

SB236 INTRODUCED



1 SB236
2 JJI8NNF-1
3 By Senators Stutts, Orr, Butler, Allen
4 RFD: State Governmental Affairs
5 First Read: 19-Mar-24



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SYNOPSIS:

Under existing law, health care institutions and providers, with some exceptions, must apply for and obtain a certificate of need as a requirement for constructing new medical facilities or offering new or expanded health care services.

This bill would eliminate the certificate of need requirement for any proposed new or expanded medical facility or health care service that is to be located in a rural area.

This bill would require rural health care providers to continue to submit reports to the State Health Planning and Development Agency.

This bill would delete duplicative language and would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Certificate of Need Program; to amend Sections 22-4-32, 22-21-260, 22-21-263, 22-21-265, and 22-21-271, Code of Alabama 1975; and to repeal Section



SB236 INTRODUCED

29 22-21-278, Code of Alabama 1975; to eliminate the certificate
30 of need requirement for new or expanded health care facilities
31 and services in rural areas; to provide a definition for
32 "rural area"; to require health care institutions and services
33 in rural areas to submit reports to the State Health Planning
34 and Development Agency; and to delete duplicative language and
35 make nonsubstantive, technical revisions to update the
36 existing code language to current style.

37 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

38 Section 1. Sections 22-4-32, 22-21-260, 22-21-263,
39 22-21-265, and 22-21-271, Code of Alabama 1975, are amended to
40 read as follows:

41 "§22-4-32

42 For purposes of this article, the following terms ~~shall~~
43 have the following meanings:

44 (1) CERTIFICATE OF NEED REVIEW BOARD. The board which
45 reviews all certificate of need applications as provided in
46 Section 22-21-260 ~~(14)~~.

47 (2) COVERED HEALTH CARE REPORTER. The term includes
48 health care facilities as that term is defined in Section
49 22-21-260 ~~(6)~~; new institutional health services subject to
50 review as defined in Section 22-21-263; a facility or
51 institution for the care or treatment of any kind of mental or
52 emotional illness or substance abuse or for providing services
53 to persons with intellectual disabilities as defined in
54 Section 22-50-17; ~~and~~ facilities and distinct units as defined
55 in Section 22-21-263(c); and includes any of the foregoing in
56 any rural area as defined in Section 22-21-260.



SB236 INTRODUCED

57 (3) HEALTH CARE REPORTS. The written reports to SHPDA
58 which are required to be submitted by this article.

59 (4) HEALTH CARE INFORMATION AND DATA ADVISORY COUNCIL.
60 The body created by this article which is charged with
61 advising and participating in the writing of rules necessary
62 to implement this article and reviewing reports prior to
63 dissemination by SHPDA.

64 (5) SHPDA. The State Health Planning and Development
65 Agency.

66 (6) ~~STATE~~ STATEWIDE HEALTH COORDINATING COUNCIL. The
67 council which is defined in Section 22-21-260 ~~(15)~~."

68 "§22-21-260

69 As used in this article, the following words and terms,
70 and the plurals thereof, ~~shall~~ have the meanings ascribed to
71 them in this section, unless otherwise required by their
72 respective context:

73 (1) ACQUISITION. Obtaining the legal equitable title to
74 a freehold or leasehold estate or otherwise obtaining the
75 substantial benefit of such titles or estates, whether by
76 purchase, lease, loan or suffrage, gift, devise, legacy,
77 settlement of a trust or means whatever, and shall include any
78 act of acquisition. The term "acquisition" shall not mean or
79 include any conveyance, or creation of any lien or security
80 interest by mortgage, deed of trust, security agreement, or
81 similar financing instrument, nor shall it mean or include any
82 transfer of title or rights as a result of the foreclosure, or
83 conveyance or transfer in lieu of the foreclosure, of any such
84 mortgage, deed of trust, security agreement, or similar



SB236 INTRODUCED

85 financing instrument, nor shall it mean or include any gift,
86 devise, legacy, settlement of trust, or other transfer of the
87 legal or equitable title of an interest specified hereinabove
88 by a natural person to any member of such person's immediate
89 family. For the purposes of this section "immediate family"
90 shall mean the spouse of the grantor or transferor and any
91 other person related to the grantor or transferor to the
92 fourth degree of kindred as such degrees are computed
93 according to law.

