

Jim Hoover
JHoover@Burr.com
Direct Dial: (205) 458-5111
Direct Fax: (205) 244-5660

Kelli C. Fleming
KFleming@Burr.com
Direct Dial: (205) 458-5429
Direct Fax: (205) 244-5762

420 North 20th Street
Suite 3400
Birmingham, AL 35203

Office (205) 251-3000
Fax (205) 458-5100

BURR.COM

August 2, 2022

VIA EMAIL, ORIGINAL TO FOLLOW VIA U.S. MAIL

Ms. Emily Marsal
Executive Director
State Health Planning and Development Agency
100 North Union Street, Suite 870
Montgomery, Alabama 36104
shpda.online@shpda.alabama.gov

**Re: Request for Determination of Non-Reviewability
Alabama Digestive Health Endoscopy Center, LLC (073-U3710)
Jefferson County, Alabama**

Dear Ms. Marsal:

This firm represents Alabama Digestive Health Endoscopy Center, LLC (“ADHEC”), a Medicare-certified ambulatory surgery center (“ASC”) located on the Brookwood Medical Center hospital campus in Birmingham, Alabama that serves patients in Jefferson County and surrounding areas.¹ Pursuant to Alabama Certificate of Need Program Rules and Regulations (“CON Rules(s)”) § 410-1-7-.02, ADHEC requests a determination that the proposed relocation of the ASC to another physician office building also located on the same Brookwood Medical Center campus in Jefferson County, Alabama is not subject to certificate of need (“CON”) review under *Ala. Code* § 22-21-260 *et. seq.*, and the CON Rules. Pursuant to CON Rule § 410-1-7-.02, a \$1000.00 filing fee is being paid to the Alabama State Health Planning and Development Agency (“SHPDA”) via the online payment portal. To assist with your determination, we submit the following information:

By way of background, ADHEC operates a five (5) procedure room ASC located at 2018 Brookwood Medical Center Drive, Suite G-100, Birmingham, Alabama 35209. The ASC is

¹ Contact information for ADHEC is as follows: 2018 Brookwood Medical Center Drive, Suite G-100, Birmingham, Alabama 35209, (205) 271-8000, Attn: Tara Shea, Administrator.

currently connected to the Main Hospital on the Brookwood Medical Center campus. ADHEC is a joint venture providing ambulatory surgery services owned by a group of eight (8) physicians and Brookwood Baptist Health 3, LLC. ADHEC's defined service area under CON Rules §§ 410-2-4-.12 and 410-1-2-.03 is Jefferson County, Alabama.

ADHEC desires to relocate its ASC to the Medical D office building also located on the Brookwood Medical Center hospital campus² at 513 Brookwood Boulevard, Birmingham, Alabama 35209. In conjunction with the move, ADHEC intends to add (1) procedure room, under threshold, for a total of six (6) procedure rooms in order to better serve its growing patient base. No new services will be provided as a result of this project. Attached as Attachment A is a map showing the current ASC location and the proposed ASC location. While access from the current ASC location to the proposed ASC location can be accomplished without leaving any of the buildings on campus, the driving distance between the two (2) locations is 0.5 miles traveling the road on Brookwood Medical Center's campus.

In connection with the project, the total cost of construction is anticipated to be approximately \$5,400,000; the total cost for the purchase and/or lease of major medical equipment is anticipated to be approximately \$1,000,000; other capital costs are anticipated to be less than approximately \$100,000; and new first year annual operating costs are estimated to be approximately \$600,000;³ none of which will exceed the capital expenditure thresholds set forth in *Ala. Code* § 22-21-263 and CON Rule § 410-1-4-.01 (as adjusted in SHPDA's Memorandum dated September 24, 2021). Thus, the entire project will be less than the capital expenditure thresholds set forth in *Ala. Code* § 22-21-263 and CON Rule § 410-1-4-.01 (as adjusted in SHPDA's Memorandum dated September 24, 2021). All expenditures will be incurred by ADHEC.

Pursuant to RV 2016-005, SHPDA previously determined that a relocation of a healthcare facility on the same "campus" does not require CON review. "It is the opinion of this office that the change in location within the same campus as described is *de minimis* in nature and thus does not require Certificate of Need approval under the Alabama Court of Civil Appeals' decision in *Pleasure Island Ambulatory Surgery Ctr., LLC v. State Health Planning & Dev. Agency*, 38 So. 3d 739 (Ala. Civ. App. 2008), *cert. denied, Ex parte Infirmiry Health Sys., Inc.*, 38 So. 3d 745 (Ala. 2009)..." See SHPDA Letter Dated December 18, 2015 with regard to RV 2016-005,

² As defined by regulations of the Alabama Department of Public Health, a "hospital's campus shall consist of the premises occupied by the hospital's largest building together with all parcels of property that the hospital's governing authority owns or has the legal right to occupy and which are not separated from the remainder of the campus by anything other than a public right of way." *Ala. Admin. Code* § 420-5-7-.02(3)(h).

³ First year annual operating costs include all new estimated operating costs associated with operating in the new space and adding one (1) procedure room. New first year annual operating costs have been estimated using conservative assumptions and contingencies, and are based on actual and historical costs.

Ms. Emily Marsal
August 2, 2022
Page 3

Metro Treatment of Alabama, LP for Mobile, attached as Attachment B. Since the proposed ASC in this project is moving to space located on the same hospital campus (*i.e.*, the Brookwood Medical Center campus), under SHPDA precedent, this project is also not reviewable.

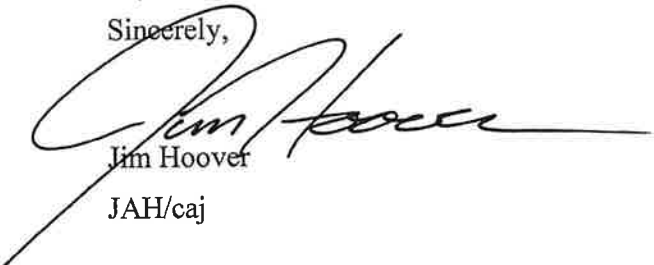
Consequently, the proposal does not constitute a “new institutional health service” subject to CON Review, as the proposal does not include:

- (1) the construction, development, acquisition through lease or purchase or other establishment of a new health care facility or health maintenance organization;⁴
- (2) any expenditure by or on behalf of a health care facility which, as a capital expenditure, exceeds the CON statutory threshold for major medical equipment, new annual operating costs, or any other capital expenditure by or on behalf of a health care facility;
- (3) any change in the existing licensed bed capacity of a health care facility;
- (4) any health service which is proposed to be offered in or through a health care facility which was not offered on a regular basis in or through a health care facility within the preceding 12-month period; or
- (5) any other reviewable event under the existing CON Rules.

In addition, this proposal does not involve any change in ownership of the ASC.

Accordingly, based on the above, ADHEC requests your determination that the relocation of the ASC to space located on the same hospital campus is not subject to CON review under *Ala. Code* § 22-21-260 *et seq.* and the CON Rules, and is permissible without further filings or requests to SHPDA. We appreciate your response to this matter, and please do not hesitate to contact us should you need additional information.

Sincerely,



Jim Hoover

JAH/caj

Sincerely,



Kelli C. Fleming

⁴ Since the relocation is to space located on the same hospital campus, under SHPDA precedent, this project does not constitute “construction” that requires CON review.

Ms. Emily Marsal
August 2, 2022
Page 4

cc: Ross Mitchell
Jeremy Clark

Affirmation of Requesting Party:

The undersigned, being first duly sworn, hereby make oath or affirm that he/she is the Manager of Alabama Digestive Health Endoscopy Center, LLC, has knowledge of the facts in this request, and to the best of his/her information, knowledge, and belief, such facts are true and correct.

Affiant: *R O'Connor* (SEAL)

SUBSCRIBED AND SWORN to before me this 2nd day of August, 2022.

