

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Village Health Services, LLC/CON application #10711

124 Peters Court
Freeport, Florida 32439

Authorized Representative: Duane Gallagher, Manager
(850) 830-6355

2. Service District/Subdistrict

District 1/Subdistrict 1-2 (Okaloosa County)

B. PUBLIC HEARING

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

C. PROJECT SUMMARY

Village Health Services, LLC/CON application #10711 also referenced as Village Health, or the applicant, a for-profit entity, proposes the transfer of CON #10579 from JDM Health Services, LLC to construct a new 84-bed community nursing home in Subdistrict 1-2 (Okaloosa County). CON #10579 aggregated the need published in the April 2019 Batching Cycle for the January 2022 Planning Horizon of 25-beds in Subdistrict 1-1 with the 59-bed need published for Subdistrict 1-2.

Mr. Duane Gallagher, principal with JDM Health Services, LLC, is also Village Health's principal. The applicant states that the approval of this application ensures the project continues under development with new management affiliated with Clear Choice Health Care Health Services, LLC, which currently manages several Florida skilled nursing facilities.

The proposed project includes 54,522 gross square feet (GSF) of new construction. Total project cost is \$17,290,241, which includes land, building, equipment, project development, financing, and start-up costs.

The applicant expects issuance of license in March 2024 and initiation of service in April 2024.

Village Health Services, LLC offers the following conditions:

- 1. Locate within the Shalimar zip code, 32579, proximate to the Air Force Enlisted Village, a retirement community of independent and assisted living residences.** The applicant demonstrates location of the nursing home upon submission of the site plane to the Office of Plans and Construction. The licensure application, with a mailing address, city, and zip code, also confirms the location of the nursing home in the Shalimar area.
- 2. Contain two bariatric rooms.** The applicant will provide photos of the finished rooms upon completion of construction. The applicant will also provide the number of residents requiring a bariatric room on an annual basis.
- 3. Provide a Parkinson's disease program.** Upon implementation of the program, the applicant will provide the policies specific to the program and indicate the number of residents served annually by the program.
- 4. Offer 50 private rooms.** The applicant will submit architectural drawings to the Office of Plans and Construction, showing 50 private rooms. The applicant also documents the number of private rooms on the initial licensure application form and maintains the beds through the licensure renewal process.
- 5. Contain an Activities of Daily Living suite within the Therapy Department.** The submission of architectural drawings to the Office of Plans and Construction identifies the therapy area and shows the activities of daily living area within the overall therapy department.

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.

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, Sarah Zimmerman, analyzed the application in its entirety with consultation from financial analyst Eric West 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.

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 #10711 as an expedited review and not in response to a fixed need pool publication. The number of licensed and approved nursing home beds in Subdistrict 1-2 will remain unchanged because of the proposed transfer. As previously stated, the original project (CON #10579) was approved using aggregate need of 25 beds in Subdistrict 1-1 with the 59-bed need published for Subdistrict 1-2 for the April 2019 Other Beds and Programs Batching Cycle.

As of August 13, 2021, Subdistrict 1-2 had eight community nursing homes with a total of 899 licensed and 84 CON approved community nursing home beds yet to be licensed. Subdistrict 1-2's community nursing homes reported 78.25 percent occupancy during the 12 months ending June 30, 2021.

Village Health Services, LLC states that this transfer of 84 beds adds capacity to Nursing Home Subdistrict 1-2, zip code 32579, where presently no nursing home exists. Further, the closest licensed nursing homes are in Destin and Niceville to the east, Fort Walton Beach to the west, and Crestview to the North. Village Health contends its location will draw patients from both Okaloosa and Santa Rosa Counties. The applicant notes there four nursing home facilities in Santa Rosa with 410 community beds. The applicant's Figure 1 on page ii of the application, shows the facility's proposed Zip Code location and Figure 2 (page iii) shows the existing nursing homes closest to the proposed location.

Village Health Services, LLC notes the facility location within Zip Code 32579 near Shalimar and Eglin Air Force Base, contains an independent and assisted living retirement community (the Air Force Enlisted Village) and that representatives from there have indicated interest and need for having a nursing home located in proximity to the community.

Village Health's Table 1-1 below represents the projected population growth over the next five years for District 1 Counties and Florida.

