

February 18, 2025

**Delivered via Electronic Submission**

State Health Planning & Development Agency (SHPDA)  
100 North Union Street, Suite 870  
Montgomery, Alabama 36104  
Attn: Ms. Emily Marsal, Executive Director  
[shpda.online@shpda.alabama.gov](mailto:shpda.online@shpda.alabama.gov)

**Re:** Request for Determination of Non-Reviewability for First Choice Hospice, LLC

Dear Ms. Marsal:

On behalf of First Choice Hospice, LLC d/b/a ACG Hospice ("ACG Hospice") and pursuant to SHPDA Rule 410-1-7-.02, we submit this request for determination of non-reviewability to determine that the proposed project described below is not subject to certificate of need review under *Ala. Code § 22-21-260 et. seq.* and the Alabama Certificate of Need Program rules and regulations.

ACG Hospice currently maintains four separate certificates of need ("CONs") as follows:

- ACG Hospice f/k/a First Choice Hospice Andalusia and currently known as ACG Hospice-Andalusia (SHPDA ID No. 039-P2494) ("ACG Hospice Andalusia"): CON 2494-HPC was issued on November 4, 2010 for the provision of in-home hospice services to Covington, Butler, Escambia, and Conecuh counties.
- ACG Hospice f/k/a First Choice Hospice Dothan and currently known as ACG Hospice-Dothan (SHPDA ID No. 045-P2381) ("ACG Hospice Dothan"): CON 2381-HPC was issued on April 1, 2010 for the provision of in-home hospice services to Barbour, Dale, Henry, and Houston counties.
- ACG Hospice f/k/a First Choice Elba and currently known as ACG Hospice-Elba (SHPDA ID No. 031-P2493) ("ACG Hospice Elba"): CON 2412-HPC was issued on April 1, 2010 for the provision of in-home hospice services to Coffee, Covington, Crenshaw, Geneva, and Pike counties. CON 2493-HPC was issued on September 30, 2010 to increase the authorized in-home hospice service area to include Montgomery, Bullock, Escambia, Conecuh, and Butler counties.
- ACG Hospice f/k/a Hospice of Montgomery (SHPDA ID No. 101-P2507) ("ACG Hospice Montgomery"): CON 2318-HPC was issued on February 4, 2010 for the provision of in-home hospice services to Montgomery, Butler, Autauga, Crenshaw, and Elmore counties. CON 2507-HPC was issued on November 4, 2010 for the provision of in-home hospice services to Bullock, Chilton, Lowndes, Macon, and Tallapoosa counties.

Please find the applicable documentation for these four CONs enclosed.<sup>1</sup> The proposed project will seek to consolidate these four CONs into one respective CON covering the various Alabama counties that have been approved under each of the CONs. ACG Hospice seeks to consolidate under the ACG Hospice Dothan CON, with ACG Hospice Dothan to be the parent location and the others (ACG Hospice Andalusia, ACG Hospice Elba, and ACG Hospice Montgomery) serving as branch or satellite locations of ACG Hospice Dothan. ACG Hospice acknowledges that, once consolidated, the CON authority granted to ACG Hospice will continue to be “non-severable,” meaning that parts of the newly consolidated CON authority cannot be separated from ACG Hospice.

In accordance with SHPDA Rule 410-1-7-.02, please find the requested non-reviewability information related to the proposed project below. The \$1,000.00 filing fee has also been paid via SHPDA’s online payment portal. A copy of the confirmation of payment is enclosed.

**Non-Reviewability Determination Request Information**

**1. Name of company seeking the reviewability determination.**

First Choice Hospice, LLC d/b/a ACG Hospice

**2. Address and contact information for the authorized company representative seeking the determination.**

Name: Hayley Eby  
Phone: (912) 506-0121  
Email: Hayley.eby@agapecaregroup.com

**3. Service area for the proposed service/equipment.**

Autauga, Barbour, Bullock, Butler, Chilton, Coffee, Conecuh, Covington, Crenshaw, Dale, Elmore, Escambia, Geneva, Henry, Houston, Lowndes, Macon, Montgomery, Pike, and Tallapoosa counties.

