



Phelps Dunbar LLP  
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Birmingham, AL 35203  
205 716 5200

RV2025-026  
**RECEIVED**  
**Feb 19 2025**  
STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

February 19, 2025

James F. Henry  
Partner  
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Direct (205) 716-5257

Via Electronic Filing

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

Re: Request for Reviewability Determination  
Urology Associates of Mobile: Replacement of Linear Accelerator

Dear Ms. Marsal,

Our firm represents Urology Associates of Mobile ("UAM"), which is a multi-location private physician practice that provides urology and urogynecology services. This letter is to request a determination that UAM's intended purchase of a replacement linear accelerator is exempt from Certificate of Need ("CON") review under the State Health Planning and Development Agency ("SHPDA") rules and regulations.

UAM currently owns a 2009 Varian IX linear accelerator which is used exclusively by UAM's physicians to treat their patients who have various cancers. This project is a continuation of an existing use of the linear accelerator which was approved under a letter of non-reviewability issued pursuant to request RV2023-010.

UAM currently offers physician services from its 9 Alabama offices in Mobile, Fairhope, Foley, Grove Hill, and Thomasville, Alabama and its office in Lucedale, Mississippi. UAM consists of 32 physicians and 13 advanced practice providers who provide services in the fields of urology, urogynecology, and urology-oncology.

UAM is structured as a common physicians' practice. It is organized as an Alabama Professional Association and is 100% owned by physicians actively practicing medicine and seeing patients on its behalf. No other facility or group has a financial interest in UAM currently nor will any other facility or group have a financial interest in UAM as a result of this transaction.

The owners of UAM are the following physicians:

- Dr. Harbour Stephens;
- Dr. William Blaylock;
- Dr. Thomas Coleman;
- Dr. Adam Talley;
- Dr. Paul Scott;
- Dr. Matthew McIntyre;

- Dr. Zachary Reardon;
- Dr. Jason Frischhertz;
- Dr. Ted Klein;
- Dr. William Terry;
- Dr. Joseph Schultz;
- Dr. William Sanderson;
- Dr. Kristopher Whitehead;
- Dr. Brian Allen;
- Dr. Jeremy Norwood;
- Dr. Robert Brown;
- Dr. David Spencer;
- Dr. Mark Lyell;
- Dr. David Owens; and
- Dr. Joseph Cottone.

UAMs's urology services include the diagnosis and treatment of adrenal cancer, benign prostatic hyperplasia, bladder cancer, erectile dysfunction, hematuria, kidney cancer, kidney stones, prostate cancer, low testosterone, prostatitis, testicular cancer, peyronie's disease, male infertility, testicular/scrotal pain, urinary incontinence, urinary tract infection, and related issues.

UAM's urogynecological services include the diagnosis and treatment of urinary incontinence, overactive bladder, pelvic organ prolapse, fecal incontinence, menopause hormone replacement, vaginal relaxation, interstitial cystitis, urinary tract infection, vaginal mesh complications, painful intercourse, vulvovaginal issues, vaginal atrophy, and related issues.

On December 1, 2025, UAM's existing 2009 Varian IX will be replaced by a 2025 Varian TruBeam linear accelerator. In order to make the replacement, UAM's radiation clinic will have to close from roughly October 2025 until December 2025 in order to remove the current linear accelerator and install its replacement. During this interim period of time, UAM plans to rent a portable linear accelerator and locate it in the parking lot of Springhill Medical Center. The rental for the portable linear accelerator is estimated to cost approximately \$450,000.00 and a pad will be constructed that is estimated to cost approximately an additional \$450,000.00. Neither of these expenditures will exceed the monetary thresholds for CON review.

The replacement linear accelerator will allow UAM to continue providing radiation therapy, including IMRT, IGRT, SBRT, and 3-D Conformal Radiation Therapy, to its cancer patients. There will be no new services offered as a result of acquiring the replacement linear accelerator. The primary service area will continue to be Mobile County, Alabama.

UAM submits that its linear accelerator replacement will satisfy the four-part test for application of the Physician Office Exemption ("POE") from CON review that was set forth by the Supreme Court of Alabama in Ex parte Sacred Heart Health Systems, Inc., 155 So. 3d 980, 988 (Ala. 2012).