Lori Marlar
Notary Public

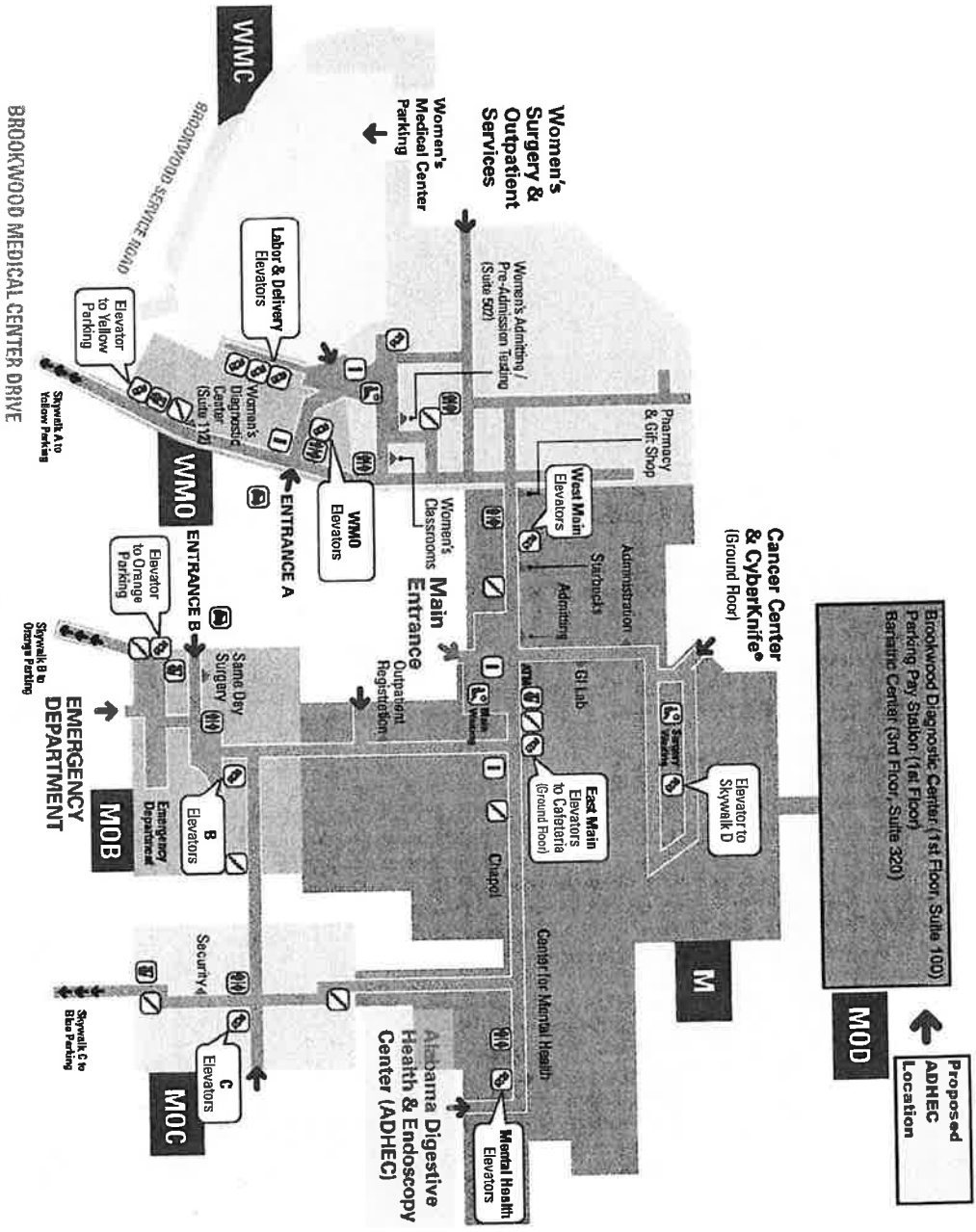
My Commission Expires: 9/6/22



ATTACHMENT A

BUILDING ABBREVIATIONS

- MOB** Medical Office B
- MOD** Medical Office D
- M** Main Hospital
- MOC** Medical Office C
- WMC** Women's Medical Center
- WMO** Women's Medical Offices



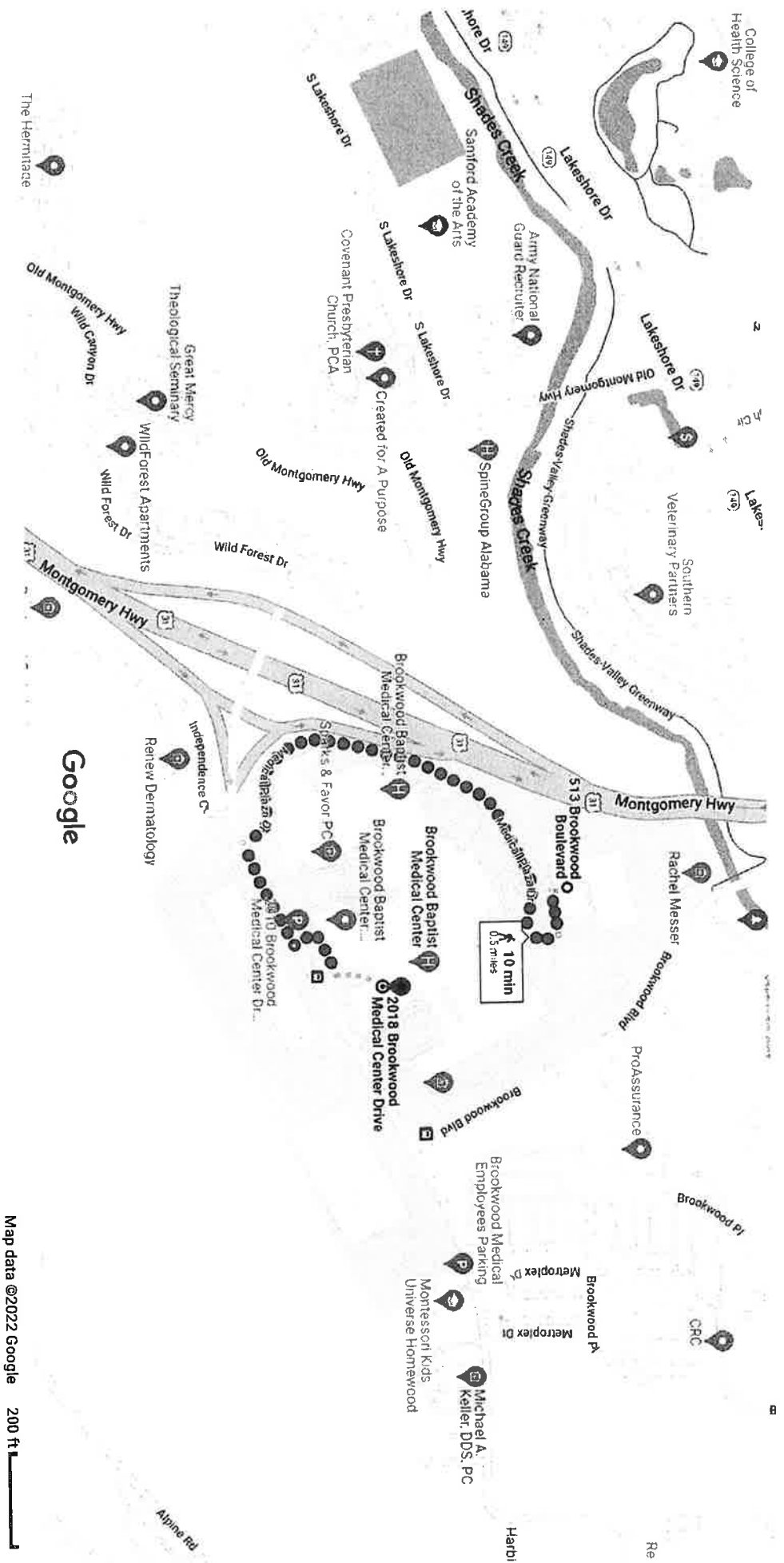
BROOKWOOD MEDICAL CENTER DRIVE

2010 Brookwood Medical Center Drive · Birmingham, AL 35209

(205) 877-1000

513 Brookwood Blvd, Birmingham, AL 35209 to 2018 Brookwood Medical Center Dr, Birmingham, AL 35209

Walk 0.5 mile, 10 min



Google

Map data ©2022 Google 200 ft

ATTACHMENT B



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
100 NORTH UNION STREET, SUITE 870
MONTGOMERY, ALABAMA 36104

November 2, 2015

NOTICE

RE: Request for Reviewability Determination -- RV2016-005

This is written to notify you that the attached request for a letter of non-reviewability has been received. Any affected person may file written comments regarding this request, per 410-1-7-.02 of the *Alabama Certificate of need Program Rules and Regulations*.

Enclosure: see attached

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

RV 2016-005

Chambless Math ❖ Carr

A Professional Corporation

Mark N. Chambless
Leonard N. Math*
Bernard B. Carr
Kristen P. Abbott
Katherine E. Luders
Michael O. Godwin
Jeremy D. Cobb

Post Office Box 230759
Montgomery, Alabama 36123-0759
Telephone (334) 272-2230
(800) 311-4061
Facsimile (334) 532-2900
Website: www.chamblessmath.com

Of Counsel:
E. Terry Brown
Michael E. Bybee
Kent D. McPhail

* Also admitted to the
Illinois Bar

October 27, 2015

RECEIVED

OCT 27 2015

STATE HEALTH PLANNING
& DEVELOPMENT AGENCY

Alva M. Lambert, Esq.
Executive Director
State Health Planning & Development Agency
100 North Union Street, Suite 870
Montgomery, AL 36104

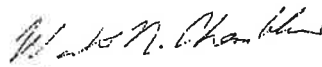
RE: Purpose: Request for Letter of Non Reviewability (LNR)
Relocation Existing Treatment Center within current Campus
Clinic Name: Metro Treatment of Alabama, LP for Mobile
Current Address: 1924 Dauphin Island Parkway, Mobile, AL 36605
New Address: 1924 Dauphin Island Parkway, Mobile, AL 36605

Dear Mr. Lambert:

Please accept this letter as a request from my client, Metro Treatment of Alabama, LP, for a Letter of Non Reviewability (LNR). My client is currently occupying two spaces located in the Fullbrook Shopping Center at 1924 Dauphin Island Parkway, Mobile, Alabama. My client would request to relocate within the same campus across the parking lot to a single space. A diagram is attached for your review. This relocation would benefit the current tenants as well as allow my client to occupy one space instead of two in the Fullbrook Shopping Center.