**4. Any new/additional services to be provided under the proposed project.**

None.

**5. Approximated costs of the proposed project for:**

- a. Equipment:**
- b. First year annual operating costs:**
- c. Capital costs, to include:**
  - i. Leases**

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<sup>1</sup> Note that we are attaching the most recent approval letters related to these CONs and not the original CON approval letters.

- ii. Land/Building costs
- iii. Construction costs

There are no costs associated with this project.

**6. Disclosure of financial interests in the entity requesting the reviewability determination held by any other healthcare facilities or groups.**

None.

**7. Attestation by an officer, partner or authorized agent of the company having knowledge of the facts disclosed in the reviewability request.**

Please see below.

Based on the foregoing information, we respectfully request SHPDA to grant a determination of non-reviewability for the proposed consolidation of the three CONs referenced above and thank you for your consideration.

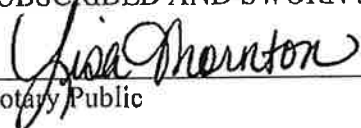
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Attestation

Affirmation of Requesting Party: The undersigned, being first duly sworn, hereby make oath or affirm that he is an authorized official of First Choice Hospice, LLC d/b/a ACG Hospice, 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  (SEAL)

SUBSCRIBED AND SWORN to before me this 20 day of February, 2025


 My commission expires 6/17/2029  
Notary Public

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Should SHPDA require any additional information in connection with its review and processing of this request, please do not hesitate to contact our attorney, Banee Pachuca, at [bpachuca@winston.com](mailto:bpachuca@winston.com) or (713)651-2634.

Sincerely,



Troy Yarborough

Enclosures:

- SHPDA Response Letter re First Choice Andalusia, dated August 2, 2024
- SHPDA Response Letter re First Choice Ozark, dated August 2, 2024
- SHPDA Response Letter re First Choice Hospice, dated August 2, 2024
- SHPDA Response Letter re Hospice of Montgomery, dated December 6, 2024
- Confirmation of Payment of Filing Fee

**SHPDA Response  
Letter re First Choice  
Andalusia**



## STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870  
MONTGOMERY, ALABAMA 36104

August 2, 2024

Eric J. Knickrehm, Partner  
Winston & Strawn LLP  
1901 L. Street, NW  
Washington, DC 20036

RE: CO2024-024  
First Choice Hospice Andalusia  
SHPDA ID: 039-P2494

Dear Mr. Knickrehm:

This is written in response to the Change of Ownership filed on July 3, 2024, and additional information received on July 12, 2024, on behalf of the referenced hospice provider. A change of ownership will occur whereby ACG Alabama, LLC will acquire First Choice Hospice Alabama from First Choice Hospice, Inc. d/b/a First Choice Hospice Andalusia through a membership interest purchase agreement. The proposed transaction will be effective on or after July 21, 2024, 2024. Effective this transaction, ACG Alabama, LLC will become the operator of the facility.

Agency records indicate Certificate of Need (CON) 2494-HPC was issued November 4, 2010 for the provision of in-home hospice services to Covington, Butler, Escambia, and Conecuh counties.

This transaction will not involve the purchase of any new equipment or capital expenditures in excess of the spending thresholds set forth in §22-21-263(a)(2) of the Code of Alabama, 1975 (as amended), new operating costs, the offering of new services, the conversion of beds, or the acquisition of stock.

Based on information provided, this Notice of Change of Ownership/Control requires no further action from this Agency. This decision is based on the information provided, and on the assumption that all pertinent information has been disclosed. This response is made with the understanding that there will be no substantial deviations from the facts and premises provided to this Agency. Should circumstances prove to be other than represented, this letter may become null and void.