**Table 1-1
Availability of Nursing Home Beds for District 1 Counties and Florida
July 2021 and July 2026**

| County/Area | BEFORE THE PROJECT | | | AFTER THE PROJECT | | | |
|------------------------------------|--------------------------------|-------------------------|------------------------------|--------------------------------|-----------------------------|-------------------------------------|---------------------------------|
| | July 2021 Population 65+ | Licensed SNF Beds | Beds per 1,000 Age 65+ | July 2026 Population 65+ | Approved Beds 8/13/21 | Licensed and Approved Beds | Beds per 1,000 Age 65+ |
| Escambia (SD1) | 60,968 | 1,848 | 30 | 70,324 | 120 | 1,968 | 28 |
| Santa Rosa (SD1) | 31,698 | 410 | 13 | 38,554 | 0 | 410 | 11 |
| Okaloosa (SD2) | 36,760 | 899 | 24 | 43,971 | 84 | 983 | 22 |
| Walton (SD 3) | 15,730 | 277 | 18 | 19,131 | 0 | 277 | 14 |
| District 1 Total | 145,156 | 3,434 | 24 | 171,980 | 204 | 3,638 | 21 |
| Santa Rosa and Okaloosa | 68,458 | 1,309 | 19 | 82,525 | 84 | 13,393 | 17 |
| State | 4,598,989 | 85,894 | 19 | 5,404,219 | 2,672 | 88,566 | 16 |

Source: CON application #10711 page 1-2 from Florida Agency for Health Care Administration Florida Nursing Home Bed Need Projections by District and Subdistrict 10/01/21 and Florida Population Estimates and Projections 2015 to 2030, September 2021

Village Health Services, LLC notes that Okaloosa County as of July 2021 has a total population of 206,418, with 36,760 or 17.8 percent of the total population aged 65 and older. This population is expected to increase to by 7,211 or by 19.6 percent reaching 43,971 or by July 2026. Santa Rosa County as of July 2021 has a total population of 190,405 with the number of seniors aged 65 and older of 31,698 or 16.6 percent of the total population. Santa’s Rosa’s aged 65 and over population is expected to increase to by 6,856 or by 21.6 percent, reaching 38,554 by July 2026. The applicant notes that in July 2026, seniors will represent 20.3 percent of Okaloosa’s projected population of 217,081 and 18.8 percent of Santa Rosa’s 205,288 population.

Villages Health notes its proposed service area will consist of Okaloosa and Santa Rosa Counties and that Okaloosa County current has 24 SNF beds per 1,000 population age 65 and over and Santa Rosa has 13 beds per 1,000 population age 65 and over, indicating that combined the counties have 19 beds per population age 65 and over. By July 2026, should all approved beds be licensed Okaloosa will have 22 beds and Santa Rosa 11 beds per 1,000 population age 65 and over for a combined rate of 17 SNF beds per 1,000 population age 65 and over compared to the states’ 16 per 1,000. The applicant concludes that the project will ensure continued availability to skilled nursing care in the service area.

Villages Health next indicates that the availability of a private room influences admission to a nursing home. The applicant notes that two Okaloosa County SNFs still operate three and four bed-rooms and only

one facility offers more than a few private rooms with most offering fewer than ten private rooms. Villages Health concludes its project's 50 private rooms will allow placement of elders recovering from infectious diseases to continue their recovery with minimized risk and notes it will also have two bariatric rooms to ensure availability for bariatric patients.

Regarding quality assurance and the performance improvement program, Village Health Services, LLC contends that management is dedicated to improving the quality-of-care standards at their facilities by consistently investing in upgrades and renovations, engaging staff in in quality improvement initiatives and education to promote recovery and return to the community. The applicant commits that it will provide long term care by tailoring care to patients with similar needs a higher level of service and efficiently implementing higher staffing ratios to establish a viable program with excellent results for those it serves.

Regarding access, Villages Health provides a map (CON application #10711, page 1-4) to indicate the geographic location of the eight existing nursing homes in Okaloosa County stating they "tend to cluster in Fort Walton Beach area" with three and Crestview with three nursing homes. The other two are in Destin and Niceville.

Village Health Services, LLC utilizes Agency hospital inpatient discharge data from July 1, 2019, through June 30, 2020, to indicate that a total of 1,869 Okaloosa County residents were discharged to a SNF. The applicant contends that despite the low number of Medicaid Managed Care cases, it plans to be both Medicare and Medicaid certified to allow for flexibility in admissions.

While the applicant's Table 1-2 (CON application #10711, page 1-5) indicates that Medicare is the predominant payer, Villages Health states it will participate in both Medicare and Medicaid programs seeking contracts with managed care providers and commercial insurance companies. Village Health Services, LLC shares that its area affiliates have long-standing relationships with several of these providers, assuring the project will be able to contract with a variety of providers and managed care organizations. The applicant contends that the diversity of payment options allows the facility to serve a wider pool of residents and maximizing access.

