

1 SB460
2 157733-1
3 By Senators Reed and Waggoner
4 RFD: Health
5 First Read: 11-MAR-14

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8 SYNOPSIS: This bill would provide for licensing of
9 psychiatric residential treatment facilities
10 providing psychiatric and other therapeutic and
11 clinical services to individuals under age 21
12 outside of an acute care hospital setting; would
13 provide for coverage under the Certificate of Need
14 Law; and would provide for a streamlined procedure
15 for providers to obtain a license and a certificate
16 of need for existing facilities in the state.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to certain health care facilities known as
23 psychiatric residential treatment facilities for individuals
24 under age 21; to amend Section 22-21-20, Code of Alabama 1975,
25 to provide for licensing by the State Board of Health; and to
26 amend Section 22-21-260, Code of Alabama 1975, to provide for
27 coverage under the Certificate of Need Law; and to provide for

1 existing facilities to be licensed and granted certificates of
2 need.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 22-21-20 and 22-21-260, Code of
5 Alabama 1975, are amended to read as follows:

6 "§22-21-20.

7 "For the purpose of this article, the following
8 terms shall have the meanings respectively ascribed to them by
9 this section:

10 "(1) HOSPITALS. General and specialized hospitals,
11 including ancillary services; independent clinical
12 laboratories; rehabilitation centers; ambulatory surgical
13 treatment facilities for patients not requiring
14 hospitalization; end stage renal disease treatment and
15 transplant centers, including free-standing hemodialysis
16 units; abortion or reproductive health centers; hospices;
17 health maintenance organizations; and other related health
18 care institutions when such institution is primarily engaged
19 in offering to the public generally, facilities and services
20 for the diagnosis and/or treatment of injury, deformity,
21 disease, surgical or obstetrical care. Also included within
22 the term are long term care facilities such as, but not
23 limited to, skilled nursing facilities, intermediate care
24 facilities, assisted living facilities, and specialty care
25 assisted living facilities rising to the level of intermediate
26 care. Also included within the term are psychiatric
27 residential treatment facilities for persons under age 21

1 which provide inpatient services to Medicaid-eligible
2 individuals and other individuals under 21 years of age and
3 which are accredited by the Joint Commission on the
4 Accreditation of Healthcare Organizations (JCAHO) or another
5 accrediting organization with comparable standards that is
6 recognized by the state. The term "hospitals" relates to
7 health care institutions and shall not include the private
8 offices of physicians or dentists, whether in individual,
9 group, professional corporation or professional association
10 practice. This section shall not apply to county or district
11 health departments.

12 "(2) PERSON. The term includes individuals,
13 partnerships, corporations, and associations.

14 "§22-21-260.

15 "As used in this article, the following words and
16 terms, and the plurals thereof, shall have the meanings
17 ascribed to them in this section, unless otherwise required by
18 their respective context:

19 "(1) ACQUISITION. Obtaining the legal equitable
20 title to a freehold or leasehold estate or otherwise obtaining
21 the substantial benefit of such titles or estates, whether by
22 purchase, lease, loan or suffrage, gift, devise, legacy,
23 settlement of a trust or means whatever, and shall include any
24 act of acquisition. The term "acquisition" shall not mean or
25 include any conveyance, or creation of any lien or security
26 interest by mortgage, deed of trust, security agreement, or
27 similar financing instrument, nor shall it mean or include any

1 transfer of title or rights as a result of the foreclosure, or
2 conveyance or transfer in lieu of the foreclosure, of any such
3 mortgage, deed of trust, security agreement, or similar
4 financing instrument, nor shall it mean or include any gift,
5 devise, legacy, settlement of trust, or other transfer of the
6 legal or equitable title of an interest specified hereinabove
7 by a natural person to any member of such person's immediate
8 family. For the purposes of this section "immediate family"
9 shall mean the spouse of the grantor or transferor and any
10 other person related to the grantor or transferor to the
11 fourth degree of kindred as such degrees are computed
12 according to law.

13 "(2) APPLICANT. Any person, as defined in this
14 section, who files an application for a certificate of need.

15 "(2.1) CAMPUS. The contiguous real property,
16 contained within a single county, which is owned or leased by
17 a health care facility and upon which is located the buildings
18 and any other real property used by the health care facility
19 to provide existing institutional health services which are
20 subject to review.