Pursuant to ALA. ADMIN. CODE r 410-1-3-.11(7), a health care reporter is required to maintain a current listing of at least two contacts of record for purposes of Mandatory Reporting. Should changes be necessary to the current designated contacts, an interactive form to update designations is available on the Agency's website at [www.shpda.alabama.gov](http://www.shpda.alabama.gov) / CON Information / Forms / Change in Designation of Contact of Record for Purposes of Mandatory Reporting. The facility will be responsible for filing all mandatory annual reports for the entire reporting period, to include the time frame prior to acquisition.

MAILING ADDRESS: P.O. BOX 303025, MONTGOMERY, ALABAMA 36130-3025  
PHONE: (334) 242-4103 FAX: (334) 242-4113

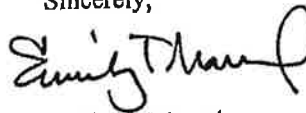
CO2024-024  
August 2, 2024  
Page Two

Effective October 1, 2018, all notifications required pursuant to the Alabama Certificate of Need Program Rules and Regulations are distributed in electronic format. No more than two (2) individuals designated as the recipients must provide a valid e-mail address for receipt of all such notifications. It is suggested that a corporate official or professional representative of the health care provider, i.e., attorney, consultant, CPA, etc., be included as a designated recipient. Failure to maintain accurate e-mail addresses on file with the Agency may result in the facility/provider not receiving the requested notifications, to include letters of intent, reviewability determination requests, review schedules for certificate of need applications, proposed changes to the Agency's Rules and Regulations and/or the State Health Plan, and other notifications distributed in the normal course of the Agency's business. An interactive form to update designations is also located on the Agency's website at [www.shpda.alabama.gov](http://www.shpda.alabama.gov) / CON Information / Forms / Change in Electronic CON Notification Appointments.

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Should you have any questions, please contact the Agency at (334) 242-4103.

Sincerely,



Emily T. Marsal  
Executive Director

ETM/kfn

**SHPDA Response  
Letter re First Choice  
Ozark**



## STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870  
MONTGOMERY, ALABAMA 36104

August 2, 2024

Eric J. Knickrehm, Partner  
Winston & Strawn LLP  
1901 L. Street, NW  
Washington, DC 20036

RE: CO2024-025  
First Choice Hospice Ozark, Inc.  
SHPDA ID: 045-P2381

Dear Mr. Knickrehm:

This is written in response to the Change of Ownership filed on July 3, 2024, on behalf of the referenced hospice provider. A change of ownership will occur whereby ACG Alabama, LLC will acquire First Choice Hospice Alabama Ozark, Inc. from First Choice Hospice, Inc. d/b/a First Choice Hospice Ozark through a membership interest purchase agreement. The proposed transaction will be effective on or after July 21, 2024, 2024. Effective this transaction, ACG Alabama, LLC will become the operator of the facility.

Agency records indicate Certificate of Need (CON) 2381-HPC was issued April 1, 2010 for the provision of in-home hospice services to Barbour, Dale, Henry, and Houston counties.

This transaction will not involve the purchase of any new equipment or capital expenditures in excess of the spending thresholds set forth in §22-21-263(a)(2) of the Code of Alabama, 1975 (as amended), new operating costs, the offering of new services, the conversion of beds, or the acquisition of stock.

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Effective October 1, 2018, all notifications required pursuant to the Alabama Certificate of Need Program

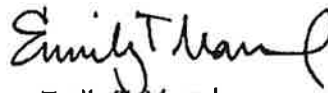
MAILING ADDRESS: P.O. BOX 303025, MONTGOMERY, ALABAMA 36130-3025  
PHONE: (334) 242-4103 FAX: (334) 242-4113

Rules and Regulations are distributed in electronic format. No more than two (2) individuals designated as the recipients must provide a valid e-mail address for receipt of all such notifications. It is suggested that a corporate official or professional representative of the health care provider, i.e., attorney, consultant, CPA, etc., be included as a designated recipient. Failure to maintain accurate e-mail addresses on file with the Agency may result in the facility/provider not receiving the requested notifications, to include letters of intent, reviewability determination requests, review schedules for certificate of need applications, proposed changes to the Agency's Rules and Regulations and/or the State Health Plan, and other notifications distributed in the normal course of the Agency's business. An interactive form to update designations is also located on the Agency's website at [www.shpda.alabama.gov](http://www.shpda.alabama.gov) / CON Information / Forms / Change in Electronic CON Notification Appointments.