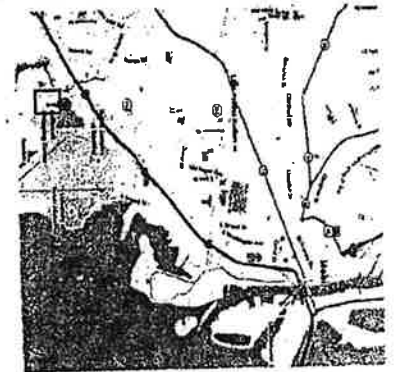
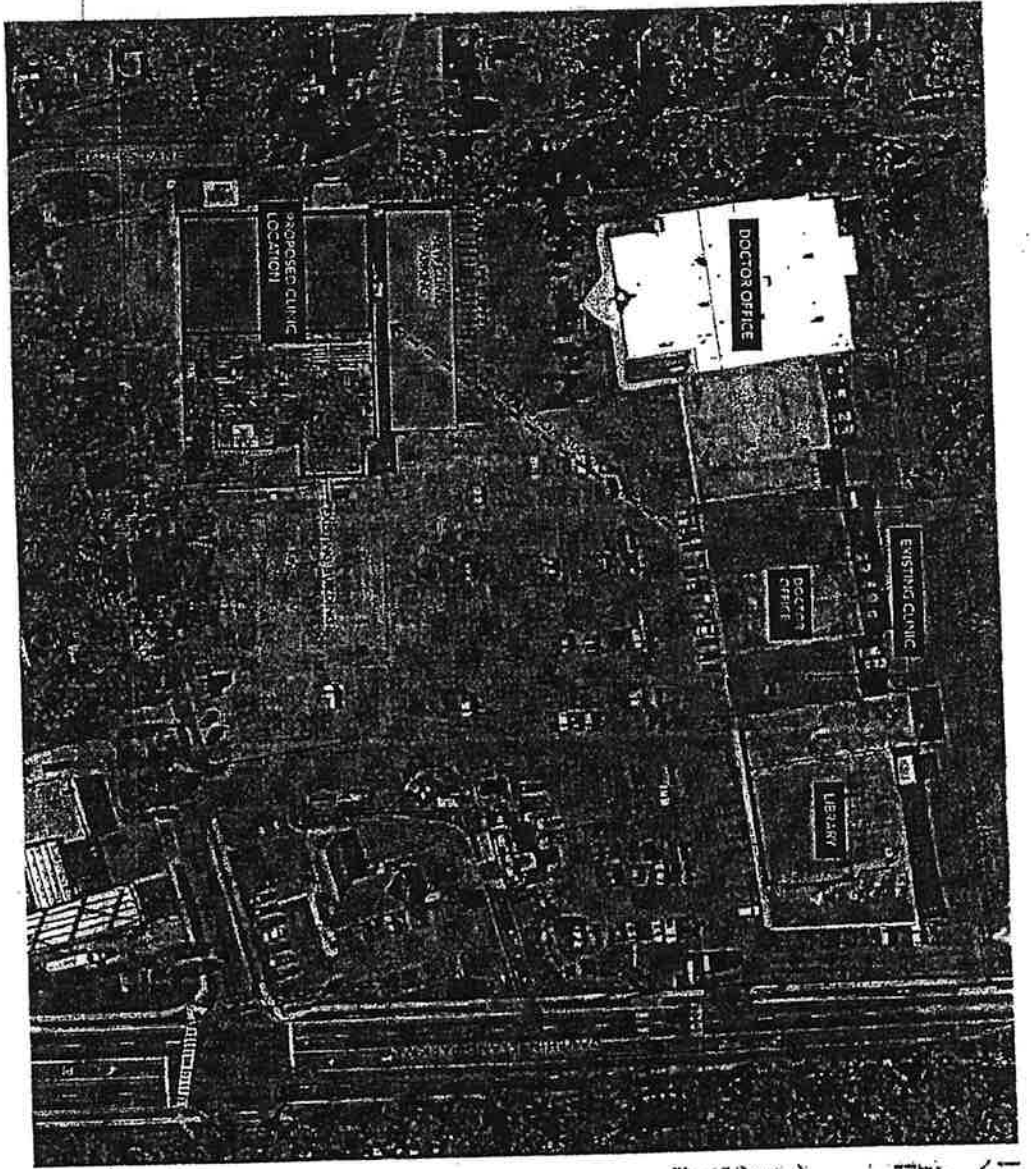
The mailing address will remain the same. A check for the \$1,000.00 application fee is enclosed. Thank you for your consideration of this request for a LNR.


Respectfully yours,



Mark N. Chambless

cc: Metro Treatment of Alabama, LP



 **CHAMBERS KING**
177 West Johnson St., Suite 200 • Indianapolis, IN 46204
317.777.2020 www.chambersking.com

Type Facility: Interest

JENNIFER CLARK ESQUIRE
1819 FIFTH AVE NORTH
BIRMINGHAM AL 35203

ALABAMA MEDICAID AGENCY
PO BOX 5624
MONTGOMERY AL 36103
-5624

GILES G PERKINS ESQUIRE
1901 6TH AVE NORTH STE 3000
BIRMINGHAM AL 35203

JUDD A HARWOOD ESQUIRE
1819 FIFTH AVE NORTH
BIRMINGHAM AL 35203

MICHAEL COLE ESQUIRE
PO BOX 710
ATHENS AL 35612

LENORA W PATE ESQUIRE
PO BOX 55727
BIRMINGHAM AL 35255
-5727

TRUDY LOWE
PO BOX 283 W MAIN ST
CENTRE AL 35960

WASHINGTON COUNTY HOSPITAL
PO BOX 1299
CHATOM AL 36518

36 Facilities

Applicant

Mark N. Chambless, Esq.
Chambless Math Carr, PC
PO Box 230759
Montgomery, AL 36123

Type Facility: Hospital & Methadone Treatment Facility

Mobile
Co

THOMAS HOSPITAL
PO DRAWER 929
FAIRHOPE AL 36533

CITY CLERK
PO BOX 299
GULF SHORES AL 36547

SOUTH BALDWIN REGIONAL MEDICAL CENTER
1613 NORTH MCKENZIE STREET
FOLEY AL 36535

ALTAPOINTE MEDICATION ASSISTED TREATMENT
4211 GOVERNMENT BLVD
MOBILE AL 36693

SPRINGHILL MEMORIAL HOSPITAL
3719 DAUPHIN ST
MOBILE AL 36608

GULF COAST TREATMENT CENTER
12271 INTERCHANGE RD
GRAND BAY AL 36541

USA MEDICAL CENTER
2451 FILLINGIM ST
MOBILE AL 36617

ALABAMA DEPARTMENT OF MENTAL HEALTH
PO BOX 301410
MONTGOMERY AL 36130
-1410

BARBARA ESTEP
600 CORPORATE PARKWAY STE 100
BIRMINGHAM AL 35242

DAN MURPHY ESQUIRE
1819 FIFTH AVE NORTH
BIRMINGHAM AL 35203

DAVID BELSER ESQUIRE
4122 WALL STREET
MONTGOMERY AL 36106

JAMES F HENRY ESQUIRE
1819 FIFTH AVE NORTH
BIRMINGHAM AL 35203

LINDA BARNETT
1901 6TH AVE NORTH STE 1500
BIRMINGHAM AL 35203

COLIN LUKE ESQUIRE
1901 SIXTH AVENUE N STE 1400
BIRMINGHAM AL 35203

CITY CLERK
PO BOX 458
ORANGE BEACH AL 36561

NORTH BALDWIN INFIRMARY
PO BOX 1409
BAY MINETTE AL 36507

MOBILE INFIRMARY
PO BOX 2144
MOBILE AL 36652

USA CHILDREN'S AND WOMEN'S HOSPITAL
1700 CENTER ST
MOBILE AL 36604

PROVIDENCE HOSPITAL
PO BOX 850429
MOBILE AL 36685

MOBILE METRO TREATMENT CTR
1924-C DAUPHIN ISLAND PKWY
MOBILE AL 36605

DORMAN WALKER ESQUIRE
105 TALLAPOOSA ST STE 200
MONTGOMERY AL 36104

JOHN G BEARD PRESIDENT
2400 JOHN HAWKINS PARKWAY
BIRMINGHAM AL 35244

GARY GRIFFIN
PO BOX 8551
GADSDEN AL 35902

KELLI FLEMING ESQUIRE
420 NORTH 20TH ST STE 3400
BIRMINGHAM AL 35203

LORI MARTIN LIBRARY & RESEARCH SERV.
1819 FIFTH AVE NORTH
BIRMINGHAM AL 35203

LAW LIBRARY
1901 6TH AVE N STE 1500
BIRMINGHAM AL 35203

FRANK G WILLIFORD
8949 GLENN ROSE WAY
MONTGOMERY AL 36117

CAREY B MCRAE ESQUIRE
1819 FIFTH AVE NORTH
BIRMINGHAM AL 35203

097-110003
relocation



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870
MONTGOMERY, ALABAMA 36104