21 "(3) CAPITAL EXPENDITURE. An expenditure, including
22 a force account expenditure (i.e., an expenditure for a
23 construction project undertaken by the health care facility as
24 its own contractor), which, under generally accepted
25 accounting principles, is not properly chargeable as an
26 expense of operation and maintenance and which satisfies any
27 of the following:

1 "a. Exceeds two million dollars (\$2,000,000) indexed
2 annually for inflation for major medical equipment; eight
3 hundred thousand dollars (\$800,000) for new annual operating
4 costs indexed annually for inflation; four million dollars
5 (\$4,000,000) indexed annually for inflation for any other
6 capital expenditure. The index referenced in this paragraph
7 shall be the Consumer Price Index Market Basket Professional
8 Medical Services index as published by the U.S. Department of
9 Labor, Bureau of Labor Statistics. The SHPDA shall publish
10 this index information to the general public.

11 "b. Changes the bed capacity of the facility with
12 respect to which such expenditure is made.

13 "c. Substantially changes the health services of the
14 facility with respect to which such expenditure is made.

15 "(4) CONSTRUCTION. Actual commencement, with bona
16 fide intention of completing the construction, or completion
17 of the construction, erection, remodeling, relocation,
18 excavation, or fabrication of any real property constituting a
19 facility under this article, and the term construct shall mean
20 and include any act of construction. "Ground breaking
21 ceremony," "receipt of bids," "receipt of quotation," or
22 similar action that will permit unilateral termination without
23 penalty shall not be considered construction.

24 "(5) FIRM COMMITMENT or OBLIGATION. Any of the
25 following:

26 "a. Any executed, enforceable, unconditional written
27 agreement or contract not subject to unilateral cancellation

1 for the acquisition or construction of a health care facility
2 or purchase of equipment therefor.

3 "b. Actual construction of facilities peculiarly
4 adapted to the furnishing of one or more particular services
5 and with the bona fide intention of furnishing such service or
6 services.

7 "c. Any executed, unconditional written agreement
8 not subject to unilateral cancellation for the bona fide
9 purpose of furnishing one or more services.

10 "(6) HEALTH CARE FACILITY. General and specialized
11 hospitals, including tuberculosis, psychiatric, long-term
12 care, and other types of hospitals, and related facilities
13 such as, laboratories, out-patient clinics, and central
14 service facilities operated in connection with hospitals;
15 skilled nursing facilities; intermediate care facilities;
16 skilled or intermediate care units operated in veterans'
17 nursing homes and veterans' homes, owned or operated by the
18 State Department of Veterans' Affairs, as these terms are
19 described in Chapter 5A (commencing with Section 31-5A-1) of
20 Title 31, rehabilitation centers; public health centers;
21 facilities for surgical treatment of patients not requiring
22 hospitalization; kidney disease treatment centers, including
23 free-standing hemodialysis units; community mental health
24 centers and related facilities; alcohol and drug abuse
25 facilities; facilities for the developmentally disabled;
26 hospice service providers; psychiatric residential treatment
27 facilities providing psychiatric and other therapeutic and

1 clinical services to individuals under age 21 outside of an
2 acute care hospital setting; and home health agencies and
3 health maintenance organizations. The term health care
4 facility shall not include the offices of private physicians
5 or dentists, whether for individual or group practices and
6 regardless of ownership, or Christian Science sanatoriums
7 operated or listed and certified by the First Church of
8 Christ, Scientist, Boston, Massachusetts, or a veterans'
9 nursing home or veterans' home owned or operated by the State
10 Department of Veterans' Affairs, not to exceed 150 beds to be
11 built in Bay Minette, Alabama, and a veterans' nursing home or
12 veterans' home owned or operated by the State Department of
13 Veterans' Affairs not to exceed 150 beds to be built in
14 Huntsville, Alabama, for which applications for federal funds
15 under federal law are being considered by the U.S. Department
16 of Veterans' Affairs prior to March 18, 1993.

17 "(7) HEALTH SERVICE AREA. A geographical area
18 designated by the Governor, as being appropriate for effective
19 planning and development of health services.