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Should you have any questions, please contact the Agency at (334) 242-4103.

Sincerely,



Emily T. Marsal  
Executive Director

ETM/kfn

**SHPDA Response  
Letter re First Choice  
Hospice**



## STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870  
MONTGOMERY, ALABAMA 36104

August 2, 2024

Eric J. Knickrehm, Partner  
Winston & Strawn LLP  
1901 L. Street, NW  
Washington, DC 20036

RE: CO2024-026  
First Choice Hospice  
SHPDA ID: 031-P2493

Dear Mr. Knickrehm:

This is written in response to the Change of Ownership filed on July 3, 2024, and additional information received on July 12, 2024, on behalf of the referenced hospice provider. A change of ownership will occur whereby ACG Alabama, LLC will acquire First Choice Hospice from First Choice Hospice, Inc. d/b/a First Choice Hospice through a membership interest purchase agreement. The proposed transaction will be effective on or after July 21, 2024, 2024. Effective this transaction, ACG Alabama, LLC will become the operator of the facility.

Agency records indicate Certificate of Need (CON) 2412-HPC was issued April 1, 2010 for the provision of in-home hospice services to Coffee, Covington, Crenshaw, Geneva, and Pike counties. CON 2493-HPC was issued September 30, 2010 to increase the authorized in-home hospice service area to include Montgomery, Bullock, Escambia, Conecuh, and Butler counties.

This transaction will not involve the purchase of any new equipment or capital expenditures in excess of the spending thresholds set forth in §22-21-263(a)(2) of the Code of Alabama, 1975 (as amended), new operating costs, the offering of new services, the conversion of beds, or the acquisition of stock.

Based on information provided, this Notice of Change of Ownership/Control requires no further action from this Agency. This decision is based on the information provided, and on the assumption that all pertinent information has been disclosed. This response is made with the understanding that there will be no substantial deviations from the facts and premises provided to this Agency. Should circumstances prove to be other than represented, this letter may become null and void.

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PHONE: (334) 242-4103 FAX: (334) 242-4113

annual reports for the entire reporting period, to include the time frame prior to acquisition.

Effective October 1, 2018, all notifications required pursuant to the Alabama Certificate of Need Program Rules and Regulations are distributed in electronic format. No more than two (2) individuals designated as the recipients must provide a valid e-mail address for receipt of all such notifications. It is suggested that a corporate official or professional representative of the health care provider, i.e., attorney, consultant, CPA, etc., be included as a designated recipient. Failure to maintain accurate e-mail addresses on file with the Agency may result in the facility/provider not receiving the requested notifications, to include letters of intent, reviewability determination requests, review schedules for certificate of need applications, proposed changes to the Agency's Rules and Regulations and/or the State Health Plan, and other notifications distributed in the normal course of the Agency's business. An interactive form to update designations is also located on the Agency's website at [www.shpda.alabama.gov](http://www.shpda.alabama.gov) / CON Information / Forms / Change in Electronic CON Notification Appointments.

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Should you have any questions, please contact the Agency at (334) 242-4103.

Sincerely,



Emily T. Marsal  
Executive Director

ETM/kfn

**SHPDA Response  
Letter re Hospice of  
Montgomery**



## STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870  
MONTGOMERY, ALABAMA 36104

December 6, 2024

Banee Pachuca, Partner  
Winston & Strawn LLP  
800 Capitol Street, Suite 2400  
Houston, Texas 77002-2925

RE: CO2025-010  
Hospice of Montgomery  
SHPDA ID: 101-P2507

Dear Ms. Pachuca:

This is written in response to the Change of Ownership filed on November 7, 2024, and additional information received on November 15, 2024, on behalf of the referenced hospice provider. A change of ownership will occur whereby First Choice Hospice, LLC will acquire Hospice of Montgomery from Hospice of Montgomery, Inc. through an asset purchase agreement. The proposed transaction will be effective on or after November 20, 2024.

