,274	12,242	85.76%
Solaris Healthcare Lake Bennet	120	43,920	39,419	89.75%
Solaris Healthcare Windermere	120	43,920	40,618	92.48%
Terra Vista Rehab and Health Center	115	42,090	35,102	83.40%
The Gardens at DePugh Nursing	40	14,640	13,479	92.07%
Westminster Baldwin Park	40	14,640	12,428	84.89%
Westminster Towers	115	42,090	33,478	79.54%
Westminster Winter Park	80	29,280	21,995	75.12%
Winter Garden Rehabilitation and Nursing Center	120	43,920	29,294	66.70%
Winter Park Care & Rehabilitation Center	103	37,698	31,541	83.67%
Total	4,393*	1,552,854	1,287,401	82.91%

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, April 2021 Batching Cycle

The applicant cites the ‘gaps in service’ which the project will resolve when it is implemented. These include:

1. Need for an isolation unit featuring all private rooms
2. Available and accessible beds for Medicaid long-term care enrollees
3. Need for additional private beds in Subdistrict 7-2
4. Available and accessible beds for discharges from area hospitals

Avante asserts that to address the need to isolate “cohort” infectious patients, there is need for an isolation unit, featuring all private rooms, with one designated wing of the building that will contain a separate smoke compartment with negative pressure. Further, in the case of a surge in an infectious or highly contagious virus or disease, the isolation

unit will be an individual isolated section of the facility to accommodate infectious and highly contagious viruses and diseases. The reviewer notes Conditions #4 and #5.

Avante states that there are two categories of patients in SNFs: rehabilitation and long-term care and that individuals are not typically enrolled in Medicaid long-term care plans until they are in need of such care. Further, Medicare covers short-term stays in nursing facilities, focused on rehabilitation and skilled care; when a patient exhausts their Medicare days in the SNF, they are converted to Medicaid long-term care enrollment provided they financially qualify. The applicant points out that those who are disabled, low-income, under Medicare age that are enrolled in Medicaid managed care plans and Medicaid fee for service, immediately meet the income qualifiers to be enrolled in Medicaid long-term care.

Avante asserts that it will make a concerted effort to admit Medicaid Long-Term Care enrollees; this will include assisting persons in enrolling in Medicaid Long Term Care that require services, facilitating Medicaid MMA and FFS persons in enrolling in community-based services and working with hospitals, physicians and other referral sources to assure Medicaid patients access is enhanced.

Avante states that of the Orange County nursing facilities provided 63.6 percent their total CY 2020 patient days to Medicaid patients. The applicant states that 58 percent of year one's and 64.6 percent or 26,718 of the total patient days in year two are projected to be Medicaid days. The applicant maintains that Avante's proposed Winter Garden facility will enhance accessibility and availability of long-term care services for this patient population.

An analysis of Subdistrict 7-2's number of private beds was provided on the application's pages 10 and 11, on a facility by facility basis, private rooms ranged from between zero to 106 beds, and represented at maximum 13.1 percent of the facility's total licensed beds. Avante concludes its project by featuring 60 private rooms and maximizing privacy in the design of 30 semi-private rooms will add a great value to Orange County.

The applicant notes (as in CON application #10634) that Subdistrict 7-2 hospitals discharged between 13,061 and 13,362 patients to nursing facilities in each of the last three years (12 month periods ending September 2017-2019); annual discharges to SNFs represent between 9.4 and 10.2 percent of the total Subdistrict 7-2 acute care hospital discharges. Avante states that in the 65+ age cohort, 17.2 percent are discharged to SNFs.

Avante points out that the preceding data is of particular importance because of Avante’s other facilities in this market—Avante at Orlando, (Orange County) and Avante at St. Cloud (Osceola County) have well-established and highly-collaborative working relationships with Orange County hospital discharge planners, social workers and hospital leadership. Avante anticipates utilizing its established relationships to provide patients who primarily reside proximate to the proposed facility with an additional discharge destination. The applicant states it will provide a high level of comprehensive rehabilitation with experienced and highly credentialed therapeutic staff. Further, each resident will have individualized care plans that aim to reduce re-hospitalizations.

The applicant states that Avante at Orange County will offer Avante’s Accelerated Rehabilitation Program for residents with stroke, cardiac and orthopedic diagnosis. Further, Avante will provide a high level of comprehensive rehabilitation with experienced and highly credentialed therapeutic staff; rehabilitation teams will provide highly focused one-on-one treatment with the patient and ensure coordinated care with the patient’s primary care physician. Avante indicates that treatment will be provided in a state-of-the-art therapy suite, with a large gym, private physical therapy, speech therapy rooms and an Activities for Daily Living suite for evaluating a patient’s safe transition to home. The therapy suite will be located separately from the patient care areas. It and will support rehabilitation services and include direct access to an interior courtyard containing therapy stations. Comprehensive physical, occupational and speech therapy will be available seven days a week.

Avante projects that it will admit 290 patients in its first year, increasing to 727 patients in year two and states that the configuration of the facility will be a mix of short-term and long-term care. The applicant has forecasted admissions, and the average daily census, for the projected first two years of operations, presented in the following table:

Avante Group Forecasted Utilization 120-bed Facility Years One and Two Ending March 31 of 2024 and 2025		
	Year One	Year Two
Admissions	290	727
Patient Days	15,131	41,358
Occupancy Rate	35%	94%
Average Daily Census	41.5	113.3

Source: CON application #10661, Schedule 7 in Vol. 1, Tab 5

Avante’s Schedule 7 indicates it projects the following patient days by payor in years one and two of the project.

Avante Group Forecasted Patient Days 120-bed Facility Years One and Two Ending March 31 of 2024 and 2025		
	Year One	Year Two
Medicare	4,144	10,614
Medicare HMO	453	1,098
Medicaid	8,774	26,718
Private Pay/Other	1,760	2,923
Total	15,131	41,358

Source: CON application #10661, Schedule 7 in Vol. 1, Tab 5

2. Statutory Review Criteria

- a. Is need for the project evidenced by the availability, quality of care, accessibility and extent of utilization of existing health care facilities and health services in the applicant’s service area? Section 408.035 (1)(2) and (5), Florida Statutes.**

As of February 19, 2021, there were 9,657 licensed community beds and 535 approved beds in District 7. Subdistrict 7-2 (Orange County) has 36 licensed community SNFs with a total of 4,393 community beds and 278 approved beds. District 7 averaged 80.31 percent total occupancy, and Subdistrict 7-2 averaged 82.91 percent total occupancy for CY 2020.

The reviewer notes that Subdistrict 7-2 had approximately 46 percent of District 7’s total licensed beds in CY 2020. Avante asserts that the approval and establishment of the proposed new 120-bed SNF will be positive for the availability for services to the residents of Subdistrict 7-2.

Avante states that it has a documented history of providing quality of care, concurrent with licensure and certification and it will implement all policies and procedures as well as the QAPI based on Avante Group, Inc./AGH affiliated facilities throughout Florida. The applicant states that upon licensure and certification, Avante will adhere to any and all State and Federal nursing home regulations statutes and the entire facility will meet Medicare’s Conditions of Participation.

This was addressed in great detail in the original CON application #10634. The applicant is essentially the same entity.

- b. Does the applicant have a history of providing quality of care? Has the applicant demonstrated the ability to provide quality of care? Is the applicant a Gold Seal Program nursing facility that is proposing to add beds to an existing nursing home? Section 408.035(3) and (10), Florida Statutes.**

The applicant's parent - Avante Group, Inc. is an existing, for-profit Florida entity, and therefore has an historical record available to document in this CON proposal. The applicant affirms affiliations with 11 licensed SNFs and two licensed ALFs in the State of Florida. Concurrent with licensure and certification, it will develop all policies and procedures as well as the quality assurance program based on its Avante-affiliated Florida facilities. Avante indicates that it will adhere to any and all State and Federal nursing home regulations and statutes and the entire facility will meet Medicare's Conditions of Participation.