1) The linear accelerator will be used exclusively by the physicians identified as owners or employees of UAM for the care of their patients.



2) The proposed services will be provided, and the related equipment used, at an office of UAM's physicians. Specifically, the services will be provided, and the linear accelerator will be used at UAM's office at 3719 Dauphin Street, Suite 100, Mobile, Alabama 36608.

3) All patient billings related to such services are through, or expressly on behalf of, the physicians' practice. UAM will perform all billing for services related to the linear accelerator.

4) The linear accelerator will not be used for inpatient care nor by, through, or on behalf of, a health care facility. The facility will not be leased to or licensed to any person or entity other than the physician owners or employees of UAM.

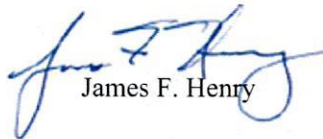
The financial scope of the project will not exceed the current CON review spending thresholds of \$3,379,066.00 for major medical equipment or \$1,350,305.00 for new annual operating costs. The total cost of the project will be as follows:

Equipment Cost:	\$2,866,042.00
Construction Cost:	\$1,200,000.00
Expected 1 <sup>st</sup> year annual operating cost:	<u>\$ 541,917.46</u>
Total	\$4,607,959.46

Based on the above information, UAM's proposed project should satisfy the criteria for application of the POE. Accordingly, UAM respectfully requests that SHPDA issue a determination of non-reviewability for the above-described project.

A payment of \$1,000 for the required filing fee is being submitted contemporaneously herewith via Federal Express. If you have any questions, please contact me. Thank you for your consideration.

Sincerely,



James F. Henry

cc: Mr. Hawk Sindel  
Mr. Miller Callaway  
Sumpter McGowin, Esq.

Honorable Emily Marsal  
Executive Director  
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Affirmation of Requesting Party:

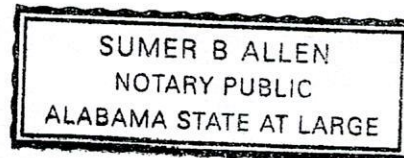
The undersigned, being first duly sworn, hereby makes oath and affirms that he, Matthew M. T. M.D., one of the owners of Urology Associates of Mobile, has knowledge of the facts in this notice and request and, to the best of his knowledge and belief, such facts are true and correct.

Matthew M. T. M.D. M.D.

Seal

Subscribed and sworn before me on this the 14 day of February, 2025.

Notary Public





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Re: Request for Reviewability Determination RV2025-026  
Urology Associates of Mobile: Replacement of Linear Accelerator

Dear Ms. Marsal,

This letter responds to yours of February 21, 2025 requesting additional information for the above referenced request for reviewability determination.

1) You asked whether the cost estimates for UAM's request for a letter of non-reviewability included the \$450,000 for equipment rental and the \$450,000<sup>1</sup> for construction of the pad for the temporary linear accelerator. They were not. Accordingly, the revised equipment and construction cost estimates after adding those items are the following:

Equipment:	\$ 3,316,042.00
Construction:	\$ 1,650,000.00

These revised cost estimates still do not exceed the CON threshold for equipment cost, which is currently \$3,379,066.00.

2) The revised cost estimate for capital expenditures is now \$5,507,959.46, which does not exceed the CON threshold of \$6,751,537.00 for capital expenditures.

We would also like to reiterate that this project fits within the four-part test for application of the physician office exemption, as set forth in our previous letter regarding this project.

If you need any additional information, we will be glad to provide it.

Honorable Emily Marsal  
Executive Director  
March 11, 2025  
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Thank you for your consideration.

Sincerely,



James F. Henry

cc: Mr. Hawk Sindel  
Mr. Miller Callaway  
Sumpter McGowin, Esq.

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<sup>i</sup> After submitting the original request for a letter of non-reviewability, the cost estimate for construction of the pad for the temporary linear accelerator has been adjusted downward to \$375,000.00. Nonetheless, we have added the original estimate of \$450,000.00 to construction costs. The construction cost still does not exceed the CON threshold for review.