



GILPIN | GIVHAN  
A PROFESSIONAL CORPORATION

RV2025-036R

RECEIVED

May 13 2025

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

CHRISTOPHER L. RICHARD  
DIRECT DIAL: (334) 409-2233  
EMAIL: CRICHARD@GILPINGIVHAN.COM

May 13, 2025

**SENT THIS DATE VIA EMAIL TO:**

[Emily.Marsal@shpda.alabama.gov](mailto:Emily.Marsal@shpda.alabama.gov); [shpda.online@shpda.alabama.gov](mailto:shpda.online@shpda.alabama.gov);

Emily Marsal, Executive Director  
Alabama State Health Planning and Development Agency  
RSA Union Building, Suite 870  
100 North Union Street  
Montgomery, Alabama 36104

*Re:* Reviewability Request – Clay County Hospital  
Rural Emergency Hospital Conversion  
Our File No. 2404.0001

Dear Ms. Marsal:

Our firm represents Clay County Health Care Authority, an Alabama health care authority (the "Authority"). The Authority owns and operates: (i) Clay County Hospital ("CCH" or the "Hospital"), a governmental general acute care hospital, and (ii) Clay County Nursing Home (the "CCNH" or the "SNF"), an 83-bed distinct part unit of the Hospital licensed as a skilled nursing facility, both of which are located in Ashland, Alabama. Clay County is rural and sparsely populated, and health care access in Clay County is limited due to a variety of contributing factors, including a high rate of uninsured individuals and a significant shortage of health professionals. Because of these factors, rising costs, stagnant reimbursement, and the Hospital's location in a rural area, it has experienced hardships due to conditions present in today's healthcare system.

The Hospital has determined it necessary to explore conversion to Rural Emergency Hospital ("REH") status. The purpose of this letter is to request a determination by the State Health Planning and Development Agency ("SHPDA") that the conversion of Clay County Hospital from a General Acute Care Hospital to REH status is not reviewable under Alabama Certificate of Need ("CON") laws and regulations.

An REH is a relatively new Medicare provider type which was created through the enactment of the Consolidated Appropriations Act of 2021, Public Law No. 116-260. The Centers for Medicare and Medicaid Services ("CMS") and the Alabama Department of Public Health ("ADPH") have implemented rules recognizing a process for conversion of a rural general acute care hospital to an

Ms. Emily Marsal  
Alabama State Health Planning and Development Agency  
May 13, 2025  
Page 2

REH.<sup>1</sup> CMS and ADPH generally have the same requirements to convert from a rural general acute care hospital to REH status. Among other things, REHs are required to provide 24-hour emergency care and may provide certain other outpatient services, but they may not provide any inpatient services, other than in a distinct part unit licensed as a skilled nursing facility. Generally, Critical Access Hospitals ("CAHs") and rural general acute care hospitals with 50 or fewer beds that were open on December 27, 2020 are eligible to apply for REH status.<sup>2</sup>

The Hospital is located in a rural area for purposes of the REH requirements because it is not located in an urban area or a metropolitan statistical area, as determined by the U.S. Census Bureau.<sup>3</sup> Currently, the Hospital is a general acute care hospital with 53 licensed (CON-authorized) beds and 45 authorized beds, as well as an 83-bed distinct part unit licensed as a skilled nursing facility. The Hospital plans to discontinue inpatient acute care service and enroll as an REH if a non-reviewability determination is granted, ADPH approves an REH license for the Hospital, and CMS approves the Hospital's conversion to REH status. Following conversion, the Hospital plans to continue operating CCNH as a distinct part unit of the Hospital licensed as a skilled nursing facility, as permitted by the CMS regulations and ADPH licensure rules for REHs.<sup>4</sup>

As of October 1, 2024 and continuing through the date of filing of this request, the CON thresholds are: \$3,379,066.00 for major medical equipment, \$1,350,305.00 for new annual operating costs, and \$6,751,537.00 for any other capital expenditures. All of the projected expenditure amounts for this project are below these thresholds.