Table 1-2
Payer Mix, Okaloosa County Residents Discharged to a Nursing Home
July 1, 2019 through June 30, 2020

| Payer | Cases | Percent |
|------------------------------|--------------|----------------|
| Medicare | 1,483 | 79.3% |
| Medicare Managed Care | 251 | 13.4% |
| Commercial Health Insurance | 54 | 2.9% |
| VA | 17 | 0.9% |
| Workers Compensation | 1 | 0.1% |
| Other | 1 | 0.1% |
| Other State/Local Government | 1 | 0.1% |
| TriCare/Federal Govt/CHAMPUS | 13 | 0.7% |
| Self-Pay | 3 | 0.2% |
| Medicaid | 9 | 0.5% |
| Medicaid Managed Care | 36 | 1.9% |
| Total | 1,869 | 100.0% |

CON application #10711, page 1-5, Table 1-2

Village Health Services, LLC assures that its facility is sufficiently sized to provide a wide range of services for various patient needs which will address eligibility and that it will make every effort to remove financial barriers that could impede access.

The applicant offers that Clear Choice Health Care, its managing company will offer its successful programs and services which are described in detail on pages 1-6 through 1-8 of this application and are listed below:

- Cardiovascular Patient Rehabilitative Programs and Services
 - Congestive Heart Failure (CHF)
 - Focus on dietary restrictions, appropriate weight monitoring and early detection of symptom onset
- Neurological Patient Rehabilitative Programs and Service
 - Provides intensive therapeutic regimens through physical, occupational and speech therapies based on the patient’s need and resulting progress
- Programs for Patients with Parkinson’s Disease
 - The Les Silverman Voice Treatment (“LSVT”) Loud Program
 - Unique, research-based proprietary speech therapy focused specifically on the special needs of Parkinson’s disease and those with other neurological conditions
 - The Les Silverman Voice Treatment BIG Program
 - Intensive, targets exercise program for functional progression of whole-body movement to increase trunk rotation, improve balance, and facilitate faster walking with bigger steps
- Pulmonary Care (Respiratory) Rehabilitative Programs and Services
 - Chronic Obstructive Pulmonary Disease
 - Physical, occupational, speech and respiratory therapy

- Medication Reconciliation
 - Performed three distinct times during patient’s stay
- Complex Wound Care
- Peritoneal Dialysis
- Infectious Disease Management
- Palliative Care

Village Health Services, LLC provides two tables, the first (Table 1-3 below) illustrates Subdistrict 1-2 (Okaloosa County), Santa Rosa County and District 1 utilization from July 2020 – June 2021. The second (Table 1-4) compares the nursing home occupancy rates from July 2018 - June 2019 (pre-pandemic) and July 2020 - June 2021 for Santa Rosa and Okaloosa County.

**Table 1-3
Community Nursing Home Bed Utilization
July 2020 – June 2021
Santa Rosa and Okaloosa County by Facility and District 1**

| Facility | Beds | Bed Days | Patient Days | Occupancy | Medicaid Days | Medicaid Occupancy |
|----------------------------------------------|--------------|------------------|----------------|---------------|----------------|--------------------|
| Santa Rosa County | | | | | | |
| Bay Breeze Senior Living & Rehab Center | 120 | 43,800 | 36,979 | 84.43% | 21,844 | 59.07% |
| PruittHealth - Santa Rosa | 120 | 43,800 | 35,602 | 81.28% | 24,443 | 68.66% |
| Sandy Ridge Center for Rehab & Healing | 60 | 21,900 | 18,777 | 85.74% | 11,310 | 60.23% |
| Santa Rosa Center for Rehab & Healing | 110 | 40,150 | 30,084 | 74.93% | 22,201 | 73.80% |
| Santa Rosa County Subtotal | 410 | 149,650 | 121,442 | 81.15% | 79,798 | 65.71% |
| Subdistrict 2 | | | | | | |
| Crestview Rehabilitation Center, LLC | 180 | 65,700 | 46,766 | 71.18% | 34,639 | 74.07% |
| Destin Healthcare and Rehabilitation Center | 119 | 43,435 | 41,081 | 94.58%% | 31,304 | 76.20% |
| Emerald Coast Center | 120 | 43,800 | 32,881 | 75.07% | 25,772 | 78.38% |
| Fort Walton Rehabilitation Center, LLC | 120 | 43,800 | 35,275 | 80.54% | 21,395 | 60.65% |
| Manor at Blue Water Bay, The | 120 | 43,800 | 31,708 | 72.39% | 13,674 | 43.12% |
| Shoal Creek Rehabilitation Center | 120 | 43,800 | 37,604 | 85.85% | 23,670 | 62.95% |
| Silvercrest Health and Rehabilitation Center | 60 | 21,900 | 14,241 | 65.03% | 8,015 | 56.28% |
| Westwood Nursing & Rehabilitation Center | 60 | 21,900 | 17,215 | 78.61% | 4,104 | 23.84% |
| Subdistrict 2 Subtotal | 899 | 328,135 | 256,771 | 78.25% | 162,573 | 63.31% |
| Okaloosa & Santa Rosa Total | 1,309 | 477,785 | 378,213 | 79.16% | 242,371 | 64.08% |
| District 1 | 3,434 | 1,253,410 | 909,305 | 72.55% | 567,801 | 62.44% |

