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Oct. 6, 2026

STATE HEALTH PLANNING AND
DEVELOPMENT AGENCY

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October 6, 2026

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
Rao Heart & Vascular, LLC
Houston County, Alabama**

Dear Ms. Marsal:

This firm represents Rao Heart & Vascular, LLC ("Rao"), a physician practice with offices in Dothan, Alabama, Enterprise, Alabama, and Andalusia, Alabama that serves patients in Houston County, Coffee County, Covington County, and surrounding areas.¹ This project involves Rao's Dothan office, and the service area for the Dothan office is Houston County, Alabama. Rao 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, Rao requests a determination that adding a cardiac PET/CT machine to provide cardiac imaging services 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

¹ Contact information for Rao is as follows: Rao Heart & Vascular, LLC, 118 Obrannan Park Drive, Dothan, AL 36303; (334) 305-2800

and Development Agency (“SHPDA”) via the online payment portal. To assist with your determination, we submit the following information:

Rao is a private physician practice with an office located in Houston County, Alabama. In order to address increasing community demand and to improve patient accessibility, Rao desires to add a PET/CT machine within its physician practice. The project will include an equipment purchase and 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 Rao, currently Drs. Peter Rao and Faye Rao. Additional future employees or owners of Rao may also utilize the Proposed Equipment. The Proposed Equipment will be located in office space in Dothan, Alabama, which will be utilized and leased by Rao. The Proposed Equipment will be used to provide services to Rao 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 Rao 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 \$700,000.00; the total cost for the purchase of major medical equipment is anticipated to be approximately \$800,000.00; 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 \$1,200,000.00; 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 21, 2026). 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 21, 2026). All expenditures will be incurred by Rao.

No new health services will be provided as a result of this project, as Rao currently provides cardiac services, including imaging services utilizing other imaging modalities (e.g., ultrasound).

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 Rao.

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.

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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Accordingly, based on the above, Rao 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.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Kelli Fleming', with a long, sweeping horizontal line extending to the right.

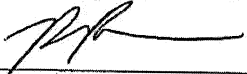
Kelli Fleming, Esq.

KCF/cmr

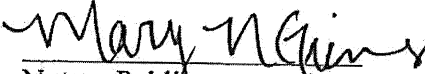
cc: Philip Skipper, Administrator for Rao

Affirmation of Requesting Party:

The undersigned, being first duly sworn, hereby make oath or affirm that he/she is the President of Rao Heart & Vascular, LLC., 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:  (SEAL)

SUBSCRIBED AND SWORN to before me this 6 day of October, 2026.


Notary Public

My Commission Expires: _____ My Commission Expires
May 22, 2030

