



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870  
MONTGOMERY, ALABAMA 36104

August 13, 2021

Gregg Brantley Everett, Esquire  
Gilpin Givhan, P.C.  
Post Office Drawer 4540  
Montgomery, Alabama 36103

RE: TW2020-040  
Monroe County Health Care Authority  
d/b/a Monroe County Hospital  
SHPDA ID: 099-6530650

Dear Mr. Everett:

On May 6, 2020, TW2020-040 was issued pursuant to ALA. ADMIN. CODE r 410-2-5-.09-E and 410-1-10-.05-E on behalf of the referenced facility for the utilization of ten (10) general acute care beds as swing beds in the provision of healthcare services due to COVID.

On August 11, 2021, the Agency was notified that a swing bed program was never instituted at the facility pursuant to this waiver. The Temporary Waiver status is now deemed completed and all services are limited to Certificate of Need authorized services only.

Should you have any questions please contact the Agency at (334) 242-4103.

Sincerely,

A handwritten signature in black ink that reads "Emily T. Marsal". The signature is written in a cursive style.

Emily T. Marsal  
Executive Director

ETM/kwm



TW2020-040  
**RECEIVED**  
Aug 11 2021  
STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

GREGG BRANTLEY EVERETT  
DIRECT DIAL: (334) 409-2228  
EMAIL: GEVERETT@GILPINGIVHAN.COM

August 11, 2021

**ELECTRONICALLY FILED AT:**

[shpda.online@shpda.alabama.gov](mailto:shpda.online@shpda.alabama.gov)

**WITH COPIES TO:**

[Emily.marsal@shpda.alabama.gov](mailto:Emily.marsal@shpda.alabama.gov);

[Karen.mcguire@shpda.alabama.gov](mailto:Karen.mcguire@shpda.alabama.gov); and [Teresa.Lee@shpda.alabama.gov](mailto:Teresa.Lee@shpda.alabama.gov)

Emily Marsal, Executive Director  
State Health Planning and Development Agency  
100 North Union Street, Suite 870  
Montgomery, Alabama 36104

*Re:* Response to SHPDA Memorandum Requesting Status of  
Temporary Certificate of Need Waiver # TW2020-040  
for Ten Swing Beds at Monroe County Hospital (granted May 11, 2020)  
Our File No. 3551.0007

Dear Ms. Marsal:

We represent Monroe County Health Care Authority, d/b/a Monroe County Hospital. This letter is in response to your memo dated May 14, 2021, requesting the current status of Monroe County Health Care Authority's usage of its Temporary Certificate of Need Waiver No. TW2020-040 for 10 swing beds, which was granted on May 11, 2020. Due to the myriad of regulatory requirements for swing beds, Monroe County Hospital was unable to implement the swing bed services approved by the Waiver, and the program was never instituted.

Attached for your convenience is a copy of the referenced Waiver, and of your Memorandum dated May 14, 2021. If you need additional information regarding this matter, please do not hesitate to contact me at your convenience.

Sincerely,

GILPIN GIVHAN, PC

Gregg Brantley Everett

GBE/sd

Attachments

cc: Cynthia Martens-Lamont, CEO of Monroe County Hospital

FOR STAFF USE ONLY:

RECEIVED

WAIVER IDENTIFICATION: TW2020-040

May 11 2020

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

**REQUEST FOR CERTIFICATE OF NEED WAIVER**

FACILITY ID NO.: 099-6530650 COUNTY: Monroe

FACILITY/PROVIDER NAME: Monroe County Health Care Authority, d/b/a Monroe County Hospital

STREET ADDRESS: 2016 South Alabama Avenue

CITY: Monroeville ZIP CODE: 36460

AUTHORIZED REPRESENTATIVE: Cynthia Martens-Lamont

TITLE: CEO EMAIL ADDRESS: cmartens@mchcare.com

DIRECT TELEPHONE NUMBER: 251-743-7434

TYPE OF FACILITY/PROVIDER: General Acute Care Hospital

Pursuant to a declaration issued by Governor Ivey on April 2, 2020, the following additional services are being enacted pursuant to Ala. Admin. Code r 410-2-5-.09-E and 410-1-10-.05-E.

Please see **Attachment A** for response.

Does this request involve an increase in: Beds No  Yes  Number 10

ESRD Stations No  Yes  Number \_\_\_\_\_

Provide a brief explanation of how these services will assist in the health and safety of citizens during the emergency (attach additional sheets if necessary):

Please see **Attachment B** for response

Projected Construction/Renovation Costs: \$ -0-

Projected Equipment Costs: \$ -0-

Projected date additional services/equipment will be available for service: Immediately

If this Waiver request involves construction of a new facility and/or acquisition of new equipment, provide a brief description of the proposal on a separate sheet of paper and return with this form.

The undersigned, being first duly sworn, hereby affirms that he/she has direct knowledge of the facts contained this request, and to the best of their information, knowledge, and belief, such facts are true and correct. The undersigned agrees to comply with the requirements and limitations outlined by Rules 410-2-5-.09-E and 410-1-10-.05-E

Cynthia Martens-Lamont  
Signature of Authorized Officer

5-6-2020  
Date

Cynthia Martens-Lamont  
Printed Name

CEO  
Title

Sworn to and subscribed before me this 6th day of May, 2020.