Source: AHCA publication *Florida Nursing Home Bed Need Projections by District and Subdistrict*, July 2020 - June 2021

**Table 1-4
Nursing Home Occupancy Rates
Santa Rosa and Okaloosa County District 1 and Florida
“Pre-Pandemic” and Current Period**

| County | Pre-Pandemic July 2018 – June 2019 | Current Period July 2020- June 2021 |
|------------|---------------------------------------|----------------------------------------|
| Santa Rosa | 91.13% | 81.15% |
| Okaloosa | 89.53% | 78.25% |
| District 1 | 89.87% | 72.55% |
| State | 85.03% | 73.40% |

Source: AHCA publication *Florida Nursing Home Bed Need Projections by District and Subdistrict*, July 2018 – June 2019 and July 2020 - June 2021

Village Health Services, LLC contends that with the continued population growth and Covid-19 vaccinations and care, nursing home rates will “rebound” by the time the facility opens in 2024. The applicant maintains that regardless of the current level, the occupancy rates in Santa Rosa and Okaloosa Counties remain above the statewide average, indicating a higher demand therefore this project ensures bed availability to a high demand area.

The applicant states that Table 1-3 confirms that District 1’s Medicaid occupancy rate (62.44 percent) is lower than Santa Rosa and Okaloosa’s rate (64.08 percent). Village Health Services, LLC claims it will serve both Medicare and Medicaid beneficiaries, representing patients receiving short-term rehabilitation and long-term rehabilitation skilled nursing services, not discriminating against persons based on religious, racial, ethnic, disability or gender. Further, its focus is on all persons aged 65 and older requiring skilled nursing care and medical management of acute or chronic conditions. Village Health Services, LLC assure its payer mix will include low-income elderly persons who are served by Medicaid Managed Care and ensure access to the elderly and traditionally underserved groups.

The applicant’s projected year one and two patient days are shown below.

**Table 1-5
Projected Patient Days by Payer
First Two Years of Operation**

| Payer | Year One | | Year Two | |
|-----------------------|-----------------|----------------|-----------------|----------------|
| | Days | Percent | Days | Percent |
| Self-Pay | 2,314 | 12.0% | 1,345 | 5.0% |
| Medicare Managed Care | 8,426 | 43.8% | 12,389 | 46.2% |
| Medicare | 7,559 | 39.3% | 11,438 | 42.6% |
| Other Managed Care | 464 | 2.4% | 828 | 3.1% |
| Other Payers | 464 | 2.4 | 828 | 3.1% |
| Total | 19,227 | 100% | 26,828 | 100% |

Source: CON application #10711, page 1-11, Table 1-5, Table PS-1, page vii

The reviewer notes Villages Health Services, LLC’s conditions to project approval include:

- 50 private rooms
- Its proposed location
- Two bariatric rooms
- Parkinson’s Disease program for the planned project
- Contain an Activities of Daily Living suite within the Therapy Department.

2. Agency Rule Preferences

Please indicate how each applicable preference for the type of service proposed is met. Chapter 59C-1.036, Florida Administrative Code.

Chapter 59C-1.036, Florida Administrative Code does not contain preferences relative to community nursing home beds nor does the Agency publish specific preferences for these facilities. However, the rule does contain standards the Agency utilizes in assessing an applicant's ability to provide quality care to the residents.

- a. Geographically Underserved Areas. In a competitive certificate of need review within the nursing home subdistrict as defined in Rule 59C-2.200, Florida Administrative Code, the Agency shall award a certificate of need if the applicant meets all applicable criteria for a geographically underserved area as specified in subsection 408.032(13), Florida Statutes, and if the applicant meets the applicable statutory certificate of need review criteria specified in section 408.035, Florida Statutes, including bed need according to the relevant bed need formula contained in this rule. If the applicant is awarded a certificate of need based on the provisions of this paragraph, the applicant shall agree that the nursing facility will be located in a county without a nursing facility, or in the center of an area within the subdistrict of a radius of at least 20 miles which meets the definition of a geographically underserved area. The center of the geographically underserved area shall be the proposed nursing home location in the application.**

This application was not submitted to remedy a geographically underserved area.