The applicant states that the 120-bed facility in Winter Garden will be managed by Avante Group, Inc., bringing experience and knowledge that enables the applicant to achieve consistent quality of care.

The reviewer notes that none of the Avante Group, Inc./AGH-affiliated facilities have Gold Seal designation, and the three facilities below are on the Agency's Nursing Home Watch List:²

- Avante at Boca Raton, Inc.
- Avante at Lake Worth, Inc.
- Avante at Ormond Beach, Inc.

Avante states that it has received Joint Commission(JC) accreditation for nine of its 11 SNFs and restates its proposed JC condition .

Avante cites its "nearby" facilities include Avante at Mt. Dora (D3-7) and in three of the four District 7 counties: Orange, Brevard and Osceola. The applicant indicates that, per Centers for Medicare and Medicaid Services (CMS's) Five-Star Quality Rating System (via www.medicare.gov), two of its District 7 facilities Avante at Orlando and Avante at St. Cloud have a quality measures rating of 4 out the possible 5 stars, and Avante at Melbourne has the maximum of 5 possible stars. Avante's – Avante at Mt. Dora, (Lake County - Subdistrict 3-7), that has achieved a quality measures rating of 5 out of 5 possible stars.

The reviewer notes that the Agency documents the most current Nursing Home Guide Inspection Ratings issuance (a one to five star rating system, out of a possible maximum of five starts) for each of Avante Group, Inc.'s 11 Florida SNFs, indicating a rating time period of October 2018-March 2021, last updated May 2021. Below is an explanation of the star ratings:

- ★★★★★ Means that for this measure this facility ranked better than 81 percent to 100 percent of the facilities in its region. That is, five stars means that the facility ranked in the top 20 percent of facilities in its region

² Source – FloridaHealthFinder.gov

- ★★★★ Means that for this measure this facility ranked better than 61 percent to 80 percent of the facilities in its region
- ★★★ Means that for this measure this facility ranked better than 41 percent to 60 percent of the facilities in its region
- ★★ Means that for this measure this facility ranked better than 21 percent to 40 percent of the facilities in its region
- ★ Means that for this measure this facility ranked better than 0 percent to 20 percent of the facilities in its region. That is, a single star means that the facility ranked in the bottom 20 percent of facilities in its region

The reviewer generates the following table to reflect the overall inspection star rating for each of Avante’s 11 Florida SNFs. The reviewer notes that for the referenced period, Avante’s Florida SNFs’ overall inspection ratings ranged from a one-star (★) rating to a three-star (★★★) rating.

Most Current Nursing Home Guide Inspection Rating October 2018-March 2021 Last Updated May 2021	
Avante Group, Inc., SNF	Overall Star Rating
Avante at Boca Raton, Inc.	★
Avante at Inverness, Inc.	★★
Avante at Lake Worth, Inc.	★★
Avante at Leesburg, Inc.	★★
Avante at Melbourne, Inc.	★
Avante at Mt. Dora, Inc.	★★
Avante at Ocala, Inc.	★★★★
Avante at Orlando, Inc.	★★★★
Avante at Ormond Beach, Inc.	★★
Avante at St. Cloud, Inc.	★★
Avante Villa at Jacksonville Beach, Inc.	★★

Source: <https://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx>

Avante comments that staff training is important to the delivery of quality care; all personnel, from top management to front-line personnel, actively participate in the staff training programs. Avante contends that a combination of in-service units, selected outside seminars and continuous onsite supervision, evaluation and skills reinforcement provides staff members of its facilities with state-of-the-art resident care and management skills.

Avante states that it utilizes Healthcare Academy for web-based training and education of its staff; the material provided by Healthcare Academy is authored by some of the most experienced professionals in the post-acute care field. The applicant comments that E-Learning courses provide high-quality education for all the skills, procedures and practices required to provide the highest standard of care for residents.