December 18, 2015

Mark N. Chambliss, Esquire
Chambliss Math & Carr, P.C.
Post Office Box 230759
Montgomery, AL 36123-0759

RE: RV2016-005
Metro Treatment of Alabama, LP for Mobile

Dear Mr. Chambliss:

This is written in response to your October 27, 2015 request for a reviewability determination regarding the relocation of Metro Treatment of Alabama, LP of Mobile from its current location in the Fullbrook Shopping Center at 1924 Dauphin Island Parkway, Mobile Alabama 36605, across the parking lot to another location within the Fullbrook Shopping Center. Your letter states that the current tenants will benefit from the relocation and will allow Metro Treatment to occupy a single space instead of the two spaces it currently occupies in the Fullbrook Shopping Center.

It is the opinion of this office that the change of location within the same campus as described is *de minimis* in nature and thus does not require Certificate of Need approval under the Alabama Court of Civil Appeals' decision in *Pleasure Island Ambulatory Surgery Ctr., LLC v. State Health Planning & Dev. Agency*, 38 So. 3d 739 (Ala. Civ. App. 2008), *cert. denied*, *Ex parte Infirmary Health Sys., Inc.*, 38 So. 3d 745 (Ala. 2009), which held that the relocation of a hospital-owned ambulatory surgical center to another location within the same health service area (the county) requires a new Certificate of Need even if it doesn't exceed the financial thresholds for review. Accordingly, upon confirmation that the estimated cost of relocation falls under the current Certificate of Need review thresholds for capital expenditures for major medical equipment, new annual operating costs and other capital expenditures, as set forth in ALA. CODE § 22-21-260(3) (1975 as amended), we will affirm that the project as described may proceed without need for further approval from this office.

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

Mark N. Chambliss, Esq.
December 18, 2015
Page Two

You may contact the Agency at (334) 242-4103 with any questions concerning this letter.

Sincerely,

Alva M. Lambert

Alva M. Lambert
Executive Director

Jim Hoover
JHoover@Burr.com
Direct Dial: (205) 458-5111
Direct Fax: (205) 244-5660

Kelli C. Fleming
KFleming@Burr.com
Direct Dial: (205) 458-5429
Direct Fax: (205) 244-5762

RV2022-031
RECEIVED
Sep 19 2022

STATE HEALTH PLANNING AND
DEVELOPMENT AGENCY

420 North 20th Street
Suite 3400
Birmingham, AL 35203

Office (205) 251-3000
Fax (205) 458-5100

BURR.COM

September 19, 2022

VIA EMAIL

Ms. Emily Marsal
Executive Director
State Health Planning and Development Agency
100 North Union Street, Suite 870
Montgomery, Alabama 36104
shpda.online@shpda.alabama.gov

**Re: Additional Information – Request for Determination of Non-Reviewability
RV2022-031
Alabama Digestive Health Endoscopy Center, LLC (073-03710)
Jefferson County, Alabama**

Dear Ms. Marsal:

As you are aware, this firm represents Alabama Digestive Health Endoscopy Center, LLC (073-03710) (“ADHEC”), a Medicare-certified ambulatory surgery center (“ASC”) located on the Brookwood Medical Center hospital campus in Birmingham, Alabama that serves patients in Jefferson County and surrounding areas.¹ Pursuant to Alabama Certificate of Need Program Rules and Regulations (“CON Rules(s)”) § 410-1-7-.02, on or around August 2, 2022, ADHEC filed a determination request that the proposed relocation of the ASC to another building also located on the Brookwood Medical Center campus is not subject to certificate of need (“CON”) review under *Ala. Code* § 22-21-260 *et. seq.*, and the CON Rules. ADHEC’s request was designated RV2022-031 (“Request”).

We are in receipt of the August 16, 2022 letter from the State Health Planning and Development Agency (“SHPDA”) requesting additional information concerning ADHEC’s Request. ADHEC

¹ Contact information for ADHEC is as follows: 2018 Brookwood Medical Center Drive, Suite G-100, Birmingham, Alabama 35209, (205) 271-8000, Attn: Tara Shea, Administrator.

hereby responds to SHPDA's letter dated August 16, 2022 requesting additional information, and provides the following additional information for SHPDA's additional review, consideration, and determination that the proposal described in the Request is non-reviewable under the current CON Rules

- 1. Please provide detailed information concerning the disparity of the facility address between 2022 Brookwood Medical Center Drive, Suite 626 and 2018 Brookwood Medical Center Drive, Suite G-100.**

The correct address for ADHEC is 2018 Brookwood Medical Center Drive, Suite G-100. As reflected in the initial CON application filed in 2004, ADHEC was initially formed by two physicians, Dr. Douglas Dickenson and Dr. David Landy, both of whom practiced at Brookwood Medical Center at the time of the filing of the CON application. The office address for these two physicians was 2022 Brookwood Medical Center Drive, Suite 626, which was listed in the CON application as the Applicant Address. See Attachment A. The CON application, however, did not reflect that, once constructed, the facility would actually be located at 2022 Brookwood Medical Center Drive, Suite 626. Nonetheless, when the CON was issued it included the Applicant Address from the CON Application as the Facility Address on the CON, and this issue was not corrected at the time. However, the corresponding Ruling of the Certificate of Need Review Board dated November 4, 2004 did not reflect a specific address for the facility, but rather stated that the ASC would be located in Birmingham, Alabama. See Attachment B.

In June, 2007, ADHEC filed a project modification request with SHPDA. The modification request stated that the facility would be located in leased space on the Brookwood Medical Center campus. The modification request was approved by SHPDA on July 2, 2007. "Further, the proposed center could lease the existing space at Brookwood Medical Center presently utilized for endoscopy services." See Attachment C. Thus, the current location of the facility at 2018 Brookwood Medical Center Drive, Suite G-100 has remained the same since the construction of the ASC and is consistent with the modification request approved by SHPDA.

- 2. Please provide clarification regarding the current number of operating and procedure rooms at the existing ambulatory surgery center, as well as the proposed number of operating and procedure rooms after the relocation of the medical facility.**

As an initial matter, the Letter of Non-Reviewability filed on August 2, 2022 was slightly incorrect, and we appreciate SHPDA calling this to our attention. ADHEC only intends to relocate the facility and does not intend to add an additional room for the performance of endoscopy procedures following the relocation. To clarify, ADHEC currently operates six (6) rooms in which endoscopy procedures are performed. Following the relocation, ADHEC intends

to continue to operate six (6) rooms in which endoscopy procedures are performed. The remainder of the Letter of Non-Reviewability filed on August 2, 2022 is correct and accurate, including, but not limited to, the cost estimates.

With regard to the terminology, the terminology of “operating room” versus “procedure room” is used somewhat interchangeably in the filings with SHPDA. The use of the word “procedure room” was intended to delineate a smaller room in which the ASC endoscopy procedures are performed. Some resources previously referred to this type of a room as a “Class A operating room”. The applicable *AIA Guidelines for Design and Construction of Hospitals and Outpatient Facilities* refer to this type of room as a “procedure room.” The rooms within the ASC following the relocation will comply with applicable licensure requirements and design guidelines for procedure rooms in which endoscopy procedures are performed.

The CONRB transcript from the proceeding on October 20, 2004 with regard to the issuance of the initial CON highlights the interchangeable use between “procedure room” and “operating room”:

THE CHAIRMAN: You know, the thing I'd like to define in the terminology here, these are the procedure rooms. I really would hate to call them operating rooms. So there should be no thinking about opposing hospital expansion of anybody's operating rooms, because that's where you do actual surgical procedures; that is, opening the chest or the abdomen or—these are the procedure rooms where you do colonoscopies, endoscopies, and that's it.

DR. DICKINSON: That's it.

(CONRB Transcript, October 20, 2004, Project AL2004-029, page 17). See Attachment D.