- b. Proposed Services. Applicants proposing the establishment of Medicare-certified nursing facility beds to be licensed under Chapter 400, Florida Statutes, shall provide a detailed description of the services to be provided, staffing pattern, patient characteristics, expected average length of stay, ancillary services, patient assessment tools, admission policies and discharge policies.**

Village Health Services, LLC, discusses its recruitment and retention policies on the application's pages 3-5 through 3-8 and reiterates its experience and service throughout this application. Other aspects of this response are addressed in E.1.a.

c. **Quality of Care. In assessing the applicant's ability to provide quality of care pursuant to ss. 408.035(3), Florida Statutes, the agency shall evaluate the following facts and circumstances:**

1. **Whether the applicant has had a Chapter 400, Florida Statutes, nursing facility license denied, revoked or suspended within the 36 months prior to the current application.**

The applicant is a developmental stage entity formed for the purpose of developing and operating a skilled nursing facility in Okaloosa County.

2. **Whether the applicant has had a nursing facility placed into receivership at any time during the period of ownership, management or leasing of a nursing facility in the 36 months prior to the current application?**

This provision is not applicable.

3. **The extent to which the conditions identified within subparagraphs 1 and 2 threatened or resulted in direct significant harm to the health, safety or welfare of the nursing facility residents.**

This provision is not applicable.

4. **The extent to which the conditions identified within subparagraph 3 were corrected within the time frames allowed by the appropriate state agency in each respective state and in a manner satisfactory to the agency.**

This provision is not applicable.

d. **Rule 59C-1.036(5), Florida Administrative Code, Utilization Reports. Within 45 days after the end of each calendar quarter, facilities with nursing facility beds licensed under Chapter 400, Florida Statutes, shall report to the Agency, or its designee, the total number of patient days, which occurred in each month of the quarter, and the number of such days that were Medicaid patient days.**

The applicant does not directly address this criterion. However, the applicant's representative signed Schedule D – Trn, "Certification by the Applicant" which includes item H stating the applicant "will provide utilization reports to the agency, the Local Health Council or the Agency's designee".

3. 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 August 13, 2021, Subdistrict 1-2 had eight facilities with 899 licensed and 84 CON approved community nursing home beds yet to be licensed. Subdistrict 1-2's community nursing homes reported 78.25 percent occupancy during the 12-months ending June 30, 2021. The need criteria were addressed in the original CON #10579 application.

Village Health Services, LLC restates that at present no nursing homes exist within zip code 32579. The applicant asserts that the new facility development expands utilization, does not reduce access, and promotes a quality facility, supporting the aging population, including improving access to traditionally underserved persons and Medicaid recipients.

As noted in response to E.1.a., and in the original CON application #10579, the applicant assures that the project will increase the availability and accessibility of nursing home care in Okaloosa County. The applicant states this is due to relatively high occupancy rates and the projected increase in the elderly population in this area.

Village Health Services, LLC states that despite the service area's low number of Medicaid Managed Care cases, it plans to be both Medicare and Medicaid certified to allow for flexibility in admissions. The applicant discusses the proposal's accessibility in reference to geographical, financial access and patient access to services on pages 1-3 through 1-8 of the application.

- 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.**

Village Health Services, LLC (CON application #10711) is a newly created entity to sponsor the application to construct and operate the 84-bed community nursing home. The applicant discusses Clear Choice Health Care Health Services, LLC historical record of providing nursing home care in Florida. Village Health states that Clear Choice manages 11 nursing homes in Florida and provides a list of the following 13 facilities:

Alliance Health and Rehabilitation Center
 Belleair Health Care Center
 Centre Pointe Health and Rehab Center
 Conway Lakes Health & Rehabilitation Center
 East Bay Rehabilitation Center
 Melbourne Terrace Rehabilitation Center
 Port Charlotte Rehabilitation Center
 Spring Lake Rehabilitation Center
 Sun Terrace Health Care Center
 Community Health and Rehabilitation Center
 Dolphin Pointe Health Care Center
 Magnolia Ridge Health and Rehabilitation Center

Clear Choice Health Care Health Services, LLC’s nursing homes had twelve substantiated complaints, which are summarized in the table below. A single complaint can encompass multiple complaint categories.

| Clear Choice Health Care Health Services, LLC Three Year Substantiated Complaint History January 28, 2019 – January 27, 2022 | |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| Complaint Category | Number Substantiated |
| Quality of Care/Treatment | 6 |
| Administration/Personnel | 3 |
| Misappropriation of property | 1 |
| Admission, Transfer & Discharge Rights | 1 |
| Falsification of Records/Reports | 1 |
| Infection Control | 1 |
| Life Safety Code | 1 |
| Total | 14 |

