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\*ALSO ADMITTED IN MISSISSIPPI

RV2022-033  
**RECEIVED**  
Sep 28 2022

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

OAKLEY W. MELTON, JR.  
(1927-2013)

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MAILING ADDRESS:  
P.O. DRAWER 5130  
MONTGOMERY, AL 36103-5130  
TELEPHONE (334) 263-6621  
FAX (334) 263-7252

September 28, 2022  
*Via Electronic Mail*

Ms. Emily T. Marsal, Executive Director  
State Health Planning and Development Agency  
100 North Union Street, Suite 870  
Montgomery, AL 36104

**Re: Request for Reviewability Determination  
EastPointe Hospital**

Dear Ms. Marsal:

Our firm represents EastPointe Hospital which is a 66-licensed bed psychiatric hospital in Daphne, Baldwin County, Alabama.

The purpose of this letter is to request your determination, pursuant to Section 410-1-7-.02 of the Alabama Certificate of Need Program Rules & Regulations ("Regulations"), that EastPointe Hospital is not required to obtain a Certificate of Need ("CON") from the State Health Planning and Development Agency to convert 16 residential beds to 16 acute care beds.

Specifically, EastPointe Hospital currently operates 66 acute care hospital beds for adults on its campus on Roper Lane in Daphne, and 16 residential crisis beds for adults in a separate unit at the same location. Due to increased demands for more hospital beds, EastPointe Hospital wishes to convert these 16 residential beds to acute care beds. The separate unit containing the 16 residential beds is operated under subcontract with the Department of Mental Health and the contract currently constitutes the primary source of income for these 16 beds. A copy of the contract is attached as Exhibit A. The contract is expected to remain the primary source of income for these 16 beds. We have also attached for your review a letter from Kimberly G. Boswell, Commissioner, Alabama Department of Mental Health, discussing the above facts. (Exhibit B).


Alabama Code Section 22-21-263(c) states as follows:

Notwithstanding all other provisions of this article to the contrary, those facilities and distinct units operated by the Department of Mental Health and those facilities and distinct units operating under contract or subcontract with the Department of Mental Health where the contract constitutes the primary source of income to the facility shall not be subject to review under this article.

Accordingly, based on the facts and law set forth above, we respectfully request your determination that EastPointe Hospital is not required to obtain a CON to convert the 16 residential beds to 16 acute care beds.

In accordance with SHPDA Rule 410-1-7-.02, the filing fee of \$1,000.00 for this Letter of Non-Reviewability has been paid via the SHPDA electronic payment portal. We certainly appreciate your consideration of this request and please feel free to contact me if you need further information or have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'James E. Williams', with a long horizontal stroke extending to the left.

James E. Williams

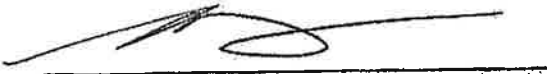
JW:lmr  
Attachments

The undersigned, being first duly sworn, hereby makes oath or affirms he is the Chief Hospital Officer for EastPointe Hospital, has knowledge of the facts in this request, and to the best of his information, knowledge and belief, such facts are true and correct.

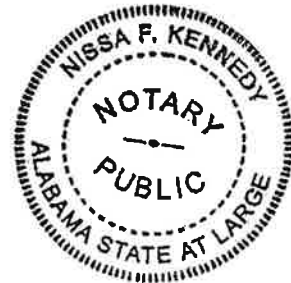
Affiant,

  
Jarrett Crum, Chief Hospital Officer

SWORN TO and subscribed before me  
on this the 27 day September, 2022.



NOTARY PUBLIC  
My Commission Expires: 08/26/2026



# EXHIBIT A

**ADDED EXHIBIT EDP  
EMERGENCY DIVERSION PROGRAM  
MENTAL ILLNESS COMMUNITY SERVICES/PROGRAMS  
AltaPointe Health Systems, Inc.**

Amendment 1

**I. PURPOSE**

The purpose of this contract is for the Department of Mental Health ("DMH") to purchase Inpatient Psychiatric treatment in a specialized unit that diverts from the Bryce Hospital waiting list during the COVID pandemic. Services to be provided will be approved and on file with DMH.

**II. TARGET POPULATION**

Civily Committed individuals with a Serious Mental Illness (SMI) who are on the waiting list to be admitted to Bryce State Hospital.

**III. SERVICES TO BE PROVIDED**

Inpatient psychiatric hospital care with the goal of psychiatric stabilization and Release from DMH Civil Commitment back to community based mental health treatment and care.

**IV. PAYMENT PROCESS**

The parties hereto understand and agree that the total contract amount shall be the allocation available to the Contractor for performance of the referenced services as contained in the budget that is approved by DMH and on file with DMH.

DMH payments to the Contractor for services described above will be as follows:

The maximum for this contract year is for 334 days from October 1<sup>st</sup> through August 30<sup>th</sup> at \$700 per day. This is a **total of \$5,500,000 maximum** available for this fiscal year. Payment will be based on paying the month of October on a one twelfth (annualized) basis only. The next payments will be on a one twelfth (annualized) basis and then reconciled to 75% occupancy. Anything below 75% occupancy will be recouped from actual percent occupancy to 75% occupancy.

**V. REPORTING**

Services provided under this contract will be reported to the Central Data Repository with a contract code of 058 and an activity code of 1110.

Bed occupancy data under this contract will be reported to MICRS.

