



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

420 North 20th Street
Suite 3400
Birmingham, AL 35203

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

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STATE HEALTH PLANNING AND
DEVELOPMENT AGENCY

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: Request for Determination of Non-Reviewability
Cardiology, P.C.
Jefferson County, Alabama**

Dear Ms. Marsal:

This firm represents Cardiology, P.C. ("CPC"), a physician practice located in Birmingham, Alabama that serves patients in Jefferson County and surrounding areas.¹ CPC's service area is Jefferson County, Alabama. CPC is owned by individual licensed physicians, and is not owned by any other Alabama licensed healthcare facility.

Pursuant to Alabama Certificate of Need Program Rules and Regulations ("CON Rules(s)") § 410-1-7-.02, CPC requests a determination that adding a cardiac PET/CT machine to provide cardiac imaging service for its own patients, all under applicable thresholds, is not subject to certificate of need ("CON") review under *Ala. Code* § 22-21-260 *et. seq.*, and the CON Rules. Pursuant to CON Rule § 410-1-7-.02, a \$1200.00 filing fee is being paid to the Alabama State Health Planning and Development Agency ("SHPDA") via the online payment portal. To assist with your determination, we submit the following information:

CPC is a private physician practice located in Jefferson County, Alabama. CPC currently owns and operates a PET machine within its physician practice to provide cardiac imaging services to

¹ Contact information for CPC is as follows: Cardiology, P.C., 801 Princeton Ave. SW, Suite 707, Birmingham, AL 35211; (205) 949-5275

its own patients. The demand for imaging services is currently exceeding the capacity and capability of CPC's existing equipment. Thus, in order to address the increasing demand and to improve accessibility, CPC desires to add an additional PET/CT machine within its physician practice. The project will include an equipment purchase and limited construction necessary to accommodate the additional equipment. The equipment to be purchased includes a GE Discovery 710 PET/CT machine (the "Proposed Equipment").

The Proposed Equipment will be used exclusively by physicians who are owners or employees of CPC, currently Drs. David H. Sibley, Vasu R. Goli, Farrell O. Mendelsohn, Hutton Brantley, Raghuram Chava, and Tushar Mishra. Additional future employees or owners of CPC may also utilize the Proposed Equipment. The Proposed Equipment will be located in office space utilized and leased by CPC. The Proposed Equipment will be used to provide services only to CPC patients, and will not provide services to hospital inpatients or outpatients, nor by, through, or on behalf of a health care facility, as such term is defined by *Ala. Code* § 22-21-260(6) and CON Rule § 410-1-2-.05. All related patient billings will be in the name of CPC or its physicians and not on behalf of any health care facility or third-party. Consequently, the proposed project falls under the "physician office exemption" codified at *Ala. Code* § 22-21-260(6).

In addition, pursuant to *Ala. Code* § 22-21-263 and CON Rule § 410-1-4-.01, the definition of a new institutional health service does not include any health services provided by a mobile or fixed-based positron emission tomography scanner. Further, by Order dated March 9, 1993, the Alabama Certificate of Need Review Board adopted a policy that CT services do not constitute new institutional health services.

In connection with the entire project, the total cost of construction is anticipated to be approximately \$250,000.00; the total cost for the purchase of major medical equipment is anticipated to be approximately \$700,000.00; other capital costs are anticipated to be less than approximately \$100,000.00; and new first year annual operating costs are estimated to be less than approximately \$500,000.00; none of which will exceed 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 16, 2025). Thus, the project 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 16, 2025). All expenditures will be incurred by CPC.

No new health services will be provided as a result of this project, as CPC currently provides cardiac imaging services within its physician practice.

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

The project will not involve a change in ownership of CPC.

Consequently, the proposal does not constitute a “new institutional health service” subject to CON Review, as the project does not include:

- (1) the construction, development, acquisition through lease or purchase or other establishment of a new health care facility or health maintenance organization, as *Ala. Code* § 22-21-260 states that “the term health care facility shall not include the offices of private physicians or dentists, whether for individual or group practices and regardless of ownership;”²
- (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 existing 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 on 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.

Accordingly, based on the above, CPC requests your determination that the aforementioned 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.

We appreciate your response to this matter, and please do not hesitate to contact us should you need additional information.

² The project satisfies the “physician office exemption” as set forth in *Ex Parte Sacred Heart Health Sys., Inc.*, 155 So. 3d 980 (Ala. 2012):

- The proposed services are to be provided, and related equipment used, exclusively by the physicians identified as owners or employees of the physicians’ practice for the care of their patients;
- The proposed services are to be provided, and related equipment used, at an office of the physicians;
- All patient billings related to the services are through, or expressly on behalf of, the physicians’ practice; and
- The equipment will not be used for inpatient care, nor by, through or on behalf of a health care facility.

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Sincerely,


Kelli Fleming, Esq.

KCF/caj

cc: Jodi Stoltzner, Clinical Director for CPC

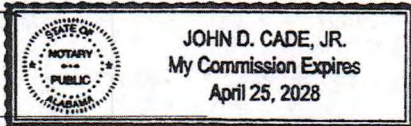
Affirmation of Requesting Party:

The undersigned, being first duly sworn, hereby make oath or affirm that he/she is the President of Cardiology P.C., has knowledge of the facts in this request, and to the best of his/her information, knowledge, and belief, such facts are true and correct.

Affiant: [Signature] (SEAL)

SUBSCRIBED AND SWORN to before me this 26th day of August, 2026.

[Signature]
Notary Public



My Commission Expires: