

RV2020-014
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Feb 19 2020

STATE HEALTH PLANNING AND
DEVELOPMENT AGENCY

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David E. Belser
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February 14, 2020

Hon. Emily T. Marsal
Executive Director
State Health Planning and Development Agency
100 North Union Street
RSA Union Building, Suite 870
Montgomery, Alabama 36130
Shpda.online@shpda.alabama.gov

RE: Request for Letter of Non-Reviewability for Valley Vascular Access Center, LLC

Dear Ms. Marsal:

On behalf of Valley Vascular Access Center, LLC ("Valley Vascular"), I am writing to submit a reviewability request in accordance with the Alabama State Health Planning and Development Agency's ("SHPDA") Certificate of Need ("CON") program rules and regulations. This request seeks approval that the proposed project is exempt from CON review provided to the "offices of private physicians" under ALA. CODE § 22-21-260(6) (1975 as amended) (the "Physician's Office Exemption" or "POE").

Valley Vascular is constructing a new physician's office building located at 4700 Whitesburg Drive in Huntsville Alabama to provide the following services in the physician's office: all percutaneous dialysis maintenance procedures, upper and lower arterial diagnostic and interventional procedures. All procedures will be percutaneous and catheter-based (no incisions). The intent is for all procedures to be done under local anesthetic with light conscious sedation. No general anesthesia will be administered.

Valley Vascular is a physician group practice consisting of Ronny C. Johnson, MD, Fred S. Stucky, III, MD, Andrew W. Knott, MD, Mell Burrell Welborn, III, MD and Marco L. Cioppi, MD. No other healthcare facility or groups have financial interest in Valley Vascular. The proposed services and associated equipment will be used exclusively by the owners listed above or employees of the physicians' practice.

In 2012, the Alabama Supreme Court in *Ex parte Sacred Heart Health Systems, Inc.*, 155 So. 3d 980, 988 (Ala. 2012) adopted the following four-part test to be used to determine whether a proposed medical facility or project qualifies for the POE:

1. The proposed services are to be provided, and related equipment used, exclusively by the physicians identified as owners or employees of the physician's practice for the care of their patients.
2. The proposed services are to be provided, and related equipment used, at any office of such physicians.
3. All patient billings related to such services are through, or expressly on behalf of, the physician's practice.
4. The equipment shall not be used for inpatient care, nor by, through, or on behalf of a healthcare facility.

Valley vascular will meet the above criteria respectively as follows:

1. All procedures will be performed only by physician owners or physician employees of Valley Vascular.
2. All procedures will be performed in the office of the Valley Vascular located at 4700 Whitesburg Drive, Huntsville, AL. 35802.
3. All patient billing for the procedures performed will be done through and on behalf of Valley Vascular.
4. At no time will the facility and equipment used for the performance of office-based procedures be used for inpatient care, nor by, through or on behalf of any healthcare facility.

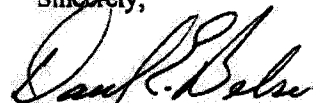
The approximate cost associated with this project is as follows: equipment - \$540,000; first year annual operating cost - \$1,460,000; and other capital cost (construction) - \$1,200,000.

Based on the information given above, the proposed project should meet the criteria adopted by the Alabama Supreme Court for application of the physician's office exemption. Therefore, Valley Vascular requests SHPDA grant a determination of non-reviewability to Valley Vascular Access Center, LLC for the uses described above.

An electronic payment for the filing fee in the amount of \$1,000.00 will be made today via the SHPDA online portal.

Please do not hesitate to contact me if you request any further information.

Sincerely,



David E. Belser

Emily T. Marsal
February 14, 2020
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Affirmation of Requesting Party

The undersigned, being first duly sworn, hereby makes oath or affirms that he is a member and manager of Valley Vascular Access Center L.L.C. and has knowledge of the facts in this request, to the best of his information, knowledge and belief, such facts are true and correct.

Affiant



Andrew W. Knott, M.D.

Subscribed and sworn to before me this 17 day of February, 2020.



Notary Public

My commission expires: 5-20-2023

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Attorneys at Law

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David E. Belser
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March 3, 2020

Hon. Emily T. Marsal
Executive Director
State Health Planning and Development Agency
100 North Union Street
RSA Union Building, Suite 870
Montgomery, Alabama 36130
Shpda.online@shpda.alabama.gov

RE: RV2020-014: Valley Vascular Access Center, LLC – SHPDA's Request for additional information

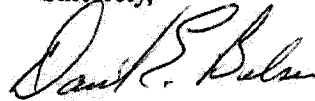
Dear Ms. Marsal:

This letter is in response to your letter of February 26, 2020 requesting additional information regarding Valley Vascular Access Center LLC's ("Valley Vascular") Reviewability Determination Request. The additional information requested is below:

1. The service area will be Madison County.
2. There will be no purchase of real estate and the operating lease cost is included in the annual operating cost. The capital cost of \$1,200,000 is for build out expenses.
3. The planned emergency protocols include:
 - Using ACLS and BLS protocols, unstable patients can be resuscitated and stabilized as preparation for transfer to a local hospital is made.
 - All physicians and nurses will be BLS an ACLS certified.
 - Radiology technicians and scrub technicians will be BLS certified.
 - Always maintain an appropriately equipped crash cart, including supplemental oxygen, anti-arrhythmic and blood pressure support medications, and advanced airway equipment.
 - All physicians are on staff with local hospitals and currently admit patients though the emergency department.
4. Only the Valley Vascular physician group practice will occupy the new physician's office building.

Please do not hesitate to contact me if you request any further information.

Sincerely,



David E. Belser

Affirmation of Requesting Party

The undersigned, being first duly sworn, hereby makes oath or affirms that he is a member and manager of Valley Vascular Access Center L.L.C. and has knowledge of the facts in this request, to the best of his information, knowledge and belief, such facts are true and correct.

Affiant


Andrew W. Knott, M.D.

Subscribed and sworn to before me this 3rd day of March, 2020.


Notary Public

My commission expires: 5-20-2023