Source: Agency Complaint Records

The applicant notes that the owner of Village Health Services, Mr. Duane Gallagher, also oversees two other facilities, The Manor Care at Blue Water and Community Health and Rehabilitation Center Panama City. The reviewer generates the following table to reflect the overall inspection star rating for Mr. Gallagher’s existing 5-star and Joint Commission accreditation nursing homes and facilities:

| Most Current Nursing Home Guide Inspection Rating April 2019 - September 2021 Last Updated: November 2021 | |
|--------------------------------------------------------------------------------------------------------------------------|----------------------------|
| | Overall Star Rating |
| The Manor Care at Blue Water, Niceville | ★★★★★ |
| Community Health and Rehabilitation Center Panama City. | ★★★★★ |

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

The principal's two facilities listed above had no substantiated complaints during the 36 months ending January 27, 2021. The reviewer notes that the facilities listed as Gold Seal Award Recipients as of January 2017, do not presently have this designation.

Village Health Services, LLC contends Mr. Gallagher's experience and its affiliation with Clear Choice is likely to allow its facility to achieve a Five-star rating and Joint Commission accreditation. As previously stated, Clear Choice Health Care, will manage the day-to-day operations of the proposed project. Village Health cites the following programs and services that support the clinical success of Clear Choice facilities:

- Personalized Goal Setting
 - works with the patient to set goals
- Manager on Duty
 - along with on-site nurse supervisor, the manager works late and on weekends
- WOW Factor Program
 - provides personalized "extras" including a gift upon admission
- Guardian Angel Program
 - assigns group of residents to each facility managerial team member to provide personal care
- 72 Hour Meeting
 - addresses the resident and their needs within the first 72 hours at the facility
- Concierge Service
 - from admissions to the last days, this service services the resident for set up and settled, appointments, etc.

Village Health states that illustrative of Clear Choice's focus on the residents' needs is its Clinical Oversight Team which employs five nursing consultants for its existing facilities. The applicant states this well beyond the normal ratio for most skilled nursing homes in Florida. Village Health concludes that the focus on greater education and increased facility oversight has resulted in better clinical outcomes and enhanced quality of care of its residents.

Addressing quality assurance and the performance improvement program, Village Health Services, LLC states that the administrator and the director of nursing participate as key members of the Quality Assurance Performance Improvement Program (QAPI) Committee and that this committee determines areas for Performance Improvement Projects (PIPs) as well as Plan-Do-Study-Act (PDSA) projects. The applicant asserts that the QAPI Committee must use analytical tools to fully implement quality improvement projects and that these quality tools

include the following: Failure Mode and Effects Analysis, Five Whys and Fishbone Diagrams. Village Health provides diagrams of the PDSA process and the QAPI process on page 2-7. The applicant will use MatrixCare® for its electronic health record system which incorporates the CMS Minimum Data Set (MDS), the standardized assessment tool that measures the functional health status of the resident.

The applicant discusses having on-hand various tools and equipment items for hurricane preparedness (including generators) providing photos in Exhibit 2-1 beginning on page 2-11 of the application. Village Health Services, LLC asserts that these resources are also available for other communities as far distant as West Palm Beach and Houston, to support nursing homes impacted by hurricanes in those communities. The applicant maintains that the equipment and supplies will be available to the proposed 84-bed nursing home.

Regarding resident rights, Village Health explains that each person admitted to the new facility will receive a Resident Handbook upon admission and a copy of the Resident's Rights. The applicant states that staff is trained upon hire and annually on resident rights and that a statement is publicly displayed declaring rights and responsibilities of the residents and the requirements to treat residents in accordance with those provisions. Village Health Services, LLC provides a 27 bullet points listing the patient rights on pages 2-8 and 2-9 of the application.

Regarding activities, Village Health Services, LLC states that activities are designed to augment treatments that occur pursuant to the residents' care plans. The applicant lists four objectives that are to be accomplished and lists 10 activities that may be offered to residents on page 2-10 of the application. The applicant asserts that certified pet therapy dogs are used at The Manor at Blue Water Bay facility and that activities will be included as part of its Continuous Quality Improvement (CQI) process.

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

Village Health Services, LLC, discusses its recruitment and retention policies on the application's pages 3-5 through 3-8 and reiterates its experience and service throughout this application. Other aspects of this response are addressed in E.1.a. The applicant's Schedule 6 indicates a total of 62.0 FTEs in year one and year two total FTEs of 93.0. See the table below.