The applicant contends that its partnership with PointClickCare, “the leading electronic health record (EH R) technology partner in the country within the long-term post-acute care and senior care industry” enables Avante to provide care for more people, more efficiently and more effectively. The PointClickCare EH R will be incorporated into the Avante Winter Garden facility.

Avante states that it maintains “a policy to provide care and services related to Resident Assessment/Instrument and Process in accordance to State and Federal regulation”. Further, use of the residents Minimum Data Set (MDS) will ensure a comprehensive and accurate assessment of residents will be completed in the format and in accordance with time frames stipulated by the Department of Health and Human Services Center for Medicare and Medicaid Services.

Avante states that its assessment system provides a comprehensive, accurate, standardized and reproducible assessment of each resident’s functional capacities and assists staff in identifying health problems for care plan development. Information captured in the resident’s MDS includes, but is not limited to the following:

- Identification and demographic information
- Customary routine
- Cognitive patterns
- Communication
- Medications
- Mood and behavior patterns
- Activity pursuit
- Continence
- Dental and nutritional status
- Discharge planning
- Disease diagnosis and health conditions
- Documentation of participation in assessment. The assessment process must include direct observation and communication with the resident, as well as communication with licensed and non-licensed direct care staff members on all shifts.
- Documentation of summary information regarding the additional assessment performed on the care areas triggered by the completion of the MDS
- Physical functioning and structural problems
- Psychological well-being
- Skin Conditions
- Special treatments and procedures
- Vision

The reviewer notes Avante’s intent to use SAIVA to reduce rehospitalizations as described in CON application #10661, Vol. 1, Tab 2, pages 18-20. Avante maintains that quality of care is a fundamental principle that applies to all treatment and care provided to its residents. Further, based on the resident’s comprehensive assessment, the facility must ensure that residents receive treatment and care in accordance with professional standards of practice, the comprehensive person-centered care plan and the residents’ choices. The applicant points out that each Avante center maintains a host of quality of care policy and procedures, as part of the comprehensive facility wide policies and procedures manual and lists these on CON application #10661, Volume 1, Tab 2, pages 20 and 21. Infection Control and Avante Group’s CoVid-19 Response and Preparedness Plan is discussed on the application’s pages 22-24.

Avante Group, Inc./AG Holdings, Inc.’s 11 Florida licensed SNF’s have a total of 1,408 beds. For the three-year period, June 21, 2018 to June 21, 2021, Avante Group, Inc./AGH had 21 substantiated complaints, which are summarized in the table below. A single complaint can encompass multiple complaint categories.

Avante Group, Inc./AGH, Three Year Substantiated Complaint History June 21, 2018 – June 21, 2021	
Complaint Category	Number Substantiated
Quality of Care/Treatment	8
Elopement	3
Resident/Patient/Client Abuse	3
Resident/Patient/Client Rights	3
Resident/Patient/Client Neglect	2
Elopement	2
Infection Control	2
Physical Environment	2
Admission, Transfer & Discharge Rights	1
Administration/Personnel	1
Billing/Refunds	1
State Licensure	1
Total	29

Source: Agency Complaint Records

c. What resources, including health manpower, management personnel and funds for capital and operating expenditures, are available for project accomplishment and operation? Section 408.035 (4), 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.

CON-10661	
AG Holdings, Inc, and Avante Group, Inc.	
	Dec-19
Cash and Equivalents	\$ 486,829.00
Current Assets	\$ 14,052,744.00
Total Assets	\$ 18,775,081.00
Current Liabilities	\$ 40,844,248.00
Total Liabilities	\$ 130,280,746.00
Net Assets	\$ (111,505,665.00)
Total Revenues	\$ 137,965,942.00
Excess of Revenues Over Expenses	\$ (8,676,982.00)
Cash Flow from (used in) Operations	\$ (5,319,765.00)
Short-Term Analysis	
Current Ratio (CA/CL)	0.3
Cash Flow to Current Liabilities (CFO/CL)	-13.02%
Long-Term Analysis	
Long-Term Debt to Net Assets (TL-CL/NA)	-80.2%
Total Margin (ER/TR)	-6.29%
Measure of Available Funding	
Working Capital	(\$26,791,504)

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

Capital Requirements and Funding:

The applicant indicates on Schedule 2 capital projects totaling \$32,161,750, which consists of costs with the original CON #10641.