The following information is provided as a part of this request:

- 1) Name of applicant: Clay County Health Care Authority d/b/a Clay County Hospital
- 2) Address and contact information: The Hospital is located at 83825 Highway 9, Ashland, AL 36251. The Hospital's CEO is Stephen Young, and he may be reached at (256) 354-1178 or [syoung@clayhosp.org](mailto:syoung@clayhosp.org).
- 3) Service area: Clay County, Alabama

---

<sup>1</sup> The Alabama Department of Public Health (ADPH) published final REH licensure rules in September of 2023. *See* Ala. Admin. Code Ch. 420-5-23, *available at* <https://www.alabamapublichealth.gov/providerstandards/assets/health-420-5-23-certified-post.pdf>. ADPH's definition of an REH is found on Pages 4 through 6 of the licensure rules. Generally, the ADPH licensure rules track CMS requirements, with some additional restrictions.

<sup>2</sup> 42 C.F.R. § 485.506; *see also* CMS Letter to State Survey Agency Directors re: Guidance for Rural Emergency Hospital Provisions, Conversion Process, and Conditions of Participation, QSO-23-07-REH (Jan. 26, 2023), *available at* <https://www.cms.gov/files/document/qso-23-07-reh.pdf>.

<sup>3</sup> 42 C.F.R. § 485.506; Social Security Act § 1886(d)(2)(D) [42 U.S.C. § 1395ww(d)(2)(D)].

<sup>4</sup> 42 C.F.R. § 485.502; Ala. Admin. Code r. 420-5-23-.24.



Ms. Emily Marsal  
Alabama State Health Planning and Development Agency  
May 13, 2025  
Page 3

- 4) Services to be provided: Twenty-Four Hour Emergency Department and Outpatient Services as a Rural Emergency Hospital, and post-hospital extended care services provided through CCNH as a distinct part unit of the Hospital licensed as a skilled nursing facility. At this time, the Hospital does not intend to provide any new or different services compared to what is currently offered by Hospital, but will discontinue all inpatient acute care services.
- 5) Financial breakdown, approximate costs: The Hospital estimates the following new costs associated with the REH conversion project.
  - a. Equipment and Furniture: \$0.00
  - b. First year new annual operating costs: First year annual operating costs are projected to be \$13,442,514 after REH Conversion. Converting to an REH decreases Hospital's projected operating expenses by \$3,200,720 (a reduction of approximately 20% from the base anticipated operating expenses as a general acute care hospital).
  - c. Capital Costs:
    - i. Leases: \$0.00
    - ii. Land/Building Costs: \$0.00
    - iii. Construction Costs: \$135,300.00
- 6) The Clay County Health Care Authority is the only entity with a financial interest in the project.

We request SHPDA's determination that this proposed offering of REH services in Clay County is not subject to CON review because it does not involve any expenditure in excess of the CON monetary thresholds, because the conversion of a rural general acute care hospital to an REH does not add any health services which are subject to review, and because Hospital will not be using any of its inpatient beds to provide the services. Because the Hospital is rural, no filing fee will be submitted, pursuant to Alabama Code Section 22-21-265 and Rule 410-1-7-02, titled "Reviewability Determination Request."

Thank you for your timely response to this request. Please do not hesitate to contact me if you have any questions or need additional information regarding this matter.

GILPIN GIVHAN

Ms. Emily Marsal  
Alabama State Health Planning and Development Agency  
May 13, 2025  
Page 4

Very truly yours,

GILPIN GIVHAN, PC

A handwritten signature in blue ink, reading "Christopher L. Richard". The signature is fluid and cursive, with the first name "Christopher" written in a larger, more prominent script than the last name "Richard".

Christopher L. Richard

CLR/dlk  
Attachment

\*\*\*\*\*

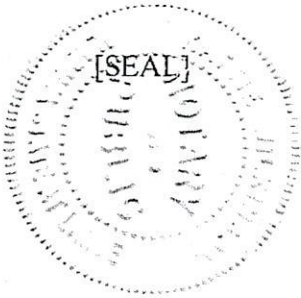
# AFFIRMATION OF REQUESTING PARTY

The undersigned, Stephen Young, being first duly sworn, hereby makes oath or affirms that he is the Chief Executive Officer of Clay County Hospital and 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

Stephen Young, CEO  
Stephen Young, CEO

SUBSCRIBED AND SWORN to before me this 8<sup>th</sup> day of May, 2025.



\*\*\*\*\*

Kattie Sue Wilkinson  
Notary Public  
My Commission Expires: October 20, 2027

