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March 1, 2024

SENT THIS DATE VIA EMAIL TO:

Emily.Marsal@shpda.alabama.gov; shpda.online@shpda.alabama.gov;
Teresa.Lee@shpda.alabama.gov

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

Re: Reviewability Request – Bullock County Hospital
Rural Emergency Hospital Conversion
Our File No.13052.0000

Dear Ms. Marsal:

This law firm represents Professional Resource Management, Inc., which operates the Bullock County Hospital in Union Springs, Alabama (“BCH” or the “Hospital”). Bullock County Hospital is one of Alabama’s oldest hospitals, is located in rural Alabama's Black Belt region, and is in one of the poorest counties in the state. Like many rural hospitals in Alabama, the Hospital has experienced significant financial struggles, especially in recent years since the COVID-19 pandemic. Ultimately, BCH has determined that it cannot continue providing its current services indefinitely because of these financial constraints. The purpose of this letter is to request a determination by the State Health Planning and Development Agency (“SHPDA”) that the conversion of Bullock County Hospital from a General Acute Care Hospital to a Rural Emergency Hospital (“REH”) is not reviewable under Alabama Certificate of Need (“CON”) law and regulations.

An REH is a new Medicare provider type which was created through the enactment of the Consolidated Appropriations Act of 2021, Public Law No. 116-260. The Centers for Medicare and Medicaid Services (CMS) and the Alabama Department of Public Health (ADPH) have implemented rules recognizing both general acute care hospitals and REHs, and the possible conversion of a rural general acute care hospital to an REH.¹ CMS and ADPH

¹ The Alabama Department of Public Health (ADPH) published final REH licensure rules in September of 2023. See Ala. Admin. Code Ch. 420-5-23, available at <https://www.alabamapublichealth.gov/providerstandards/assets/health-420-5-23-certified-post.pdf>. ADPH’s definition of an REH is found on Pages 4 through 6 of the licensure rules. Generally, the ADPH licensure rules track CMS requirements, with some additional restrictions.

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generally have the same requirements to convert from a rural general acute care hospital to an REH. Among other things, REHs are required to provide 24-hour emergency care and may provide certain other outpatient services, but they may not provide any inpatient services. Generally, Critical Access Hospitals (CAH) and rural general acute care hospitals with 50 or fewer beds that were open on December 27, 2020, are eligible to apply for REH status.²

BCH is located in a rural area for purposes of the REH requirements because it is not located in an urban area or a metropolitan statistical area, as determined by the U.S. Census Bureau.³ Currently, the Hospital is a general acute care hospital with 61 licensed (CON-authorized) beds and 59 authorized beds, including 30 general acute care beds and 2 distinct part unit(s) comprising 31 psychiatric beds (a 21-bed adult psychiatric unit and a 10-bed geriatric psychiatric unit).⁴ The 31 distinct part unit psychiatric beds are not counted in the Hospital's bed count for purposes of the REH 50-bed limitation.⁵ The Hospital plans to discontinue inpatient acute care services and enroll as an REH if a non-reviewability determination is granted, ADPH approves an REH license for the Hospital, and CMS approves the Hospital's conversion to REH status.

As of October 1, 2023 and continuing through the date of filing of this request, the CON thresholds are: \$3,322,582.00 for major medical equipment, \$1,327,734.00 for new annual operating costs, and \$6,638,679.00 for any other capital expenditures. All of the projected expenditure amounts for this project are below these thresholds.

The following information is provided as a part of this request:

- 1) Name of applicant: Professional Resource Management, Inc. d/b/a Bullock County Hospital

² 42 C.F.R. § 485.506; *see also* CMS Letter to State Survey Agency Directors re: Guidance for Rural Emergency Hospital Provisions, Conversion Process, and Conditions of Participation, QSO-23-07-REH (Jan. 26, 2023), available at <https://www.cms.gov/files/document/qso-23-07-reh.pdf>.