The applicant indicated on Schedule 3 that the project will be funded through cash on hand (\$100,000), non-related company financing (\$28,302,340), and other (\$3,759,410). The applicant provided parent company audited financial statements for fiscal years 2018 and 2019. They also stated the financial statements for 2020 were not yet available.

Staff notes that while the financial statements for 2018 included a going concern paragraph which indicates that there is concern that AG Holdings may not be able to continue as an ongoing entity, the 2019 report does not.

The audited financial statements show \$486,829 in cash and equivalents. The applicant provided a letter of interest from CBRE, subject to approval by the United States Department of Housing and Urban Development for \$29,000,000, and over \$10,000,000 from other investors.

Conclusion:

Funding for this project is dependent on obtaining the referenced non-related debt financing.

d. What is the immediate and long-term financial feasibility of the proposal? Section 408.035 (6), Florida Statutes

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 (2017 and 2018 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 2020, 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 Facilities		
	Total	PPD	Highest	Median	Lowest
Net Revenues	14,765,980	357.03	489.59	301.24	233.68
Total Expenses	13,390,534	323.77	468.96	310.00	237.17
Operating Income	1,375,446	33.26	31.27	-6.84	-50.99
Margin	9.31%				
Total Occupancy	94%		0.98	0.92	0.67
Medicaid Occ.	65%		0.86	0.78	0.75
Medicare Occ.	28%		0.20	0.10	0.04

The projected NRPD, CPD fall within the group range and are considered reasonable, while total profit of \$33.26 PPD is above the group high of \$31.27 PPD. In addition, the total cost appears to include at least the minimum staffing required. Therefore, the overall profitability appears slightly overstated.

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 the licensed nursing staffing 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? Section 408.035 (7), Florida Statutes

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 priced-based 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? Section 408.035 (8), Florida Statutes; Chapter 59A-4, Florida Administrative Code

The reviewer notes there were no changes to the original CON application #10634 architectural plans. Therefore, the following this applies. 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 significant impact on either construction costs or the proposed completion schedule.

The plans submitted with this application were schematic in detail with the expectation that they will be necessarily revised and refined prior to being submitted for full plan review. The architectural review of this application shall not be construed as an in-depth effort to determine complete compliance with all applicable codes and standards. The final responsibility for facility compliance ultimately rests with the applicant 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 and propose the provision of health services to Medicaid patients and the medically indigent? Does the applicant propose to provide health services to Medicaid patients and the medically indigent? Section 408.035(9), Florida Statutes

Avante states all 11 of its SNFs "have a demonstrated history and commitment to the Medicaid population". The applicant provides it CY 2018-2020 Medicaid days, percent of Medicaid days in a chart on the application's page 41. states that its facilities have a documented history

and commitment to the Medicaid population. Avante facilities provided 270,307 patient days or 66.3 percent of their total patient days to Medicaid residents during CY 2020. During CY 2018-2020, Avante provided 800,543 patient days and between 66.3 and 69 percent of the annual total patient days to Medicaid residents.

The applicant’s Schedule 7 shows Avante expects 15,131 patient days in year one (290 admits) and 41,358 patient days in year two (727 admits). See the following table.

Projected Admissions and Patient Days, Years One and Two Ending March 31 of 2024 and 2025 120-bed Facility					
Payer	Year One		Year Two		Year Two Percent of Revenue
	Admits	Days	Admits	Days	
Self-pay	12	700	13	732	1.4%
Medicaid	35	8,774	107	26,718	46.0%
Medicare	198	4,144	506	10,614	45.9%
Medicare HMO	27	453	65	1,098	3.0%
Other Payers	18	1,060	37	2,196	4.0%
Total	290	15,131	727	41,358	100.0%†

Source: CON application #10661, Schedule 7, Volume 1, Tab 5

† The Reviewer notes that this total is 100.3%, probably due to rounding.

