

Dec 05 2024

STATE HEALTH PLANNING AND
DEVELOPMENT AGENCY

November 22, 2024

VIA ELECTRONIC FILING

Emily Marsal
Executive Director
State Health Planning and Development Agency
100 North Union St., Suite 870
Montgomery, AL 36104
Shpda.online@shpda.alabama.gov

Re: Request for Determination of Non-Reviewability
Shelby Baptist Medical Center (117-6530010)
Shelby County, Alabama

Dear Ms. Marsal:

I am writing on behalf of Shelby Baptist Medical Center ("Shelby Baptist"), an acute care hospital serving patients in Shelby County and surrounding areas.¹ Shelby Baptist's defined service area is Shelby County, Alabama. Shelby Baptist is not owned by any other Alabama licensed healthcare facility, and is operated as part of the Brookwood Baptist Health System (a joint venture between Baptist Health System and Orlando Health).

The purpose of this letter is to request your determination, pursuant to Section 410-1-7-02 of the Alabama Certificate of Need Program Rules and Regulations ("CON Rules"), that an upgrade in imaging equipment and relocation of dialysis services, all under applicable thresholds, is not subject to Certificate of Need ("CON") review by the State Health Planning and Development Agency ("SHPDA") in accordance with *Ala. Code* § 22-21-260 *et seq.*, and the CON Rules. Pursuant to CON Rule § 410-1-7-.02, a \$1000.00 filing fee is being paid to SHPDA via the online payment portal.

To assist with your determination, we submit the following information:

Shelby Baptist currently operates a 64-slice CT machine and a 256-slice CT machine. Shelby Baptist desires to replace the current 64-slice CT machine with a new 128-slice CT machine to enhance the imaging technology provided to its patients. The new machine will be placed in a vacant space adjacent to the 256-slice CT machine. The project will include an equipment purchase and finishes upgrade.

In addition, Shelby Baptist currently provides inpatient dialysis services to patients in licensed hospital beds. Shelby Baptist intends to relocate its dialysis services from patient rooms into a dedicated space for inpatient dialysis needs. For the dialysis relocation, Shelby Baptist intends to

¹ Contact information for Shelby Baptist is as follows: 1000 First Street North, Alabaster, Alabama 35007, 205-620-8100, Attn: Holly Dean, CEO.

renovate vacant space to create a 4-bed open bay dialysis unit with all the required support space and equipment.

No new services will be provided as a result of this project. Shelby Baptist currently provides both CT imaging services and inpatient dialysis services.

The project will not exceed any of the CON capital expenditure thresholds specified in *Ala. Code* § 22-21-263 and CON Rule § 410-1-4-.01 (as adjusted in SHPDA's Memorandum dated September 23, 2024). Shelby Baptist anticipates the following approximate costs:

Total Renovation/Construction Cost:	\$2,000,000.00
Total Equipment Cost:	\$750,000.00
Other Capital Costs	\$100,000.00
New First Year Annual Operating Cost:	\$0

Thus, the entire project (consisting of both the CT upgrade and the dialysis relocation) will be less than the capital expenditure thresholds set forth in *Ala. Code* § 22-21-263 and CON Rule § 410-1-4-.01 (as adjusted in SHPDA's Memorandum dated September 23, 2024). All expenditures will be incurred by Shelby Baptist.

The project will not involve the addition of inpatient beds or the conversion of one classification of beds into another classification as described in CON Rule § 410-1-4-01.

This project will not involve a change in ownership of Shelby Baptist.

Consequently, the proposal does not constitute a "new institutional health service" subject to CON Review, as the proposal does not include:²

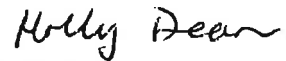
1. The construction, development, acquisition through lease or purchase or other establishment of a new health care facility or health maintenance organization;
2. Any expenditure by or on behalf of a health care facility which, as a capital expenditure, exceeds the CON statutory threshold for major medical equipment, new annual operating costs, or any other capital expenditure by or on behalf of a health care facility;
3. Any change in the licensed bed capacity of a health care facility;
4. Any health service which is proposed to be offered in or through a health care facility which was not offered in a regular basis in or through a health care facility within the preceding 12-month period; or
5. Any other reviewable event under the existing CON Rules.