³ 42 C.F.R. § 485.506; Social Security Act § 1886(d)(2)(D) [42 U.S.C. § 1395ww(d)(2)(D)].

⁴ BCH notes that it currently staffs only 17 of the 30 authorized inpatient general acute care beds.

⁵ *See* 87 Fed. Reg. 72185 (“The bed count will be determined by calculating the number of available bed days during the most recent cost reporting period divided by the number of days in the most recent cost reporting period. We use this methodology to determine if Medicare-dependent small rural hospitals meet the required bed count for that program.”); 42 C.F.R. § 412.108(a)(1)(ii) (describing eligibility criteria for Medicare-dependent small rural hospitals and referring to 42 C.F.R. § 412.105(b) for purposes of defining bed counts); 42 C.F.R. § 412.105(b)(3) (excluding from a hospital's bed count any beds in excluded distinct part hospital units).

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- 2) Address and contact information: 102 West Conecuh Avenue, Union Springs, AL 36089. Amanda Trawick is the Hospital CEO, and she can be reached on telephone number 334-738-1416 or 334-738-8683.
- 3) Service area: Bullock County, Alabama
- 4) Services to be provided: Twenty-Four Hour Emergency Department and Outpatient Services as a Rural Emergency Hospital. At this time, the Hospital does not intend to provide any new or different services compared to what is currently offered by BCH, but will discontinue all inpatient acute care services.
- 5) Financial breakdown, approximate costs:
 - a. Equipment and Furniture: \$00.00
 - b. First year new annual operating costs: \$00.00
 - c. Capital Costs:
 1. Leases: \$00.00 (no new costs)
 2. Land/building costs: \$00.00
 3. Construction costs: \$185,375.00
- 6) The hospital building is leased from the Bullock County Health Care Authority by Professional Resource Management, Inc. No other health care facility or individual has a financial interest in the proposed project.
- 7) Attestation: Below.

We request SHPDA’s determination that this proposed offering of REH services in Bullock County is not subject to CON review because it does not involve any expenditure in excess of the CON monetary thresholds, because the conversion of a rural general acute care hospital to an REH does not add any health services which are subject to review, and because Hospital will not be using any of its inpatient beds to provide the services. The Hospital is rural and will not be submitting a filing fee pursuant to Alabama Code Section 22-21-265 and Rule 410-1-7-02, titled “Reviewability Determination Request.”

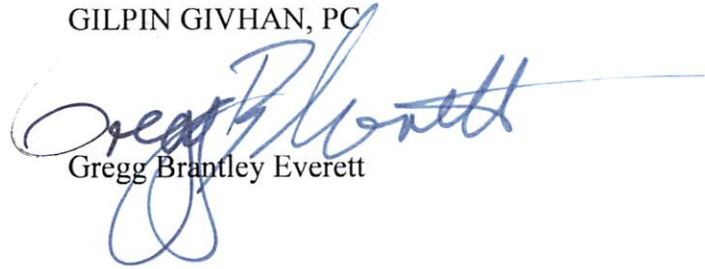
Thank you for your timely response to this request. Please contact me at your earliest convenience if you have any questions or need additional information regarding this matter.

GILPIN GIVHAN, PC

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Very truly yours,

GILPIN GIVHAN, PC

A handwritten signature in blue ink, appearing to read "Gregg Brantley Everett", with a long horizontal flourish extending to the right.

Gregg Brantley Everett

GBE/sd

Attachment



AFFIRMATION OF REQUESTING PARTY

The undersigned, Amanda Trawick, being first duly sworn, hereby makes oath or affirms that she is the Chief Executive Officer of Bullock County Hospital and has knowledge of the facts in this request; and, to the best of her information, knowledge and belief, such facts are true and correct.

AFFIANT

Amanda Trawick, CEO
Amanda Trawick, CEO

SUBSCRIBED AND SWORN to before me this 1st day of March, 2024.

Cynthia Ruten
Notary Public
My Commission Expires: 7/19/2026