Agency records indicate Certificate of Need (CON) 2318-HPC was issued February 4, 2010 for the provision of in-home hospice services in Montgomery, Butler, Autauga, Crenshaw, and Elmore counties. CON 2507-HPC was issued November 4, 2010 for the provision of in-home services in Bullock, Chilton, Lowndes, Macon, and Tallapoosa.

This transaction will not involve the purchase of any new equipment or capital expenditures in excess of the spending thresholds set forth in §22-21-263(a)(2) of the Code of Alabama, 1975 (as amended), new operating costs, the offering of new services, the conversion of beds, or the acquisition of stock.

Based on information provided, this Notice of Change of Ownership/Control requires no further action from this Agency. This decision is based on the information provided, and on the assumption that all pertinent information has been disclosed. This response is made with the understanding that there will be no substantial deviations from the facts and premises provided to this Agency. Should circumstances prove to be other than represented, this letter may become null and void.

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PHONE: (334) 242-4103 FAX: (334) 242-4113

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Pursuant to ALA. ADMIN. CODE r. 410-1-3-.09, all documents to be filed with SHPDA must be submitted electronically to [shpda.online@shpda.alabama.gov](mailto:shpda.online@shpda.alabama.gov) in text searchable, PDF format.

Should you have any questions, please contact the Agency at (334) 242-4103.

Sincerely,



Emily T. Marsal  
Executive Director

ETM/kfn

# **Confirmation of Payment of Filing Fee**

# Your Receipt

**PURCHASE RECEIPT****SHPDA**

PO Box 303025  
Montgomery AL 36130-3025  
(334)242-4109  
bradford.williams@shpda.alabama.gov  
OTC Local Ref ID: 129783014  
2/20/2025 10:49 AM

Status: **APPROVED**  
Customer Name: Banee Pachuca  
Type: Visa  
Credit Card Number: \*\*\*\* \* 4573

Items	Quantity	TPE Order ID	Total Amount
Letter of Non-Reviewability	1	107324100	\$1,000.00
Applicant Name: <b>First Choice Hospice, LLC</b>			
Filing Date: <b>2/20/2025</b>			
Phone Number: <b>713-651-2634</b>			
Email Address: <b>bpachuca@winston.com</b>			
Total remitted to the SHPDA			\$1,000.00
Alabama total amount charged			\$1,032.00

Mar 11 2025

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

March 5, 2025

**Delivered via Electronic Submission**

State Health Planning & Development Agency (SHPDA)  
100 North Union Street, Suite 870  
Montgomery, Alabama 36104  
Attn: Ms. Emily Marsal, Executive Director  
[shpda.online@shpda.alabama.gov](mailto:shpda.online@shpda.alabama.gov)

**Re:** Request for Determination of Non-Reviewability for First Choice Hospice, LLC

Dear Ms. Marsal:

This letter is written in response to correspondence sent to Hayley Eby, First Choice Hospice, LLC d/b/a ACG Hospice ("[ACG Hospice](#)") on March 3, 2025. As requested, enclosed is a complete ownership structure chart for ACG Hospice. Additionally, note that Mr. Troy Yarborough is making the determination request. My contact information is as follows:

Troy Yarborough  
Chief Executive Officer  
[troy.yarborough@agapecaregroup.com](mailto:troy.yarborough@agapecaregroup.com)  
Mobile: 864 237 3612  
187 N. Church St., Suite 201  
Spartanburg, SC 29306

If you need additional information or have any questions, please feel free to contact me or Hayley Eby.

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Sincerely,



Troy Yarborough

Enclosure:

-ACG Hospice Ownership Structure Chart

First Choice Hospice, LLC d/b/a ACG Hospice