20 "(8) HEALTH SERVICES. Clinically related (i.e.,
21 diagnostic, curative, or rehabilitative) services, including
22 alcohol, drug abuse, and mental health services customarily
23 furnished on either an in-patient or out-patient basis by
24 health care facilities, but not including the lawful practice
25 of any profession or vocation conducted independently of a
26 health care facility and in accordance with applicable
27 licensing laws of this state.

1 "(9) INSTITUTIONAL HEALTH SERVICES. Health services
2 provided in or through health care facilities or health
3 maintenance organizations, including the entities in or
4 through which such services are provided.

5 "(9.1) MAJOR MEDICAL EQUIPMENT. Medical clinical
6 equipment intended for use in the diagnosis or treatment of
7 medical conditions, which is used to provide institutional
8 health services of a health care facility which are subject to
9 review, and which expenditure exceeds the thresholds
10 referenced in this section and in Section 22-21-263.

11 "(10) MODERNIZATION. The alteration, repair,
12 remodeling, and renovation of existing buildings, including
13 equipment within the existing buildings. Modernization does
14 not include the replacement of existing buildings which are
15 used by a health care facility to provide institutional health
16 services which are subject to review and does not include the
17 replacement of major medical equipment.

18 "(11) PERSON. Any person, firm, partnership,
19 association, joint venture, corporation, limited liability
20 company, or other legal entity, the State of Alabama and its
21 political subdivisions or parts thereof, and any agencies or
22 instrumentalities and any combination of persons herein
23 specified, but person shall not include the United States or
24 any agency or instrumentality thereof, except in the case of
25 voluntary submission to the regulations established by this
26 article.

1 "(12) RURAL HEALTH CARE PROVIDER/APPLICANT/HOSPITAL.
2 A provider or applicant or hospital which is designated by the
3 United States government Health Care Financing Administration
4 as rural.

5 "(13) STATE HEALTH PLAN. A comprehensive plan which
6 is prepared triennially and reviewed at least annually and
7 revised as necessary by the Statewide Health Coordinating
8 Council, with the assistance of the State Health Planning and
9 Development Agency, and approved by the Governor.

10 "The Statewide Health Coordinating Council shall
11 meet at least annually to determine whether revisions for the
12 State Health Plan are necessary. If the Statewide Health
13 Coordinating Council fails to meet and to review or revise the
14 State Health Plan on an annual basis, there shall be no fees
15 required on all certificate of need applications filed with
16 the Certificate of Need Review Board until the Statewide
17 Health Coordinating Council meets and reviews or revises the
18 State Health Plan. For purposes of this paragraph, the annual
19 meeting of the Statewide Health Coordinating Council shall
20 occur on or before August 1 of each calendar year.

21 "The State Health Plan shall provide for the
22 development of health programs and resources to assure that
23 quality health services will be available and accessible in a
24 manner which assures continuity of care, at reasonable costs,
25 for all residents of the state. Nothing in this section should
26 be construed as permitting expenditures for facilities,

1 services, or equipment which are inconsistent with the State
2 Health Plan.

3 "(14) STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
4 (SHPDA). An agency of the State of Alabama which is designated
5 by the Governor as the sole State Health Planning and
6 Development Agency, which shall consist of three consumers,
7 three providers, and three representatives of the Governor who
8 all shall serve staggered terms and all be appointed by the
9 Governor. Where used in this article, the terms, "state
10 agency," and the "SHPDA," shall be synonymous and may be used
11 interchangeably.

12 "(15) STATEWIDE HEALTH COORDINATING COUNCIL. A
13 council, appointed by the Governor, established pursuant to
14 Sections 22-4-7 and 22-4-8 to advise the State Health Planning
15 and Development Agency on matters relating to health planning
16 and resource development and to perform other functions as may
17 be delegated to it, to include an annual review of the State
18 Health Plan.

19 "(16) TO OFFER. When used in connection with health
20 services, a health care facility or health maintenance
21 organization that holds itself out as capable of providing, or
22 as having the means for the provision of, specified health
23 services."

24 Section 2. Any psychiatric residential treatment
25 facility for persons under age 21 that demonstrates that it
26 was in continuous operation for the 12-month period
27 immediately preceding the effective date of this act shall be

1 granted a license otherwise required pursuant to Section
2 22-21-20, Code of Alabama 1975, as amended by this act, and
3 shall be granted a certificate of need based on nonsubstantive
4 review by the State Health Planning and Development Act.

5 Section 3. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.