The applicant projects 35.0 percent in year one and 94.0 percent total occupancy in year two of the project. Avante projects that Medicaid and self-pay will represent 58.0 percent and 4.6 percent of year-one and 64.6 percent and 1.8 percent of year two total annual patient days ending March 31, 2024 and March 31, 2025, respectively.

Avante contends this project will enhance programmatic accessibility for Medicaid LTC enrollees and medically indigent populations.

F. SUMMARY

Avante at Orange County LLC (CON application #10661) proposes the transfer of CON #10634 from Avante Group, Inc. which was approved to establish a 120-bed community nursing home District 7, Subdistrict 7-2 (Orange County, Florida). Avante indicates that other than the ownership change and additional time added to the project’s CON termination date, there are no changes proposed with this application. The project is stated to be located in Winter Garden.

The project involves 84,282 GSF of new construction/renovation space with a construction cost of \$18,967,500. Total project cost is \$32,161,750. Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant expects issuance of license during October 2023 and initiation of services during November 2023.

Avante confirms it will meet the conditions on the original CON #10634.

Need

Avante submitted the application to transfer CON #10634 for expedited review and not in response to the fixed need pool. The original CON #10634 was in response to published need. This is not at issue in this application.

As of February 19, 2021, Subdistrict 7-2 had 4,393 licensed and 278 approved community nursing home beds. During CY 2020, Subdistrict 7-2 experienced 82.91 percent utilization in its 36 existing community nursing homes.

Quality of Care

- The applicant provided a detailed description of its ability to provide quality care.
- Avante’s affiliated SNFs had a combined total of 21 substantiated complaints for the three-year period ending June 21, 2021.
- Avante’s affiliated SNFs ranged from one to three stars in the Agency’s most recent nursing home guide inspection rating.

Financial Feasibility/Availability of Funds

- Funding for this project is dependent on obtaining non-related debt financing.
- This project appears to be financially feasible based on the projections provided by the applicant
- Based on the information provided in Schedule 6, the applicant meets this staffing standards in s. 400.23(3)(a)(1) Florida Statutes in both years
- This project is not likely to have a material impact on priced-based competition to promote quality and cost-effectiveness

Medicaid/Charity Care

- Avante Group, Inc. affiliated facilities provided 800,543 patient days and between 66.3 and 69.0 percent of their annual total patient days to Medicaid residents during CYs 2018-2020.

- Avante projects that Medicaid and self-pay will represent 58.0 percent and 4.6 percent of year-one and 64.6 percent and 1.8 percent of year two total annual patient days ending March 31, 2024 and March 31, 2025, respectively.

Architectural

- The applicant submitted all information and documentation necessary to demonstrate compliance with the architectural review criteria
- The project completion forecast for the proposed project provided in Schedule 10 appears to be reasonable
- A review of the architectural plans, narratives and other supporting documents does not revealed a serious deficiency that will require modifications to the plans which are likely to have a significant impact on construction costs

G. RECOMMENDATION

Approve CON #10661 to transfer CON #10634 from Avante Group, Inc. to Avante at Orange County LLC to establish a 120-bed community nursing home in District 7, Subdistrict 2, Orange County. The total project cost is \$32,161,750. The project involves 84,282 GSF of new construction and a construction cost of \$18,967,500.

CONDITIONS:

1. The applicant facility will be located in Orange County, Subdistrict 7-2, Florida.
2. The applicant will implement the SAIVA system to reduce hospital admissions and re-admissions, or another hospital re-admission reduction program with similar intent that Avante at Orange County LLC determines to be the best available at the time of implementation.
3. The applicant will maintain a COVID-19 specific infectious disease policy and procedure.
4. The applicant will regularly train all employees on how to handle a pandemic situation as it relates to infection control protocols and procedures, and minimizing the risk of transmission.

AUTHORIZATION FOR AGENCY ACTION

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

DATE: _____

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