**VI. REQUIREMENTS**

This program will have a program description that outlines the scope of services, target population, and areas served. A copy of the approved program description will be approved by DMH and kept on file at DMH and by the contracting agency. Any

changes or modification to the program after a contract is signed can only be done with approval of DMH.

## **VII. OUTCOMES**

The AltaPointe Specialty Civil Commitment Unit is designed to divert civilly committed individuals from the Bryce Hospital Waiting List. Activities of the site will include:

Working with DMH staff to assess and evaluate appropriate Bryce Waiting List Civilly Committed individuals to divert to admission in the AltaPointe Specialty Civil Commitment Unit.

Participate in all data collection, reporting, evaluation, and monitoring as required by DMH.

Serve eligible consumers within the approved guidelines.

Work collaboratively with local community and state partners, as well as other stakeholder groups and partners, for appropriate admission and discharges.

## **5. ENTIRE AGREEMENT**

The parties hereto understand and agree that this contract and all amendments embody the entire agreement by and between the parties. This contract may be modified only by mutual consent of the parties by written amendment.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed by their duly authorized representatives.

CONTRACTOR: ALTAPOINTE HEALTH SYSTEMS, INC

BY: [Signature]  
Authorized Signature

Print Name: Julie B. Bellcase

As Its: Vice-President, Operations  
Title

Tax No.(FEIN): 63-0700401

Witness: [Signature]

ALABAMA DEPARTMENT OF MENTAL HEALTH

BY: \_\_\_\_\_

Kimberly G. Boswell, Commissioner

Date: \_\_\_\_\_

THIS CONTRACT HAS BEEN REVIEWED FOR LEGAL FORM AND COMPLIES WITH ALL APPLICABLE LAWS, RULES AND REGULATIONS OF THE STATE OF ALABAMA GOVERNING THESE MATTERS.

BY: Format PRE-APPROVED by Legal Division

DMH Legal Division

NA

Kay Ivey, Governor  
State of Alabama

CORPORATE ACKNOWLEDGEMENT

STATE OF ALABAMA  
COUNTY OF MOBILE

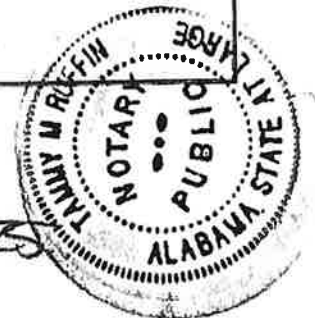
I, the undersigned authority, a Notary Public in and for the State and County aforesaid, hereby certify that Julie B. Bellcase of Contractor, whose title is VP, Operations has signed the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as officer of said Contractor, and with full authority, executed the same voluntarily for and as the act of said Contractor.

Given under my hand and official seal, this the 21st day of September, 2022.

[Signature]  
NOTARY PUBLIC

TAMMY M RUFFIN  
MY COMMISSION EXPIRES

2/12/2025



# **EXHIBIT B**





STATE OF ALABAMA  
DEPARTMENT OF MENTAL HEALTH  
RSA UNION BUILDING

100 NORTH UNION STREET  
POST OFFICE BOX 301410  
MONTGOMERY, ALABAMA 36130-1410  
WWW.MH.ALABAMA.GOV



KIMBERLY G. BOSWELL  
COMMISSIONER

August 17, 2022

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

Dear Ms. Marsal,

Your records will reflect that EastPointe Hospital currently operates 66 acute hospital beds for adults on its campus on Roper Lane in Daphne, and in a separate unit at the same location, 16 residential crisis beds for adults. AltaPointe wishes to convert these residential beds to hospital acute beds, due to increased demands for more hospital beds.

AltaPointe holds a certificate of need for these 66 acute hospital beds. As to the separate distinct unit currently containing 16 residential beds, those are operated under subcontract with the Department of Mental Health, where the contract currently constitutes the primary source of income to the facility. As such, the matter of converting the 16 bed unit is not subject to CON review.

The appropriate statute is Ala. Code Section 22-21-263, which reads as follows:

*Notwithstanding all other provisions of this article to the contrary, those facilities and distinct units operated by the Department of Mental Health and those facilities and distinct units operating under contract or subcontract with the Department of Mental Health where the contract constitutes the primary source of income to the facility shall not be subject to review under this article. [emphasis added]*

Due to the exempt status of these beds, AltaPointe reasonably believes that a certificate of non-reviewability is not necessary, and that review and approval by DMH of this request, along with meeting licensure requirements, is all that is required. We will appreciate your consideration of this request. Please advise as to any additional requirements which you deem might be involved.

Yours very truly,

Kimberly G. Boswell  
Commissioner  
Alabama Department of Mental Health

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October 14, 2022  
*Via Electronic Mail*

Ms. Emily T. Marsal, Executive Director  
State Health Planning and Development Agency  
100 North Union Street, Suite 870  
Montgomery, AL 36104

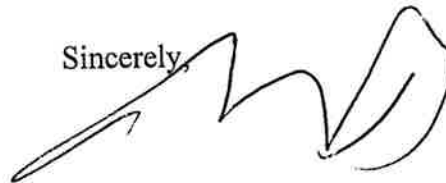
**Re: RV2022-033, EastPointe Hospital**

Dear Ms. Marsal:

We are in receipt of your letter of October 6, 2022, which requested additional information concerning the entity requesting the reviewability determination. EastPointe Hospital is a department of AltaPointe Health Systems which operates under the same governance, bylaws, and tax identification number.

If you have any questions, please do not hesitate to contact me. With kindest personal regards, I am

Sincerely,



James E. Williams

JW:l