| Village Health Services, LLC Projected Year One and Year Two Staffing | | |
|----------------------------------------------------------------------------------|--------------------------|--------------------------|
| Position | Year One FTEs | Year Two FTEs |
| Administration | | |
| Administrator | 1.0 | 1.0 |
| Director of Nursing | 1.0 | 1.0 |
| Admissions Director | 1.0 | 1.0 |
| Financial Officer | 1.0 | 1.0 |
| Secretary \ Ward Clerk | 1.0 | 1.0 |
| Medical Records Clerk | 1.0 | 1.0 |
| TOTAL | 6.0 | 6.0 |
| Nursing | | |
| RN | 6.0 | 10.0 |
| LPN | 12.0 | 16.0 |
| Nurses' Aides | 22.0 | 35.0 |
| TOTAL | 40.0 | 64.0 |
| Ancillary | | |
| Physical Therapist | 1.5 | 2.0 |
| Speech Therapist | 1.0 | 1.0 |
| Occupational Therapist | 1.5 | 2.0 |
| TOTAL | 4.0 | 5.0 |
| Dietary | | |
| Dietary Supervisor | 1.0 | 1.0 |
| Cooks | 2.0 | 2.0 |
| Dietary Aides | 2.0 | 5.0 |
| TOTAL | 5.0 | 6.0 |
| Social Services | | |
| Social Service Director | 1.0 | 1.0 |
| TOTAL | 1.0 | 1.0 |
| Housekeeping | | |
| Housekeeping Supervision | 1.0 | 1.0 |
| Housekeepers | 2.0 | 4.0 |
| TOTAL | 3.0 | 5.0 |
| Laundry | | |
| Laundry Aides | 2.0 | 3.0 |
| TOTAL | 2.0 | 3.0 |
| Plant Maintenance | | |
| Maintenance Supervisor | 1.0 | 1.0 |
| TOTAL | 1.0 | 1.0 |
| GRAND TOTAL | 62.0 | 93.0 |

Source: CON application #10711, Schedule 6

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. The applicant provided an audit for a development stage company, showing minimal assets, liabilities, and equity.

Capital Requirements and Funding:

Schedule 2 indicates capital projects totaling \$17,290,241. This consists solely of the CON currently being reviewed.

The applicant provided a development stage audit showing \$1,400,000 in cash on hand, total assets, and member's equity.

The applicant indicated on Schedule 3 that the project will be funded through cash on hand and non-related company financing. Two letters of interest were provided; however, a letter of interest is not a commitment to lend and if the applicant were not approved for the loan, it would have to seek financing elsewhere to fund the project.

Conclusion: Funding for the project is likely, but not guaranteed.

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 the most recently available Medicaid cost reports. 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 2021, 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 | \$ 11,950,652.00 | \$ 445.45 | \$ 1,321.59 | \$ 350.00 | \$ 260.36 |
| Total Expenses | \$ 10,415,023.00 | \$ 388.21 | \$ 1,330.08 | \$ 359.50 | \$ 263.90 |
| Operating Income | \$ 1,535,629.00 | \$ 57.24 | \$ 26.84 | \$ (6.33) | \$ (132.48) |
| Margin | 13% | | | | |
| Occupancy | 88% | | 97% | 90% | 77% |
| Medicaid | 46% | | 56% | 49% | 38% |
| Medicare | 43% | | 45% | 22% | 1% |

The projected NRPD and CPD, fall within the group range and are considered reasonable. The profit falls above the group range. The project appears profitable, but not necessarily at the levels projected.

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 in both years.

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(5) and (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.

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 applicant has submitted all information and documentation necessary to demonstrate compliance with the architectural review criteria. The cost estimate for the proposed project provided in Schedule 9, Table A and the project completion forecast provided in Schedule 10 appear to be reasonable. A review of the architectural plans, narratives and other supporting documents did not reveal any deficiencies that are likely to have a significant impact on either construction costs or the proposed completion schedule.

The plans submitted with this application were schematic in detail with the expectation that they will be necessarily revised and refined prior to being submitted for full plan review. The architectural review of this application shall not be construed as an in-depth effort to determine complete compliance with all applicable codes and standards. The final responsibility for facility compliance ultimately rests with the applicant 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

Village Health Services, LLC is developmental stage entity that anticipates providing service to Medicaid residents in its new 84-bed facility, thus demonstrating continued service to Medicaid recipients.

Mr. Duane Gallagher, the applicant's principal is affiliated with The Manor at Blue Water Bay, which the applicant notes experienced 43.12 percent Medicaid occupancy during the twelve-month period ending June 30, 2021.

**Table 7-1
Admissions, Days and Percent of Days by Payer
Village Health Services, LLC
First Two Years of Operation**

| Payer | Year One | | | Year Two | | |
|-----------------------|------------|--------------|-------------|------------|--------------|-------------|
| | Admissions | Days | Percent | Admissions | Days | Percent |
| Self-Pay | 16 | 2,314 | 12.0% | 9 | 1,345 | 5.0% |
| Medicare Managed Care | 47 | 8,426 | 43.8% | 68 | 12,389 | 46.2% |
| Medicare | 252 | 7,559 | 39.3% | 381 | 11,438 | 42.6% |
| Other Managed Care | 15 | 464 | 2.4% | 27 | 828 | 3.1% |
| Other Payers | 8 | 464 | 2.4 | 14 | 828 | 3.1% |
| Total | 338 | 19227 | 100% | 500 | 26828 | 100% |

Source: CON application #10711, page 7-2, Table 7-1

The applicant states that “With respect to charity care, persons who spend down assets qualify for Medicaid; hence, charity care does not exist in nursing homes. The difference between charges and collections represents a charity care allowance, often referenced as bad debt.”