With regard to the number of rooms, the original CON application was issued for four (4) rooms restricted to endoscopy procedures only. Following the issuance of the initial CON for four (4) rooms, a project modification request was filed. The project modification request reflected that the project would increase from four (4) rooms to six (6) rooms in which endoscopy procedures would be performed. See Attachment C. The project modification was approved by SHPDA around July 2, 2007. However, when the facility was initially built, it was constructed with five (5) rooms in which endoscopy procedures would be performed, which was within the CON authority. A Letter of Non-Reviewability was filed around June 15, 2011 to add a sixth (6) room to the facility on the Brookwood Medical Center campus, which was approved by SHPDA on or around August 18, 2011. See Attachment E.

Ms. Emily Marsal
September 19, 2022
Page 4

Thus, ADHEC currently operates six (6) rooms in which endoscopy procedures are performed, and following the relocation, intends to continue to operate six (6) rooms in which endoscopy procedures are performed.

Accordingly, based on the above, ADHEC requests your determination that the relocation is not subject to CON review under *Ala. Code* § 22-21-260 *et seq.* and the CON Rules, and is permissible without further filings or requests to SHPDA.

We appreciate your response to this matter, and please do not hesitate to contact us should you need additional information.

Sincerely,



Jim Hoover

JAH/caj

cc: Mr. Ross Mitchell
Mr. Jeremy Clark

Sincerely,



Kelli C. Fleming

Affirmation of Requesting Party:

The undersigned, being first duly sworn, hereby make oath or affirm that he/she is the Manager of Alabama Digestive Health Endoscopy Center, LLC, has knowledge of the facts in this request, and to the best of his/her information, knowledge, and belief, such facts are true and correct.

Affiant: [Signature] (SEAL)

SUBSCRIBED AND SWORN to before me this 15th day of Sept, 2022.

Kimberly Denise Crain
Notary Public

My Commission Expires: 2/2/26



ATTACHMENT A

AL 2004-029

RECEIVED

JUL - 1 2004

STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY

**Alabama Digestive Health Endoscopy
Center, LLC**

Alabama CON Application

Endoscopy Services

July 2004

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JUL - 1 2004

ALABAMA
CERTIFICATE OF NEED
APPLICATION

STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY

For Staff Use Only

INSTRUCTIONS:

Please submit an original and twelve (12) copies of this form and the appropriate attachments to the State of Alabama, State Health Planning and Development Agency, 100 North Union Street, Suite 870, Montgomery, Alabama 36130-3025. (Post Office Box 303025)

Project # AL 2004-029
Date Rec. _____
Rec by: _____

Attached is a check in the amount of \$ _____
Refer to Rule 410-1-7-06 of the Certificate of Need Program Rules and Regulations to determine the required filing fee.

PART ONE: APPLICANT IDENTIFICATION AND PROJECT DESCRIPTION

I. APPLICATION INFORMATION (CHECK ONE)

HOSPITAL ()
NURSING HOME ()
OTHER (X) (Specify) Ambulatory Surgery Center

A. Name of Applicant

Alabama Digestive Health Endoscopy Center, LLC
Name of Applicant (in whose name the CON will be issued if approved)
2022 Brookwood Med. Ctr. Drv. Suite 626 Birmingham Jefferson
Address City County
Alabama 35209 205-871-3200
State Zip Code Phone Number

B. Name of Facility/Organization

(Same as Above)
Name of Facility/Organization (if different from A)

Address City County
State Zip Code Phone Number

C. Name of Legal Owner

(Same as Above)
Name of Legal Owner (if different from A or B)

Address City County
State Zip Code Phone Number

D. Name and Title of Persons Representing Proposal

G. Dennis Nabors, Esq. Nabors, Belser and DeBray
Name and Title of Person Representing Proposal and with whom SHPDA should communicate

614 South Hull Street Montgomery Montgomery
Address City County

Alabama 36104 334-263-0999
State Zip Code Phone Number

E. Type Ownership and Governing Body

- 1. Individual
- 2. Partnership
- 3. Corporate (for profit) _____
Name of Parent Corporation
- 4. Corporate (non-profit) _____
Name of Parent Corporation
- 5. Public
- 6. Other (specify) Alabama Digestive Health Endoscopy Ctr. LLC

F. Names and Titles of Governing Body Members and Owners of This Facility

OWNERS

GOVERNING BOARD MEMBERS

Douglas S. Dickinson, M.D.

David J. Landy, M.D.

II. PROJECT DESCRIPTION

Project/Application Type (check all that apply)

- New Facility
Type Ambulatory Surgery Center
- New Service
Type Ambulatory Surgery
- Construction/Expansion/Renovation
- Change in Service
- Major Medical Equipment
Type _____
- Termination of Service or Facility
- Other Capital Expenditure
Type _____

III. EXECUTIVE SUMMARY OF THE PROJECT

Response: Alabama Digestive Health Endoscopy Center, LLC (ADHEC) proposes to construct a single-specialty ambulatory surgery center (ASC) with four (4) operating rooms restricted to endoscopy only in Birmingham, Alabama. This project will fulfill a need for endoscopy services in the Birmingham area. Total project cost is expected to be \$3,978,070. Upon approval, construction is anticipated to take fifteen months. The proposed facility will be funded through a combination of bank loans and cash on hand.

ATTACHMENT B

Ruling of the Certificate of Need Review Board
AL2004-029
Alabama Digestive Health Endoscopy Center, LLC
Birmingham, Alabama

FACTS:

1. Alabama Digestive Health Endoscopy Center, LLC is seeking to construct and operate a single-specialty ambulatory surgery center restricted to endoscopy services with four operating rooms, workrooms, a prep room and recovery beds in Birmingham, Alabama.
2. Total costs associated with this project are projected to be (\$3,978,070.00), which includes total construction costs (\$2,230,070.00), cost of equipment (\$650,000.00) and first year operating costs (\$1,098,000.00). The total area of the facility to be constructed is 7,000 square feet, at a cost of \$318.58 per square foot.
3. This project will be funded with \$823,500.00 in working capital, \$200,000.00 cash on hand, and a commercial loan of \$2,954,570.00 at 7.5% for twenty (20) years.
4. The primary service area for this project is Jefferson and Shelby Counties, Alabama. The applicant also projects that it will receive patients from most of the other counties in north and central Alabama.
5. Approximately twenty (20) letters were received in support of the application. There was no opposition.
6. The *1996-1999 State Health Plan* does not directly address ambulatory surgery centers; however, ALA. ADMIN. CODE r. 410-2-2-.01 promotes the optimal use of any new or additional investments when there are limited resources available to meet great existing needs.
7. Jefferson and Shelby Counties had an estimated population of 805,340 in the year 2000. The Center for Business and Economic Research estimates that Jefferson and Shelby County's population will be 834,357 by the year 2005, for an overall increase of 3.6%. In the year 2000, Jefferson and Shelby Counties had an estimated population age 65 and older of 102,464 and are projected to have an estimated 102,582 people age 65 and older by 2005, for an increase of 0.12%.
8. The applicant projects 4,000 outpatient surgical visits in the first year of operation and 5,000 visits in the second year.
9. Growth in demand for endoscopic services has been explosive and is expected to continue in the foreseeable future.


10. Upon consideration of the totality of the evidence presented, the Board concludes that the proposal is financially feasible. The Board further concludes that the applicant is an "appropriate applicant" as defined by the applicable regulations.

11. The Board concludes that the applicant has demonstrated an unmet community need for the proposal.

Based on the foregoing factual findings and representations, the totality of the evidence in the record of this matter, and pursuant to ALA. CODE § 22-21-264 (1975 as amended), the Certificate of Need Review Board finds the following:

- a. that the application is consistent with the current *State Health Plan*;
- b. that there are no less costly, more efficient, or more appropriate alternatives to such inpatient services available and that the development of such alternatives have been studied and found not practicable;
- c. that similar services to those proposed are being used in an appropriate and efficient manner;
- d. that in the case of new construction, alternatives have been considered and implemented to the extent possible; and
- e. that patients will experience serious problems in obtaining patient care of the type proposed in the absence of the proposed new service.

Accordingly, based upon the foregoing, separately and severally, and upon the totality of the evidence presented, by vote of the Certificate of Need Review Board on October 20, 2004, Project Number AL2004-029 is hereby **APPROVED**.



Swaid N. Swaid, M.D., Chairman
Certificate of Need Review Board

11/04/04

Date

ATTACHMENT C

NABORS BELSER & DEBRAY, L.L.C.

Attorneys at Law

614 South Hull Street
Montgomery, Alabama 36104

G. DENNIS NABORS
DAVID E. BELSER
THOMAS R. DeBRAY

RECEIVED

JUN 18 2007

STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY

Phone (334) 262-2000
Facsimile (334) 263-0960

Writer's Email Address: DNabors@NBDLegal.com

June 18, 2007

Alva M. Lambert
Executive Director
State Health Planning and Development Agency
Post Office Box 303025
Montgomery, AL 36130-3025

**RE: Project Modification Request, AL 2004-029, CON 2101-ASC-EXT,
Alabama Digestive Health Endoscopy Center, LLC**

Dear Mr. Lambert:

In accordance with the provisions of Chapter 410-1-10-.03 of the Rules and Regulations of the Alabama Certificate of Need Program ("Rules"), please accept this letter on behalf of Alabama Digestive Health Endoscopy Center, LLC, ("Center") as a project modification request in the above referenced Certificate of Need. The modification request, described below, arose from a desire of the Center to joint venture the project with Brookwood Medical Center ("Brookwood") to achieve cost efficiencies which will benefit not only the parties, but their patients as well.

