



BALCH & BINGHAM LLP

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HEALTHCARE BULLETIN

October 17, 2007

ALABAMA CON REVIEW BOARD UPDATE

I. CON PROGRAM

A. Cost Overrun

AL2004-017, Capstone Village, Inc., Tuscaloosa, AL: Certificate of Need 2095-SCALF issued August 5, 2004 for the construction of a sixteen (16) bed Specialty Care Assisted Living Facility. The estimated cost of the project was \$2,951,110. The final cost of the project was \$3,404,405, resulting in a cost overrun of \$453,295. The cost overrun fee has been paid.

Approved.

B. AL2007-029, Regency Rememberances of Birmingham d/b/a Regency Retirement Village, Birmingham, AL: Proposal to convert sixteen (16) of their fifty-one (51) Assisted Living beds to sixteen (16) Specialty Care Assisted Living beds. Opposition: None.

Approved.

C. AL2007-030, Long Term Hospital of Anniston, LLC, Anniston, AL: Proposal to add four (4) Long Term Acute Care beds. Opposition: None.

Approved.

D. AL2007-031, Fresenius Medical Care of Alabama, Inc., d/b/a FMC Scottsboro, Scottsboro, AL: Proposal to relocate from the current location and add six (6) Hemodialysis Stations. Opposition: None.

Approved contingent upon designation of site location.



E. AL2007-028, Chilton County Treatment Center, Clanton, AL: Proposal to construct and operate a Methadone Treatment facility. Opposition: Letters requesting to speak in opposition were received from District Attorney Randall Houston, Probate Judge Robert Martin, Representative Jimmy Martin, Sheriff Kevin Davis, Commander Rocky Mims, Senator Hank Erwin, Jr., Mr. Wade L. Burt, Chief Brian Stilwell, Ms. Yvonne Jones, Ms. Ann Baker, Ms. Katie Ferguson, Esq., and Mr. M. L. Turnipseed. Approximately sixty-five (65) letters and 1,582 signatures were received in opposition of the project. Approximately ten (10) letters and 283 signatures of support were also received.

Denied.

F. Project Modification Request

AL2005-025, Brookwood Medical Center, Birmingham, AL: Proposal to construct a single five-story patient tower instead of two three-story towers.

Approved.

II. FOR INFORMATIONAL PURPOSES ONLY

REVIEWABILITY DETERMINATIONS:

A. RV2007-056, Brookwood Hospital intends to construct a medical office building on the campus of Brookwood Hospital and to construct a pedestrian bridge which will serve to connect the newly constructed medical office building to the existing Brookwood Hospital. **Status: Non-Reviewable.**

B. RV2007-057, Children's Hospital intends to alternately use an existing Hemodialysis home training station for home Hemodialysis training and Peritoneal Dialysis training. **Status: Non-Reviewable.**

C. RV2007-058, Countryside Hospice Care, Inc., requests to add Tallapoosa, Coosa, St. Claire, Clay and Chilton counties to the Sylacauga Facility; Tallapoosa, Clay, Cleburne and Lee counties to the Roanoke facility; and Jefferson, Blount, Cullman, Marshall and DeKalb counties to the Anniston facility. **Status: Non-Reviewable.**

D. RV2007-059, Sylacauga Health and Rehab Services, LLC intends to operate a single service (physical therapy) rehabilitation center on its campus. Sylacauga Health and Rehab Services currently provide rehabilitation services on an inpatient basis, and the proposed single service rehabilitation center will simply be an extension of those existing services. **Status: Non-Reviewable.**



E. RV2007-060, Bluewater Hospice intends to relocate from 2745 Bob Wallace Avenue, Suite C, Huntsville, Alabama to 5752 Highway 72, Killen, Alabama and serve in-home hospice patients in Lauderdale, Limestone, Lawrence, Colbert, Morgan and Madison counties. **Status: Non-Reviewable.**

F. RV2007-061, Elmore Community Hospital intends to renovate and relocate the present kitchen facility to existing vacant space with the hospital. **Status: Non-Reviewable.**

G. RV2007-062, Physiotherapy Associates intend to add occupational therapy to their existing CORF primary facility and two of their CORF extension sites located in Gardendale and Birmingham, Alabama. **Status: Non-Reviewable.**

H. RV2007-063, Mizell Memorial HomeCare, LLC intends to relocate its administrative offices from 512 North Main Street, Opp, Alabama to 700 Brantley Street, Opp, Alabama. **Status: Non-Reviewable.**

I. RV2007-064, Physicians Choice Dialysis of Anniston, LLC requests to establish a ten (10) station dialysis facility in Calhoun County. **Status: Non-Reviewable.**

J. RE2007-067, Athens-Limestone HomeCare, LLC intends to relocate their administrative offices from 661 U.S. Highway 72 West Athens, Alabama to 204 Durham Drive, Athens, Alabama. **Status: Non-Reviewable.**

K. RV2007-068, AseraCare Hospice-Russellville and AseraCare Hospice-Decatur request that AseraCare Hospice-Decatur be designated as the parent location in preparation for the closing of AseraCare Hospice-Russellville. **Status: Non-Reviewable.**

L. RV2007-069, Birmingham Nursing and Rehabilitation Center requests to provide outpatient single service physical therapy. **Status: Non-Reviewable.**

PENDING REVIEWABILITY DETERMINATIONS:

A. EQR2007-008, (Equipment replacement) USA Mitchell Cancer Institute requests to replace its Varian Linear Accelerator (Cyberknife G 4) with a Robotic Linear Accelerator. **Status: Pending.**

Recommendation: Linear Accelerator as currently being utilized is non-reviewable; however, the Robotic Arm that enables the Linear Accelerator to become a Cyber Knife is reviewable.

B. RV2007-065, Harrison Radiation Oncology, P.C. requests to install and operate a linear accelerator in the private office of Dr. Lowndes Harrison and Dr. Christopher Jahraus. **Status: Pending.**

Recommendation: Still under review



C. **RV2007-070, USA Mitchell Cancer Center Institute** requests to acquire, install and operate a Philips Gemni TF 64 PET/CT Scanner. **Status: Pending.**

Recommendation: Non-Reviewable.

D. **RV2007-071, Renal Treatment Centers-Southeast, LP d/b/a Opelika Dialysis Center** requests to convert one of its approved Hemodialysis Stations to a Home Training Station to be used alternately for home hemodialysis training and peritoneal dialysis home training. **Status: Pending.**

Recommendation: Non-Reviewable

E. **RV2007-072, DVA Healthcare Renal Care, Inc., d/b/a Demopolis Dialysis** requests to alternately use the existing Home Training Station for home hemodialysis training and peritoneal dialysis training. **Status: Pending.**

Recommendation: Non-Reviewable

F. **RV2007-073, Bethesda Regional Cancer Treatment Center** located at 208 Marengo St. in Florence, Alabama is being acquired by Alliance Oncology. Bethesda Regional Cancer Center falls under the physician office exemption. **Status: Pending.**

Recommendation: Non-Reviewable

G. **RV2007-074, Cherokee County Nursing Home** proposes to convert twenty-four (24) semi-private rooms to twenty-four (24) private rooms. **Status: Pending.**

Recommendation: Non-Reviewable

III. New Business

Public Hearing for proposed rule change of 410-1-5-.02, Determination of Exemption Status, and 410-1-7-.02, Reviewability Determination Request:

SHPDA received one set of written comments regarding the proposed rules from the Alabama Hospital Association and those comments primarily requested procedural changes. Additionally, Mobile Infirmary presented the following comments and questions at the CON meeting:

- (1) Whether under SHPDA Rule 410-1-5-.02, the replacement of equipment then becomes a “project” before the CON Board?
- (2) What information will be required to request replacement of equipment?
- (3) Will the new rules be retroactively applied? If so, how?
- (4) Could the Executive Director be required to respond to all requests for non-reviewability?
- (5) What is required for a request for non-reviewability to be deemed complete?



The CON Board then adopted the proposed rules, which reflected the Alabama Hospital Association’s changes and some of Mobile Infirmiry’s comments.

NOTICE OF NEW CERTIFICATE OF NEED APPLICATION FEES AND MONETARY THRESHOLD FOR REVIEW

Pursuant to Ala. Code 22-21-271 and Rule 410-1-7-.06 of the Alabama Certificate of Need Program Rules and Regulations, SHPDA has adjusted its fees and threshold amounts for inflation.

The expenditure threshold for major medical equipment will be increased from \$2,277,273 to \$2,356,977; the new annual operating cost will be increased from \$910,909 to \$942,791; and any other capital expenditure by or on behalf of a healthcare facility or health maintenance organization will be increased from \$4,554,545 to \$4,713,954.

Based on a 3.5% increase in the CPI, the maximum Certificate of Need filing fee, effective October 1, 2007, will be increased from \$17,340 to \$17,947.

The Board’s next meeting is scheduled for December 19, 2007.

H E A L T H C A R E C O N T A C T S

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