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\*ALSO ADMITTED IN MISSISSIPPI

June 21, 2024

*Via Electronic Mail*

RV2024-027

RECEIVED

Jun 21 2024

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

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Emily T. Marsal, Executive Director  
State Health Planning and Development Agency  
100 North Union Street, Suite 870  
Montgomery, Alabama 36104  
[Emily.marsal@shpda.alabama.gov](mailto:Emily.marsal@shpda.alabama.gov)

**Re: Request for Determination of Non-Reviewability  
Thomas Medical Center  
Daphne, Baldwin County, Alabama**

Dear Ms. Marsal:

I represent Gulf Health Hospitals, Inc., d/b/a Thomas Hospital, a 189-bed acute care hospital in Fairhope, Alabama. Thomas Hospital operates Thomas Medical Center (TMC), also known as TMC Imaging Center & Diagnostics, which is an outpatient department of Thomas Hospital that provides imaging and diagnostic services. Pursuant to Ala. Admin. Code r. 410-1-7-.02(1) (SHPDA), Thomas Hospital requests a determination that the relocation of TMC from its existing location on US Highway 98 in Daphne, Alabama, to the Infirmary Health Malbis Campus on US Highway 90 also in Daphne, does not require a certificate of need (CON) and is not subject to review under the Alabama Certificate of Need Law, Ala. Code § 22-21-260, et. seq., and the CON Program Rules & Regulations, Ala. Admin. Code r. 410-1-1-.01, et seq. In support of this request, Thomas Hospital submits the following information.

TMC provides imaging and diagnostic services, including cardiac scoring and bone densitometry, to patients in Baldwin County utilizing 3D mammography, computed tomography (CT), ultrasound (abdominal, vascular and OB-GYN), x-ray and open magnetic resonance imaging (MRI). TMC's diagnostic and imaging equipment are not major medical equipment and/or are excluded from the Alabama Certificate of Need Law per Ala. Code § 22-21-263(d) (1975).<sup>1</sup>

TMC is located on and between Highway 98 and the City of Daphne's Bayfront Park on the Eastern Shore of Mobile Bay. The City of Daphne has approved the expansion of Bayfront

<sup>1</sup> Section 22-21-263(d) provides that "[f]or the purposes of this article . . . new institutional health services, which are subject to this article, shall not include any health services provided by a mobile or fixed-based extracorporeal shock wave lithotripter, mobile or fixed-based magnetic resonance imaging, or positron emission tomography proposed to be offered in or through a health care facility or health maintenance organization."

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Park to increase green space and recreational areas with the addition of an amphitheater and mixed-use entertainment. The City's masterplan for the park includes the real property bordering Highway 98 and comprising TMC.

The Infirmary Health Malbis Campus is the home of Thomas Hospital's free standing emergency department, an 80,000 square foot medical/physician office building, and the future home of Daphne Surgery Center, an ambulatory surgery center (ASC) that is relocating to the Malbis Campus due to the expansion of Bayfront Park. (See Project AL2023-027 and CON-3047-ASC).

TMC plans to lease approximately 22,500 square feet in a medical building being developed by a third party on the Malbis Campus. TMC will continue to operate as an outpatient department of Thomas Hospital offering imaging and diagnostic services to the same patient base. The Fiscal Year 2027 projected new first year annual operating costs are \$872,826, of which the largest portion is the new annual facility lease cost of \$567,180.

Accordingly, the relocation will not provide or involve a "new institutional health service" subject to CON review within the meaning of Ala. Code § 22-21-263 and Ala. Admin. Code r. 410-1-4-.01, because the relocation does not involve:

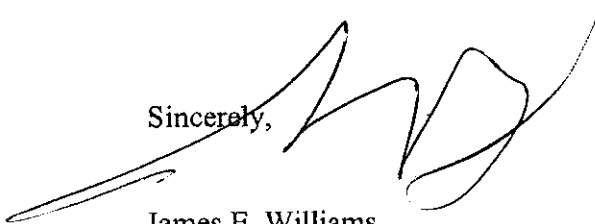
1. The construction, development, acquisition through lease or purchase, or other establishment of a new health care facility or health maintenance organization;
2. An expenditure exceeding CON review thresholds -- per Ala. Code § 22-21-263(a)(2), Ala. Admin. Code r. 410-1-2-.07(a) and SHPDA Memorandum (Sept. 19, 2023) -- of \$3,322,582 for major medical equipment; \$1,327,734 for new annual operating costs; and \$6,338,679 for all other capital expenditures;
3. The addition, relocation, or reallocation of any health care facility beds;
4. The addition of a new institutional health service that was not offered on a regular basis within the preceding twelve (12) months period; or
5. Any other reviewable event under the Alabama Certificate of Need Law and the CON Program Rules and Regulations.

Pursuant to r. 410-1-7-.02(7), a filing fee of \$1,000 has been paid in consideration for this request.

Thomas Hospital therefore requests that SHPDA confirm in writing that the relocation of TMC from Highway 98 to Highway 90 in Daphne, on the Infirmary Health Malbis Campus, does not require a CON and is not subject to review under Ala. Code § 22-21-263(a), Ala. Admin. Code r. 410-1-2-.07, and the CON Program Rules and Regulations.

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Sincerely,

A handwritten signature in black ink, appearing to read 'James E. Williams', written over the word 'Sincerely,'.

James E. Williams

JW/kn

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Affirmation of Requesting Party:

The undersigned, being first duly sworn, hereby makes oath or affirms that he, Joe T. Stough, is the Vice-President of Gulf Health Hospitals, Inc., has knowledge of the facts in this request, and to the best of his information, knowledge, and belief, such facts are true and correct.

Affiant Joe T. Stough (SEAL)

SUBSCRIBED AND SWORN to before me this 21<sup>st</sup> day of June, 2024.

Richard D. Bertagnolli  
Notary Public      My Commission Expires  
My Commission expires: May 18, 2027