Background:

CON Number 2101-ASC was issued to the Center on November 4, 2005, and extended for twelve months to November 3, 2007. The CON was for construction of a single-service ambulatory surgery center with four operating rooms, workrooms, a prep room and recovery beds restricted to endoscopy only on the campus of Brookwood. During the time that has elapsed since the issuance of the CON to the Center, Brookwood has received a CON for a major renovation of the hospital facility which will enhance the quality of its surgical services to its patients. Both the Center and Brookwood believe it is in the best interest of their patients for them to now combine their services rather than duplicate them.

Modification:

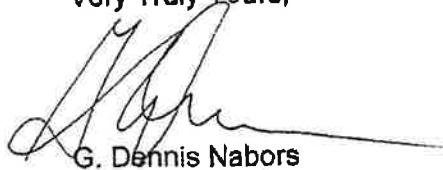
In the proposed modification, Brookwood will purchase an interest in the Center, and the Center will lease the existing space at Brookwood presently utilized for endoscopy services for Brookwood's patients. A balance sheet has been attached to this letter that shows the proposed modifications by giving the original estimates, the new proposed estimates and the variance between the two. As the Attachment to this letter demonstrates, the modification will result in a reduction of the total project costs,

Alva Lambert
June 18, 2007
Page 2 of 2

therefore, the change falls below the financial thresholds for review specified in Chapter 410-1-4-.01 of the Rules. The Center's CON was granted for a location on the campus of Brookwood; therefore, the project is not being relocated to a new site. Therefore, previous notice given to the public and competing facilities should be sufficient. Further, the modification does not involve a change in bed capacity or the provision of new services.

Accordingly, under the provisions of Chapter 410-1-10-.03(2) of the Rules, we respectfully request that you exercise your authority under the Rules to approve this project modification request to CON 2101-ASC-EXT.

Very Truly Yours,



G. Dennis Nabors

Proposed CON Modification
Alabama Digestive Health Endoscopy Center, LLC
CON 2101-ASC-EXT

	<u>Original</u>	<u>Proposed</u>	<u>Variance</u>
Square Feet	7,000	9,805	2,805
# of Procedure Rooms	4	6	2
# of Procedures Year 1	4,000	8,310	4,310
# of Procedures Year 2	5,000	8,725	3,725
Expenditures: (Section IV. A. of CON)			
Site Acquisition	550,000	-	(550,000)
Site Development	96,000	-	(96,000)
Construction	520,000	-	(520,000)
Architect and Engineering	116,800	-	(116,800)
Tenant Improvements	845,000	-	(845,000)
Attorney and Consult Fees	30,000	30,000	-
Review Fees	13,750	13,750	-
Contingency	58,440	-	(58,440)
Total Cost of Construction	2,230,070	43,750	(2,186,320)
Other Equipment	650,000	1,250,000	600,000
Lease	-	348,078	348,078
First Year Operating Cost	1,098,000	2,334,903	1,236,903
Total Project Cost	3,978,070	3,976,731	(1,339)
Financial Summary: (Section V. A. of CON)			
Outpatient Services Charges	3,094,845	10,138,225	7,043,380
Contractual Adjustments	1,485,526	4,866,348	3,380,822
Net Patient Revenue	1,609,319	5,271,877	3,662,558
SW&B	285,344	1,006,304	720,960
Supplies	217,672	540,150	322,478
Uncompensated Care	92,845	52,719	(40,126)
Other Expenses	186,576	735,730	549,154
Total Operating Expenses	782,437	2,334,903	1,552,466
Taxes	54,386	15,400	(38,986)
Depreciation	317,181	157,143	(160,038)
Interest (other than mortgage)	45,500	95,873	50,373
Capital Expenditures	147,493	-	(147,493)
Interest	161,320	-	(161,320)
Total Non Operating Expense	725,880	268,416	(457,464)
Total Expenses	1,508,317	2,603,319	1,095,002
Net Income	101,002	2,668,558	2,567,556



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
100 NORTH UNION STREET, SUITE 870
MONTGOMERY, ALABAMA 36104

July 2, 2007

G. Dennis Nabors, Esquire
Nabors Belser & DeBray LLC
614 South Hull Street
Montgomery, AL 36104

RE: AL2004-029, CON 2101-ASC
Alabama Digestive Health Endoscopy Center, LLC

Dear Mr. Nabors:

This is written in response to your letter dated June 18, 2007 in which you requested a Project Modification for the referenced project. In my letter to you dated April 17, 2007, you were advised that this project has been in litigation since October 2, 2006 and time is tolled because of the ongoing litigation.

Your project modification would allow Brookwood to purchase an interest in the proposed center. Further, the proposed center could lease the existing space at Brookwood Medical Center presently utilized for endoscopy services. Your project modification included an attachment that shows total expenses would decrease with this modification. Based on the facts as stated in your letter, the request for project modification is approved. If you have questions, please call Betty Schoenfeld at (334) 242-4103.

Sincerely,

Alva M. Lambert
Executive Director

AML:bws

Enclosure

cc: Ray Sherer

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

ATTACHMENT D

Page 1

1 STATE OF ALABAMA
 2 STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
 3 CERTIFICATE OF NEED REVIEW BOARD
 4 MONTGOMERY, ALABAMA
 5
 6
 7 PUBLIC HEARING IN THE MATTER OF:
 8 ALABAMA DIGESTIVE HEALTH ENDOSCOPY CENTER, LLC
 9 BIRMINGHAM, ALABAMA
 10
 11 PROJECT NUMBER: AL2004-029
 12
 13
 14
 15 *****
 16 PROCEEDINGS taken in the above matter in
 17 the Auditorium of the Alabama State Capitol, 600
 18 Dexter Avenue, Montgomery, Alabama, on Wednesday,
 19 October 20, 2004, commencing at approximately
 20 10:00 a.m.; and reported by Greta H. Duckett,
 21 Registered Professional Reporter and Commissioner
 22 for the State of Alabama at Large.
 23 *****

Page 3

1 MR. NABORS: Mr. Chairman, members of
 2 the Board, my name is Dennis Nabors. With me
 3 is Dr. Doug Dickinson from Birmingham -- he
 4 practices primarily at Brookwood Medical
 5 Center, and his health care consultant,
 6 Walter Smith, who prepared the application.
 7 We're glad this is unopposed today
 8 because there's only one endoscopy center
 9 that services all of Birmingham and Shelby
 10 counties. Those are the primary service
 11 areas for this application.
 12 I'd just like to take a moment to let
 13 Dr. Dickinson give you a brief outline of
 14 what he hopes to accomplish at this endo ASC.
 15 (Dr. Dickinson was sworn.)
 16 DR. DICKINSON: Thank you, Committee
 17 Members, for letting me just present this to
 18 you. First I want to just present the
 19 problem or crisis that has led us to going
 20 forward with this application. It's really a
 21 national crisis; but the same is true in
 22 Birmingham, Alabama, as is nationally. And
 23 the facts are that right now there's an

Page 2

1 APPEARANCES
 2 CERTIFICATE OF NEED REVIEW BOARD:
 3
 4 Dr. Swaid Swaid, Chairman
 5 Mr. Frank W. Harris, Vice Chairman
 6 Ms. Linda Maynor
 7 Mr. John P. Damall, III
 8 Ms. Marlene Hart
 9 Dr. David McGiffin
 10 Judge Reese McKinney
 11 Mr. Stephen D. Preston
 12 Ms. Suzanne Simmons
 13
 14 STATE HEALTH PLANNING AND
 15 DEVELOPMENT AGENCY STAFF MEMBERS:
 16 Mr. Alva M. Lambert, Executive Director
 17 Mr. Mark D. Wilkerson, Legal Counsel
 18 Mr. James Sanders, Assistant Executive Director
 19 Ms. Jennic Logan
 20 Ms. Betty Schoenfeld
 21 *****
 22 SPEAKERS:
 23 Mr. Dennis Nabors
 Dr. Doug Dickinson

 MR. LAMBERT: Project AL2004-029,
 Alabama Digestive Health Endoscopy Center,
 Birmingham, proposes to establish a single-
 specialty ASC with four operating rooms
 restricted to endoscopy. There's no
 opposition.

