



BALCH & BINGHAM LLP

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HEALTHCARE BULLETIN

February 21, 2007

ALABAMA CON REVIEW BOARD UPDATE

I. SHPDA Administrative Report

Contested Case

AL2005-009, Gadsden Endoscopy, LLC, Gadsden, AL: Proposal to establish a single specialty Gastroenterology Ambulatory Surgery Center. Opposition: Gadsden Regional Medical Center and HEALTHSOUTH Corporation filed opposition/intervention and requested a contested case hearing. HEALTHSOUTH Corporation withdrew opposition/intervention and request for a contested case hearing 10/25/06. CON 2188-GI-ASC issued on January 24, 2007.

This project was placed on the agenda for informational purposes only. No vote is required because “the recommended order of the Administrative Law Judge becomes the final order of the Agency when no exceptions have been filed.” No exceptions were filed. Administrative Law Judge approved the project.

II. CONs

A. AL2007-002, Bio Medical Applications of Alabama, Inc. d/b/a Fresenius Medical Care of Dallas County, Selma, AL: Proposal to add eleven (11) hemodialysis stations to an existing ten (10) station facility. Opposition: None.

Approved.

B. AL2007-003, Baptist Health Systems, Inc. d/b/a Shelby Baptist Medical Center, Alabaster, AL: Proposal to construct a new South Tower to replace existing 101 licensed acute care beds of which sixteen (16) would be ICU beds, and eighty-five (85) medical/surgical beds; expansion of laboratory and central sterile supply; and a new central energy plant to support existing facilities and the new tower. Opposition: None.

Approved.



C. AL2007-005, Morgan, LLC, d/b/a The Terrace at Priceville Specialty Care Assisted Living Facility, Priceville, AL: Proposal to relocate thirty (30) SCALF beds from Sunshine Haven in Hartselle, Alabama to The Terrace at Priceville. Opposition: None.

Approved.

D. AL2007-006, Dialysis Clinic, Inc., Enterprise, AL: Proposal to construct a new facility, relocate the existing sixteen (16) station clinic, and add ten (10) new hemodialysis stations one of which will be Hepatitis B isolation station. Opposition: None.

Approved.

E. Project Modification Request

AL2005-020, Sand Mountain Recovery Center, Ft. Payne, AL: Proposal to change the original site shown in the Certificate of Need application from 2717 Gault Avenue North, Fort Payne, AL to 1032 Grand Avenue Southwest, Fort Payne, AL. Opposition: Letters of opposition were received from District Attorney Michael E. O'Dell and Mayor William H. Jordan.

Tabled for two months to provide the parties time to agree on a location for the Center.

III. Old Business

Proposed Rule: 410-1-10-.04 Relocation of Health Care Facilities:

The Board voted to take no action on the proposed rule. By failure to act, the Board by operation of law has declined to adopt the proposed rule. Per the discussion of the Board, the proposed rule will be reconsidered, possibly revised, and republished. Thus, the rule making process will begin again, including the opportunity for public comment.

IV. New Business

A. Declaratory Ruling Request 110:

East Alabama Health Care Authority d/b/a East Alabama Medical Center respectfully requests that the CONRB take jurisdiction over this matter and issue a declaratory ruling that the project known as The Institute for Advanced Cardiovascular Care being constructed by Community Medical Development, LLC, is subject to the Certificate of Need rules and regulations and a Certificate of Need is required for this project.

Opposition to East Alabama's Petition for Declaratory Ruling 110:

Community Medical Development, LLC, CathLab Partners, LLC, Advanced Cardiovascular Development, LLC, East Alabama Cardiovascular Associates, P.C. and The Heart Center Cardiology, P.C. Opposition asserts that the facility is exempted from the CON requirement because the facility meets the physician's exemption.

Carried over by consent of East Alabama. The Board indicated that it needed additional information before it could rule on the request.



B. Consideration of Resolutions Advocating Legislative Reforms to the CON Process:

The Board approved a non-binding resolution urging the legislature to adopt proposed legislation amending the CON process. The proposed legislation would among other things, shorten the appeal process by providing for a direct appeal of the Board’s decision to the Alabama Court of Civil Appeals, impose time frames in which a contested case hearing must be held and ruled upon unless the parties otherwise consent, and require that the Board vote on all CON applications, even those applications where an ALJ has grant the application and no exceptions were filed with the Board. The Board encouraged all interested parties to contact the Board’s counsel to provide comment on the proposed legislation. Balch & Bingham has requested a copy of the proposed legislation and upon request, will provide a copy of the proposed legislation. Please direct all requests to Jo Moore by email at jmoore@balch.com.

The Board’s next meeting is scheduled for April 18, 2007 (the March meeting has been cancelled).

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

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