Sepe Blau  
Notary Public

(Seal)

My Commission Expires: 3-2021

AFFIRMED BY EXECUTIVE DIRECTOR:

Emily T. Mansuf

5/11/2020  
Date

## **ATTACHMENT B**

### **(Request for Certificate of Need Waiver)**

Monroe County Hospital is a general acute care hospital located in Monroeville, Alabama, and is owned by the Monroe County Health Care Authority. Monroe County Hospital is licensed for 94 general acute care beds. Monroe County Hospital is proposing to temporarily add 10 Swing Beds. The hospital's total licensed beds will remain at 94 general acute care beds, because a Swing Bed is counted as a general acute care bed for licensing purposes.

Monroe County Hospital has staff who are very experienced in caring for patients who would qualify for nursing home care. There are other hospitals and nursing homes with patients who have active COVID-19 infections who need to be transferred for care because of concerns about the possible infection of other patients. Monroe County Hospital has the space and experienced staff necessary to care for these patients. The addition of 10 Swing Beds at Monroe County Hospital will provide beds for patients with COVID-19 infections who need to be separated from other patients in nursing homes and hospitals. Because of the COVID-19 pandemic, Monroe County Hospital, which has historically had high utilization, currently has unused hospital beds available for the care of patients with Covid-19 infections.

## **ATTACHMENT A**

### **(Request for Certificate of Need Waiver)**

Monroe County Hospital is a 94 bed general acute care hospital in Monroeville, Alabama. Monroe County Hospital is owned by the Monroe County Health Care Authority. Monroe County Hospital meets all of the Center for Medicare and Medicaid Services (CMS) requirements for Swing Bed providers.

Monroe County Hospital ("Hospital") meets the requirements at 42 C.F.R. § 482.66. These include:

- Hospital has a Medicare provider agreement;
- The facility has fewer than 100 hospital beds, excluding beds for newborns and beds in intensive care type inpatient units;
- Hospital is located in a rural area. This includes all areas not delineated as "urbanized" areas by the Census Bureau, based on the most recent census;
- Hospital does not have in effect a 24-hour nursing waiver granted under 42 C.F.R. § 488.54(c);
- Hospital has not had a swing-bed approval terminated within the two years previous to its application, and
- Hospital meets the swing-bed Conditions of Participation on Resident Rights; Admission, Transfer, and Discharge Rights; Resident Behavior and Facility Practices; Patient Activities; Social Services; Discharge Planning; Specialized Rehabilitative Services; and Dental Services.

Monroe County Hospital is requesting that it be granted a temporary CON for 10 Swing Beds. The total number of beds at Monroe County Hospital will remain 94, because Swing Bed approval does not change or add licensed beds. Swing Beds can be used to provide general acute care or Skilled Nursing (nursing home) care depending on patient needs.




## STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870  
MONTGOMERY, ALABAMA 36104

May 14, 2021

### MEMORANDUM

TO: Applicants of Temporary Emergency Waivers

FROM: Emily T. Marsal   
Executive Director

RE: Temporary Waiver Status

In the fifth supplemental State of Emergency for the COVID-19 pandemic, Governor Ivey gave the State Health Planning and Development Agency (Agency) the ability to promulgate rules in order to issue temporary waivers to the normal Certificate of Need (CON) process for providers specifically requiring additional capacity or services directly related to the State of Emergency declared for the COVID-19 pandemic.

The Agency filed two emergency administrative rules: ALA. ADMIN. CODE r. 410-2-5-.09-E COVID-19 State of Emergency, passed by the Statewide Health Coordinating Council, and ALA. ADMIN. CODE r 410-1-10-.05-E Emergency Provisions Related to COVID-19 Emergency, passed by the Certificate of Need Review Board. Both of these emergency rules can be found on the SHPDA website, [www.shpda.alabama.gov](http://www.shpda.alabama.gov).

**Agency records show that you requested and received a temporary waiver from the CON process which was affirmed by the Agency Executive Director.**

Pursuant to ALA. ADMIN. CODE r. 410-2-5-.09-E (3), the request as affirmed, "shall automatically terminate on the earlier of (i) as applicable, the discontinuation of services or closure of facilities subject to the waiver; or (ii) sixty (60) days following the termination of the State of Emergency as recognized in the Declaration." Furthermore, the rule states, "[a]ny continued operation of institutional health services authorized under a waiver granted pursuant to this section will require a CON, which shall be subject to existing CON criteria and procedures, including compliance with the State Health Plan, without regard to emergency rules adopted by the CON Board or SHCC in response to the Declaration. It is the intent of this subsection that services, facilities or other new institutional health services established as a result a waiver be considered 'new' for purposes of an application for CON authority to extend such new institutional health services beyond the deadlines in this subsection."