Page 4

1 explosion of GI services nationally. 30
 2 percent of all citizens have GI disorders, 10
 3 million hospitalizations per year, 35 million
 4 office visits per year.
 5 Secondly, there's an unprecedented
 6 shortage of GI physicians nationally. And
 7 the causation of that is, number one, the
 8 aging of the population. 65 percent of GI
 9 physicians right now are over age 45, and a
 10 third will retire in the next five years.
 11 That's come about through the Balanced Budget
 12 Act. There's been a 30 percent cut in
 13 training of GI physicians, and it's probably
 14 due to decreased compensation that has
 15 occurred through that act.
 16 Thirdly, there's an explosion of
 17 technology in GI, which I'm sure you're all
 18 aware of. And fourthly, the costs are going
 19 through the roof. There are 70 million
 20 people predicted to be over age 65 in the
 21 year 2020; there's 30 million in the year
 22 2000. Expenditures have gone from 10 billion
 23 for GI services in '97. In 2005, they are

Page 5

1 expected to go to 30 billion.
2 And so this has led to what we call
3 consumer price pressure. And freestanding
4 endoscopy surgery centers limited to
5 endoscopy help resolve this crisis by getting
6 value to the patients, to the payors -- i.e.,
7 the insurance company -- and to the
8 physicians.
9 To the patients, they give convenience
10 of access. I don't know if you've ever had
11 to take a relative to a hospital facility for
12 an endoscopic procedure, but you need to
13 think about it. They're often dehydrated.
14 They have to go through this maze to get into
15 the facility. So access and convenience
16 there is key.
17 Pleasantness of the environment is key.
18 In a hospital setting, they're mixed with
19 hospital patients. They're mixed in our
20 facility with 16 other physicians' patients,
21 and our situation offers an alternative to
22 that.
23 Thirdly, there's going to be efficiency

Page 6

1 of usage. Right now we have troubles, as
2 it's outlined in the application, where block
3 time schedules don't work. We're often one
4 to two hours late to the office because of
5 these conflicts that occur in a hospital
6 setting, where you're mixing hospital
7 patients with outpatients. This slows
8 everything down.
9 Economics are big to the patient. If we
10 go to a medical savings in-house system, a
11 patient is going to save probably two-thirds
12 on their cost at a facility like ours versus
13 a hospital facility.
14 Advantages to the payor, the insurance
15 company is going to be quality. Again,
16 access. And a big thing is we're going to be
17 doing procedures on Saturday mornings.
18 That's going to be an advantage to the
19 patients. It's going to be an advantage to
20 employers whose employees are not missing
21 work.
22 And again, cost to the payors. We're
23 going to be at least a third of the cost of

Page 7

1 what's being charged in a hospital facility.
2 Advantages to the physicians. The key
3 advantages to us are, number one,
4 efficiency. We're not going to be an hour to
5 two hours late to our office and have
6 patients mad at us. The environment is going
7 to be pleasant. It's going to be our
8 employees. The quality control is going to
9 be better. We're going to be -- our
10 employees are going to be accountable to us.
11 We're going to be able to get equipment that
12 we need that's updated, and we're going to
13 have plenty of equipment as well as
14 staffing. And finally, there's going to be
15 convenience to the physician.
16 Also, it's going to help us be more
17 competitive in the environment. Right now,
18 because of the shortage of GI physicians
19 nationally, to get a quality GI physician.
20 It's very hard to recruit if you do not have
21 one of these centers. Alabama is one of
22 the -- has one of the least numbers in the
23 nation. Nationally, there's 243 of these

Page 8

1 centers as of last year, and 60 percent of
2 those are physician-owned.
3 Finally, we're going to be able to do
4 clinical research which we've not been able
5 to do because of the cost we're charged by
6 the hospital facilities. We can't afford to
7 do clinical research on it.
8 Quickly on demographics, there's 77
9 million people in the United States between
10 the ages of 50 and 70. Screening approved by
11 Medicare for senior citizens mandates that
12 these people get screened every 10 years just
13 for colonoscopy. In the year 2000, only 35
14 percent of the patients were screened that
15 needed to be screened, so we're missing the
16 mark by 65 percent. Part of this is due to a
17 shortage of physicians, but we feel like
18 ambulatory endoscopy centers having this
19 available will be able to increase our
20 efficiency probably by 30 percent. So it's
21 going to help solve that crisis to some
22 degree.
23 Thank you for listening, and I'll answer

Page 9

1 questions.
2 THE CHAIRMAN: Yeah. Thank you,
3 Dr. Dickinson. When is the time coming that
4 we can take a tablet and not have to have a
5 colonoscopy?
6 DR. DICKINSON: Well, we talk about
7 explosion of technology. Right now we have
8 the video capsule where you do swallow it.
9 THE CHAIRMAN: And that's what I mean.
10 DR. DICKINSON: And that's good for the
11 small bowel, and we're doing that right now
12 in our office. In fact, the hospital
13 wouldn't buy it, so we had to put up the
14 money ourselves to do it. So that's here
15 now, but it's only good for the small bowel.
16 THE CHAIRMAN: Well, listen. Thank you
17 very much. I want to thank Dr. Dickinson for
18 having provided tremendous GI service to the
19 gastrointestinal tract, the one organ system
20 in the body I just could not specialize in.
21 You've been an outstanding provider of care
22 for thousands of patients over the years, and
23 I just want to thank you for that. I want to

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1 generated out of your office, there was no
2 correspondence that came back from Brookwood?
3 DR. DICKINSON: We had one letter, I
4 think it was in the year 2001, from a
5 previous administrator. It never gave us
6 any -- how should I say it -- solution to the
7 problem.
8 MR. HARRIS: But yet Brookwood is not
9 opposing this, right?
10 THE CHAIRMAN: That's right. And that's
11 really a summary of it. There's no
12 opposition to it from them. I did, just to
13 also -- that's the point made, but I also
14 noticed the number of supporting letters from
15 so many physicians that were also written on
16 behalf of Dr. Dickinson in the application.
17 And I took Brookwood's lack of opposition to
18 mean that those letters were either agreed
19 with or acquiesced to, or whatever.
20 Any other questions? Any other
21 comments? Yes, sir, Steve?
22 MR. PRESTON: How many physicians do you
23 think are practicing at Brookwood?

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1 take that opportunity to say that since I
2 never get to see you.
3 Any questions by any member of the
4 board? Yes, sir.
5 MR. HARRIS: Dr. Dickinson, thank you
6 for commenting. I noticed that you have just
7 a volume, a huge volume, of correspondence
8 between you and your office, your practice,
9 and --
10 DR. DICKINSON: Yes, sir.
11 MR. HARRIS: What I didn't see were any
12 of the responses from Brookwood.
13 DR. DICKINSON: Well, that's been sad to
14 say. But I can tell you they -- after they
15 got our application, the administrator came
16 to me in my office and said, shame on us, we
17 don't blame you for doing what you're doing.
18 And that was the consensus. We didn't have
19 good communication with them. It was a very
20 frustrating -- it's been a very frustrating
21 period of time.
22 MR. HARRIS: So am I to understand that
23 with all of your correspondence that

Page 12

1 DR. DICKINSON: Approximately 16.
2 MR. PRESTON: Total physicians. Not
3 just in GI.
4 DR. DICKINSON: Oh. I can't answer that
5 with any accuracy.
6 MR. PRESTON: How many specialties does
7 Brookwood provide?
8 DR. DICKINSON: We have all the
9 specialties that are available.
10 MR. PRESTON: A lot of challenges to
11 that hospital. Were you the only practice,
12 the only group of physicians that were
13 writing these letters and not getting a
14 response?
15 DR. DICKINSON: I would say we were
16 the -- okay. There's three or four major
17 groups. All the other groups have an
18 outlet. One group has a facility. The other
19 has a -- which is the only other one in
20 Birmingham. The other does them in their
21 office. We tried to do them in our office.
22 We were blocked by not being allowed to get
23 more space to be able to do these. And we're

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1 on the sixth floor. And it just became an
2 issue that it was horribly inconvenient to
3 the patients.
4 MR. PRESTON: Where do you propose to be
5 located?
6 DR. DICKINSON: Okay. This is going to
7 be on the intersection of Highway 280 and 459
8 on Grandview Parkway on the opposite side of
9 where the Colonnade is. I don't know if you
10 know where Ralph & Kacoo's is; right next to
11 it, but that restaurant is no longer in
12 existenc. So it's really about three blocks
13 from the intersection of Highway 280 and 459
14 near the border of Jefferson County and also
15 near the border of Shelby County. But in
16 Jefferson County.
17 MR. PRESTON: You're pretty critical of
18 the OR staff at Brookwood. Where are you
19 going to get your OR staff?
20 DR. DICKINSON: Well, my criticism of
21 the staff at Brookwood was more a criticism
22 of the leadership. The individual nurses in
23 general are very competent.

