

May 20, 2019

VIA EMAIL (shpda.online@shpda.alabama.gov)  
AND FEDERAL EXPRESS

The Honorable Emily T. Marsal  
Executive Director  
Alabama State Health Planning & Development Agency  
RSA Union Building  
100 North Union Street, Suite 870  
Montgomery, Alabama 36104

**Re: Supplemental Information for Non-Reviewability Determination Request for  
Cardiology Consultants, P.C./ RV2019-032**

Dear Ms. Marsal:

On behalf of Cardiology Consultants, P.C. ("CCPC"), I am writing to submit supplemental information in connection with CCPC's reviewability determination request (SHPDA File No. RV2019-032) relating to the proposed addition of an office-based laboratory (the "OBL") to its practice in order to provide its patients with convenient and safe access to peripheral angiography and endovascular procedures within the offices of CCPC. This letter provides supplemental information modifying the information set forth in CCPC's initial request letter dated April 10, 2019.

CCPC understands from discussions with Karen McGuire, Executive Secretary of SHPDA, that the Agency is concerned with the availability of the Physician Office Exemption to the proposed project in light of CCPC's indication in its original request that the services to be performed at the OBL would be provided by physicians who were owners, employees or independent contractors of CCPC. We understand the Agency's concern to be that the articulation of the Physician Office Exemption by the Alabama Supreme Court in *Ex parte Sacred Heart Health System, Inc.*, 155 So. 3d 980 (Ala. 2012) did not specifically address the provision of services by independent contractors.

Accordingly, CCPC has modified its plans to eliminate the provision of any physician services at the OBL by independent contractor physicians. In light of that change we request that the Agency treat our reviewability determination request as being modified by substituting the following revised language for the corresponding portion of the April 10 determination request (i.e., the portion that begins with "CCPC will meet these criteria ..." on page 2 of the April 10 request and ends at the conclusion of numbered paragraph 4 on page 3 of that request):

{BH389239.1}

CCPC will meet these criteria with respect to the proposed OBL:

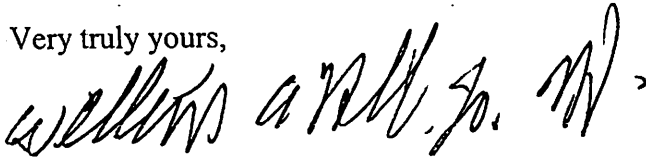
1. The services to be provided by the OBL will be provided, and related equipment used, exclusively by physicians who are owners or employees of CCPC and only for the care of such physicians' patients. Initially, the services will be provided by Drs. Hill, Anderson, Carraway and Proctor, who are all owners of CCPC, and by W. Ford Simpson, Jr., M.D., who will work as a part-time employee of CCPC on a regularly scheduled basis. In that regard, we advise you all patients treated by Dr. Simpson at CCPC will patients of CCPC and not of Dr. Simpson individually, that CCPC will bill for all services provided by Dr. Simpson at CCPC and retain all collections therefrom, and that Dr. Simpson will be compensated by CCPC for his services to CCPC on a basis consistent with the compensation paid to CCPC owners and other CCPC employees with respect to OBL services. If any additional physicians provide services at the OBL in the future, such physicians will be owners or employees CCPC.
2. All OBL procedures will be performed, and all related equipment will be used, at the offices of CCPC. CCPC is adding an additional 1,950 square feet to its current office space to accommodate the OBL.
3. All patient billings relating to services provided at the OBL will be done through CCPC under provider agreements and billing numbers assigned to CCPC, and all collections resulting from such billings will be the property of CCPC, just as is the case for all other physician services provided by CCPC.
4. The equipment at the OBL will not be used for inpatient care nor by, through or on behalf of a healthcare facility; rather, such equipment will be used only for office-based, outpatient Vascular Procedures provided by CCPC physicians.

Except as so modified, the remainder of CCPC's reviewability determination request is hereby ratified and incorporated by reference in this letter.

Based on the above, we respectfully request that the Agency grant a determination of non-reviewability to CCPC for the proposed OBL project described in the April 10 request letter, as modified by this letter. Please do not hesitate to contact our counsel, William W. Horton, at (205) 244-5221 or whorton@joneswalker.com if you require any further information or have any questions.

We appreciate your attention, and look forward to hearing from you.

Very truly yours,

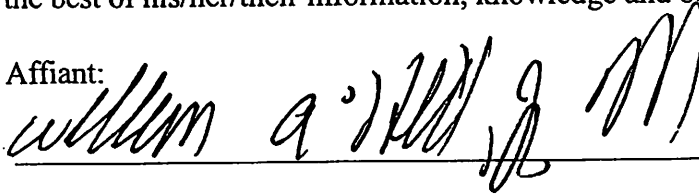


William A. Hill, Jr., MD  
President, Cardiology Consultants, PC

**Affirmation of Requesting Party:**

The undersigned, being first duly sworn, hereby make oath or affirm that he/she is William A. Hill Jr., MD of Cardiology Consultants, P.C., has knowledge of the facts in this request, and to the best of his/her/their information, knowledge and belief, such facts are true and correct.

Affiant:



(SEAL)

SUBSCRIBED AND SWORN to before me this 20<sup>th</sup> day of May, 2019.



Notary Public

My commission expires: 9-15-2021

(SEAL)