Based on the above, on behalf of Shelby Baptist, I respectfully request your determination that the upgrade to its CT imaging equipment and the relocation of its inpatient dialysis services into a dedicated space is not subject to CON review under *Ala. Code* § 22-21-260 *et seq.* and the CON Rules, and is permissible without further filings or requests to SHPDA.

² By policy dated March 9, 1993, SHPDA confirmed that CT services are not new institutional health services and are exempted from CON review.

I appreciate your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "Holly Dean". The script is cursive and fluid.

Holly Dean
President
Shelby Baptist Medical Center

cc: Kelli Fleming, Esq.

Affirmation of Requesting Party:

The undersigned, being first duly sworn, hereby make oath or affirms that she is the President of Shelby Baptist Medical Center, has knowledge of the facts in this request, and to the best of her ability, knowledge and belief, such facts are true and correct.

Affiant: _____

Holly Dean

Holly Dean

SUBSCRIBED AND SWORN to before me this 22 day of November, 2024

Cathy McDaniel

Notary Public

My commission expires: _____

7/31/2027

Kelli Fleming
kfleming@burr.com
Direct Dial: (205) 458-5429
Direct Fax: (205) 244-5762

RV2025-017
RECEIVED
Jan. 16, 2025

STATE HEALTH PLANNING AND
DEVELOPMENT AGENCY

420 North 20th Street
Suite 3400
Birmingham, AL 35203

Office (205) 251-3000
Fax (205) 458-5100

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January 16, 2025

VIA EMAIL

Ms. Emily Marsal
Executive Director
State Health Planning and Development Agency
100 North Union Street, Suite 870
Montgomery, Alabama 36104
shpda.online@shpda.alabama.gov

**Re: Additional Information – Request for Determination of Non-Reviewability
RV2025-017
Shelby Baptist Medical Center (“Shelby Baptist”)**

Dear Ms. Marsal:

As you are aware, this firm represents Shelby Baptist Medical Center.¹ Pursuant to Alabama Certificate of Need Program Rules and Regulations (“CON Rules(s)”) § 410-1-7-.02, on or around December 5, 2024, Shelby Baptist filed a determination request that an upgrade in imaging equipment and relocation of dialysis services, under applicable thresholds, is not subject to certificate of need (“CON”) review under *Ala. Code* § 22-21-260 *et. seq.*, and the CON Rules. Shelby Baptist’s request was designated RV2025-017 (“Request”).

We are in receipt of the December 11, 2024 letter from the State Health Planning and Development Agency (“SHPDA”) requesting additional information concerning Shelby Baptist’s Request. Shelby Baptist hereby responds to SHPDA’s letter dated December 11, 2024 requesting additional information, and provides the following additional information for SHPDA’s additional review, consideration, and determination that the proposal described in the Request is non-reviewable under the current CON Rules.

¹ The facility recently underwent a name change to Baptist Health Shelby Hospital.

- 1. Please provide additional details regarding whether the existing equipment is being sold/donated or moved to another area of the hospital.**

The existing 64-slice CT machine will be taken out of service and will be sold to a third-party. It will not be used by Shelby Baptist following the replacement.

- 2. Please provide confirmation to the Agency regarding whether the hospital will continue to be the provider of dialysis services after the proposed relocation or if an outside entity will be contracted to furnish these services.**

Shelby Baptist will continue to be the provider of dialysis services to its hospital patients, and Shelby Baptist will continue billing third-party payors for the dialysis services as part of its inpatient billing. Shelby Baptist currently contracts (and will continue to contract) with Davita to assist with the management of such dialysis services to Shelby Baptist patients.

Accordingly, based on the above, Shelby Baptist requests your determination that this project is not subject to CON review under *Ala. Code* § 22-21-260 *et seq.* and the CON Rules, and is permissible without further filings or requests to SHPDA.

I appreciate your response to this matter, and please do not hesitate to contact me should you need additional information or have any further questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kelli', followed by a long horizontal flourish.

Kelli Fleming

KCF/caj

Affirmation of Requesting Party:

The undersigned, being first duly sworn, hereby make oath or affirm that she is the President of Shelby Baptist Medical Center has knowledge of the facts in this request, and to the best of her information, knowledge, and belief, such facts are true and correct.

Affiant: Holly Dean (SEAL)

SUBSCRIBED AND SWORN to before me this 16th day of January, 2025.

Cathy McDaniel
Notary Public

My Commission Expires: 7/31/2027