The reviewer notes that the table above is consistent with the applicant’s Schedule 7.

F. SUMMARY

Village Health Services, LLC/CON application #10711 proposes the transfer of CON #10579 from JDM Health Services, LLC, which was approved to establish an 84-bed community nursing home in Okaloosa County, District 1, Subdistrict 2. The facility will be managed by Clear Choice Health Care, which is an established provider of skilled nursing services in Florida.

The project involves 54,522 GSF of new construction with a construction cost of \$10,551,464. Total project cost is \$17,290,241 and includes land, building, equipment, project development, financing and start-up costs.

Village Health Services, LLC expects issuance of license in March 2024 and initiation of service in April 2024.

The applicant proposes five conditions on Schedule C of CON application #10711.

Need

This is an expedited review and is not in response to the fixed need pool. Need was established in the original CON #10579 approved during the April 2019 Other Beds and Programs Batching Cycle.

Subdistrict 1-2 has eight nursing homes with 899 licensed and the 84 CON approved community nursing home beds in this project.

The applicant indicates the following factors support need for the proposed project:

- 50 private rooms to accommodate improved patient outcomes, particularly for patients with a hospital discharge to SNF diagnosis of sepsis or septicemia (conditions that could place existing residents at risk of acquiring infections) if no private room is available
- Offers two bariatric rooms
- Offers Parkinson's disease programming
- Can meet the expected 65+ population growth rate
- Its location being proximate to the Air Force Enlisted Village, a retirement community of independent and assisted living residences within the Shalimar zip code, 32579, which does not have an existing nursing home.

Quality of Care

- The applicant demonstrated the ability to provide quality care.
- Mr. Duane Gallagher, principal of Village Health Services, LLC owns/operates two licensed Florida nursing homes which presently have five-star CMS ratings.
- The applicant notes that Clear Choice Health Care will manage the facility. Clear Choice Health Care Florida licensed SNF's, had 12 substantiated complaints citing 14 categories during the 36 months ending January 27, 2022.

Financial Feasibility/Availability of Funds

- Funding for the project is likely, but not guaranteed.
- 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 priced-based competition to promote quality and cost effectiveness.

Architectural

- The applicant 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 and the project completion forecast provided in Schedule 10 appear to be reasonable.
- A review of the architectural plans, narratives and other supporting documents does not reveal a serious deficiency that will

require modifications to the plans which are likely to have a significant impact either construction costs or the proposed completion schedule.

Medicaid/Charity Care

- The applicant cites Mr. Gallagher’s facilities Medicaid history.
- Medicaid is projected to account for 43.8 percent of total annual patient days in year one ending March 31, 2025.
- Medicaid is projected to account for 46.2 percent of total annual patient days in year two ending March 31, 2026.

G. RECOMMENDATION

Approve CON #10711 to transfer CON #10579 from JDM Health Services, LLC to Village Health Services, LLC to establish an 84-bed community nursing home in Okaloosa County, District 1, Subdistrict 2.

The total project is \$17,290,241. The project involves 54,522 GSF of new construction.

CONDITIONS:

- 1. Locate within the Shalimar zip code, 32579, proximate to the Air Force Enlisted Village, a retirement community of independent and assisted living residences.** The applicant demonstrates location of the nursing home upon submission of the site plane to the Office of Plans and Construction. The licensure application, with a mailing address, city, and zip code, also confirms the location of the nursing home in the Shalimar area.
- 2. Contain two bariatric rooms.** The applicant will provide photos of the finished rooms upon completion of construction. The applicant will also provide the number of residents requiring a bariatric room on an annual basis.
- 3. Provide a Parkinson’s disease program.** Upon implementation of the program, the applicant will provide the policies specific to the program and indicate the number of residents served annually by the program.

- 4. Offer 50 private rooms.** The applicant will submit architectural drawings to the Office of Plans and Construction, showing 50 private rooms. The applicant also documents the number of private rooms on the initial licensure application form and maintains the beds through the licensure renewal process.

- 5. Contain an Activities of Daily Living suite within the Therapy Department.** The submission of architectural drawings to the Office of Plans and Construction identifies the therapy area and shows the activities of daily living area within the overall therapy department.

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: January 31, 2022



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