Page 14

1 MR. PRESTON: That's not what I read.
2 DR. DICKINSON: Well, the head nurse, we
3 had big problems with.
4 MR. PRESTON: You even challenged the
5 quality of care --
6 DR. DICKINSON: Sure. Sure.
7 MR. PRESTON: My question is where are
8 you going to find your OR staff?
9 DR. DICKINSON: We're going to hire them
10 from the community, but they're going to be
11 accountable to us. There's a difference in
12 accountability in a hospital situation where
13 the hospital has different agendas than us,
14 and so that creates a natural conflict. The
15 hospital has problems because they have many
16 more providers, and you're also mixing it
17 with inpatients, and that creates the monster
18 many days.
19 In a freestanding outpatient endoscopy
20 center, you're not going to have inpatients
21 bumping other patients from the schedule and
22 delaying physicians. And that's what happens
23 every day.

Page 15

1 MR. PRESTON: So to hire experienced
2 staff from the OR from the community means
3 they're going to be coming from another
4 facility?
5 DR. DICKINSON: They'll be coming from
6 people who -- first of all, we have people in
7 our office who are trained that we've trained
8 ourselves, and they will come from other
9 facilities. I don't know. We'll have to
10 interview them and try to find the best ones.
11 MR. PRESTON: It's my understanding
12 that Brookwood has a letter of intent for
13 significant expansion of their OR's. Are you
14 going to oppose that if that comes before us?
15 DR. DICKINSON: No, we're not. In
16 fact -- but they don't have a significant
17 expansion for a GI lab. I know they do for
18 orthopedics and other things. And we're not
19 opposing anything that they're doing.
20 And, again, I want to make clear that we
21 are doing all of our hospital patients still
22 at Brookwood. We're still going to have an
23 office at Brookwood. There will be no

Page 16

1 hospital patients done at our freestanding.
2 These are going to be our office patients,
3 not hospital patients. So we're not taking
4 any of their hospital patients away from them
5 at all.
6 MR. HARRIS: I have one question. You
7 said there are 16 gastroenterologists at
8 Brookwood?
9 DR. DICKINSON: Yes. There's really
10 more than that. I say there are 16 that are
11 pretty active.
12 MR. HARRIS: That are pretty active.
13 And only you and Dr. Landy are proposing to
14 open up your own clinic?
15 DR. DICKINSON: Okay.
16 MR. HARRIS: Does that imply that the
17 other 14 are satisfied?
18 DR. DICKINSON: No. That implies that
19 eight of that 16 already have a freestanding
20 facility. Another four of that 16 have an
21 office facility which is at Brookwood. So
22 we're the only ones -- we're the most
23 impacted because we have no outlet. We can't

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1 send a patient off to our facility. You
2 know, if the schedule is jammed, we're stuck.
3 THE CHAIRMAN: You know, the thing I'd
4 like to define in the terminology here, these
5 are the procedure rooms. I really would hate
6 to call them operating rooms. So there
7 should be no thinking about opposing hospital
8 expansion of anybody's operating rooms,
9 because that's where you do actual surgical
10 procedures; that is, opening the chest or the
11 abdomen or -- these are the procedure rooms
12 where you do colonoscopies, endoscopies, and
13 that's it.
14 DR. DICKINSON: That's it.
15 THE CHAIRMAN: So it's --
16 MR. PRESTON: Your charity care is
17 projected to remain the same in the first two
18 years of operation. Can you tell us about
19 what you're going to be doing for charity
20 care out of this practice?
21 DR. DICKINSON: Basically what we're
22 doing now. If patients are referred to us,
23 whether they're Medicaid or have no

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1 DR. DICKINSON: And I think our
2 projection there is about 3 percent, which is
3 about where we are right now.
4 THE CHAIRMAN: Any other questions? Any
5 other comments?
6 MR. PRESTON: Mr. Chairman, I'd like to
7 make a motion to approve AL2004-029.
8 THE CHAIRMAN: Thank you. Is there a
9 second?
10 MS. MAYNOR: Second.
11 THE CHAIRMAN: Seconded by Ms. Maynor.
12 All in favor, indicate so by raising your
13 hands, please.
14 (Board members in favor of the
15 motion so indicated.)
16 THE CHAIRMAN: We have seven ayes and
17 one nay. One nay is Mr. Harris. Very good.
18 *****
19 END OF AGENDA ITEM
20 *****
21
22
23

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1 insurance, we see them. We write off that
2 loss. And we've never denied a patient
3 access to our office.
4 We do have problems if someone needs a
5 procedure right now in doing charity care.
6 We'll see them in the office, but we can't do
7 them in our facility because they have to put
8 up cash and they can't do that. So actually,
9 we'll be able to do more charity care in our
10 own facility because, you know, it will be
11 our decision.
12 MR. PRESTON: What about proactive
13 measures? Those are reactive measures from
14 referrals.
15 DR. DICKINSON: You know, proactive, as
16 far as charity, all I know is we can do
17 educational things, like we can offer
18 screening procedures, i.e., via stool
19 hemocults or educational. I don't know any
20 other mechanism of doing charity care other
21 than the patients that see us, if they need a
22 procedure, we can do it.
23 MR. PRESTON: Okay.

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1 REPORTER'S CERTIFICATE
2 STATE OF ALABAMA
3 MONTGOMERY COUNTY
4 I, Greta H. Duckett, Registered
5 Professional Reporter and Commissioner for the
6 State of Alabama at Large, hereby certify that on
7 Wednesday, October 23, 2004, I reported the
8 TESTIMONY AND PROCEEDINGS in the matter of the
9 foregoing cause, and that pages 2 through 19
10 contain a true and accurate transcription of said
11 proceedings.
12 I further certify that I am neither kin
13 nor of counsel to the parties to said cause, nor
14 in any manner interested in the results thereof.
15 This 10th day of November, 2004.
16
17
18
19
20
21 GRETA H. DUCKETT, CSR, RPR
22 Commissioner for the
23 State of Alabama at Large

MY COMMISSION EXPIRES: 5/18/05

A	B			
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ATTACHMENT E

RV2011-028_M
RECEIVED
JUN 15 2011
STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY

Mr. Alva Lambert
Executive Director
State Health Planning and Development Agency
100 North Union Street, Suite 870
Montgomery, AL 36104

RE: Procedure Room Addition

Dear Mr. Lambert:

Alabama Digestive Health Endoscopy Center (ADHEC) is planning to expand our existing procedure rooms from five to six in our freestanding single specialty gastroenterology ambulatory surgery center located on the campus of Brookwood Medical Center.

The facility was placed within an existing gastroenterology space that was modified to meet state licensure requirements when we opened in 2008. The original renovation left remaining space available for an eventual sixth room expansion. We would like to complete this expansion at this time.

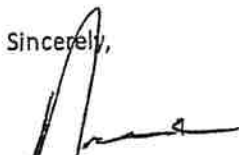
It is my understanding that we may expand our existing services without review based on our expansion expenditures being well below any existing limits. The projected expenses are as follows:

- 1) Construction expense of \$150,000
- 2) Equipment cost of \$90,000
- 3) Annual operating cost related to expansion of \$250,000
- 4) No additional rent/lease expense is necessary

ADHEC is a joint venture consisting of Brookwood Medical Center, seven gastroenterology specialist physicians and Practice Partners in Healthcare, Inc. As managing partner of Alabama Digestive Health Endoscopy Center we respectfully request your determination that the proposed expansion is not subject to certificate of need review.

I appreciate your attention to this matter and please do not hesitate to call me should you need any additional information. I can be reached at (205)824-6250 or at mrickman@pphasc.com.

Sincerely,



Mike Rickman
Chief Operating Officer

Enclosures: Check #4619, \$500.00 filing fee

ASC



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
100 NORTH UNION STREET, SUITE 870
MONTGOMERY, ALABAMA 36104

August 18, 2011

Mike Rickman, COO
Practice Partners in Healthcare, Inc.
1 Chase Corporate Drive, Suite 200
Birmingham, Alabama 35244

RE: RV2011-028
Alabama Digestive Health Endoscopy Center

Dear Mr. Rickman:

This is written in response to your original letter received on June 15, 2011, in which you requested to expand your existing procedure rooms from five (5) to six (6) in your freestanding single specialty gastroenterology ambulatory surgery center located on the campus of Brookwood Medical Center. The disclosed project costs fall well below the expenditure thresholds. Based on this information, your request is approved.

Pursuant to Rule 410-1-2-.05 of the *Alabama Certificate of Need Program Rules and Regulations* and according to the facts that have been provided, a Certificate of Need would not be required. This approval is made with a clear understanding that this proposal will not result in the offering of any new inpatient health services or any capital expenditure in excess of the Certificate of Need capital expenditure thresholds, as they currently exist.

Pursuant to Rule 410-1-7.02 of the *Alabama Certificate of Need Program Rules and Regulations*, this opinion is for informational purposes only and is based on circumstances, as they currently exist. This approval is also based on the assumption that you have disclosed all pertinent information relative to this request. Should there be any deviations from the facts and premises, which you provided to his Agency and should circumstances prove to be other than represented, this letter will become null and void.

Sincerely,
Alva M. Lambert
Alva M. Lambert
Executive Director

AML:mde

cc: Ray Sherer

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