Governor Ivey has recently announced that the State of Emergency will end on July 6, 2021; **therefore, the temporary waiver authority will run until September 3, 2021.** Please file a letter with the Agency by August 2, 2021 which states that you have either previously returned beds, equipment, or other resources, or ceased to act in any authorized manner under the temporary waiver; submit your plan to wind up the services allowed under the temporary waiver by September 3, 2021; or affirm that the services/facilities approved by the waiver were not instituted.

Pursuant to ALA. ADMIN. CODE r. 410-1-3-.09, all documents to be filed must be submitted electronically to [shpda.online@shpda.alabama.gov](mailto:shpda.online@shpda.alabama.gov) in text searchable, PDF format.

Please contact the Agency at (334) 242-4103 with any questions.

ETM/kwm

MAILING ADDRESS: P.O. BOX 303025, MONTGOMERY, ALABAMA 36130-3025  
PHONE: (334) 242-4103 FAX: (334) 242-4113



## STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870  
MONTGOMERY, ALABAMA 36104

### **NOTICE FOR ISSUANCE OF TEMPORARY WAIVER**

In the fifth supplemental State of Emergency for the COVID-19 pandemic, Governor Ivey gave the State Health Planning and Development Agency (Agency) the ability to promulgate rules in order to issue temporary waivers to the normal Certificate of Need (CON) process for providers specifically requiring additional capacity or services directly related to the State of Emergency declared for the COVID-19 pandemic.

The Agency has filed two emergency administrative rules: ALA. ADMIN. CODE r. 410-2-5-.09-E COVID-19 State of Emergency, passed by the Statewide Health Coordinating Council, and ALA. ADMIN. CODE r 410-1-10-.05-E Emergency Provisions Related to COVID-19 Emergency, passed by the Certificate of Need Review Board. Both of these emergency rules can be found on the SHPDA website.

**By filling out this attached form, the applicant has requested a temporary waiver under these emergency rules and it has been signed and notarized that this request is directly related to the COVID-19 pandemic. The affirmation by the SHPDA Executive Director is related solely to the addition and/or provision of any beds, stations, or services during the State of Emergency and succeeding 60-day period and does not affirm any permanent CON authority for such request. The affirmation shall also not be considered to be a waiver of any requirements related to the Alabama Department of Public Health or any other regulatory agency.**

Pursuant to ALA. ADMIN. CODE r. 410-2-5-.09-E (3), the request as affirmed, "shall automatically terminate on the earlier of (i) as applicable, the discontinuation of services or closure of facilities subject to the waiver; or (ii) sixty (60) days following the termination of the State of Emergency as recognized in the Declaration." Furthermore, the rule states, "[a]ny continued operation of institutional health services authorized under a waiver granted pursuant to this section will require a CON, which shall be subject to existing CON criteria and procedures, including compliance with the State Health Plan, without regard to emergency rules adopted by the CON Board or SHCC in response to the Declaration. It is the intent of this subsection that services, facilities or other new institutional health services established as a result a waiver be considered 'new' for purposes of an application for CON authority to extend such new institutional health services beyond the deadlines in this subsection."

In addition, pursuant to ALA. ADMIN. CODE r. 410-2-5-.09-E (4), "new institutional health services authorized on a temporary basis pursuant to a waiver granted under this rule shall not be considered for purposes of the permanent need methodology in the State Health Plan."

For any questions or concerns, please contact the Agency at (334) 242-4103.

MAILING ADDRESS: P.O. BOX 303025, MONTGOMERY, ALABAMA 36130-3025  
PHONE: (334) 242-4103 FAX: (334) 242-4113



FOR STAFF USE ONLY:

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May 11 2020

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

WAIVER IDENTIFICATION: TW2020-040

**REQUEST FOR CERTIFICATE OF NEED WAIVER**

FACILITY ID NO.: 099-6530650 COUNTY: Monroe

FACILITY/PROVIDER NAME: Monroe County Health Care Authority, d/b/a Monroe County Hospital

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CITY: Monroeville ZIP CODE: 36460

AUTHORIZED REPRESENTATIVE: Cynthia Martens-Lamont

TITLE: CEO EMAIL ADDRESS: cmartens@mchcare.com

DIRECT TELEPHONE NUMBER: 251-743-7434

TYPE OF FACILITY/PROVIDER: General Acute Care Hospital

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Please see **Attachment A** for response.

Does this request involve an increase in: Beds No  Yes  Number 10

ESRD Stations No  Yes  Number \_\_\_\_\_

Provide a brief explanation of how these services will assist in the health and safety of citizens during the emergency (attach additional sheets if necessary):

Please see **Attachment B** for response

Projected Construction/Renovation Costs: \$ -0-

Projected Equipment Costs: \$ -0-

Projected date additional services/equipment will be available for service: Immediately

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Cynthia Martens-Lamont  
Signature of Authorized Officer

5-6-2020  
Date

Cynthia Martens-Lamont  
Printed Name

CEO  
Title

Sworn to and subscribed before me this 6th day of May, 2020.

[Signature]  
Notary Public

(Seal)

My Commission Expires: 3-20-21

AFFIRMED BY EXECUTIVE DIRECTOR:

Emily T. Marsolf

5/11/2020  
Date

## **ATTACHMENT B**

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