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

96 ~~(2.1)~~ (3) CAMPUS. The contiguous real property,
97 contained within a single county, which is owned or leased by
98 a health care facility and upon which is located the buildings
99 and any other real property used by the health care facility
100 to provide existing institutional health services which are
101 subject to review.

102 ~~(3)~~ (4) CAPITAL EXPENDITURE. An expenditure, including a
103 force account expenditure (i.e., an expenditure for a
104 construction project undertaken by the health care facility as
105 its own contractor), which, under generally accepted
106 accounting principles, is not properly chargeable as an
107 expense of operation and maintenance and which satisfies any
108 of the following:

109 a. Exceeds two million dollars (\$2,000,000) indexed
110 annually for inflation for major medical equipment; eight
111 hundred thousand dollars (\$800,000) for new annual operating
112 costs indexed annually for inflation; four million dollars



SB236 INTRODUCED

113 (\$4,000,000) indexed annually for inflation for any other
114 capital expenditure. The index referenced in this paragraph
115 shall be the Consumer Price Index Market Basket Professional
116 Medical Services index as published by the U.S. Department of
117 Labor, Bureau of Labor Statistics. The SHPDA shall publish
118 this index information to the general public.

119 b. Changes the bed capacity of the facility with
120 respect to which such expenditure is made.

121 c. Substantially changes the health services of the
122 facility with respect to which such expenditure is made.

123 ~~(4)~~ (5) CONSTRUCTION. Actual commencement, with bona
124 fide intention of completing the construction, or completion
125 of the construction, erection, remodeling, relocation,
126 excavation, or fabrication of any real property constituting a
127 facility under this article, and the term "construct" shall
128 mean and include any act of construction. "Ground breaking
129 ceremony," "receipt of bids," "receipt of quotation," or
130 similar action that will permit unilateral termination without
131 penalty shall not be considered construction.

132 ~~(5)~~ (6) FIRM COMMITMENT or OBLIGATION. Any of the
133 following:

134 a. Any executed, enforceable, unconditional written
135 agreement or contract not subject to unilateral cancellation
136 for the acquisition or construction of a health care facility
137 or purchase of equipment therefor.

138 b. Actual construction of facilities peculiarly adapted
139 to the furnishing of one or more particular services and with
140 the bona fide intention of furnishing such service or



SB236 INTRODUCED

141 services.

142 c. Any executed, unconditional written agreement not
143 subject to unilateral cancellation for the bona fide purpose
144 of furnishing one or more services.

145 ~~(6)~~ (7) HEALTH CARE FACILITY. General and specialized
146 hospitals, including tuberculosis, psychiatric, long-term
147 care, and other types of hospitals, and related facilities
148 such as, laboratories, out-patient clinics, and central
149 service facilities operated in connection with hospitals;
150 skilled nursing facilities; intermediate care facilities;
151 skilled or intermediate care units operated in veterans'
152 nursing homes and veterans' homes, owned or operated by the
153 State Department of Veterans' Affairs, as these terms are
154 described in Chapter 5A (commencing with Section 31-5A-1) of
155 Title 31, rehabilitation centers; public health centers;
156 facilities for surgical treatment of patients not requiring
157 hospitalization; kidney disease treatment centers, including
158 free-standing hemodialysis units; community mental health
159 centers and related facilities; alcohol and drug abuse
160 facilities; facilities for the developmentally disabled;
161 hospice service providers; and home health agencies and health
162 maintenance organizations. The term ~~health care facility~~ shall
163 not include the offices of private physicians or dentists,
164 whether for individual or group practices and regardless of
165 ownership, or Christian Science sanatoriums operated or listed
166 and certified by the First Church of Christ, Scientist,
167 Boston, Massachusetts, or a veterans' nursing home or
168 veterans' home owned or operated by the State Department of



SB236 INTRODUCED

169 Veterans' Affairs, not to exceed 150 beds to be built in Bay
170 Minette, Alabama, and a veterans' nursing home or veterans'
171 home owned or operated by the State Department of Veterans'
172 Affairs not to exceed 150 beds to be built in Huntsville,
173 Alabama, for which applications for federal funds under
174 federal law are being considered by the U.S. Department of
175 Veterans' Affairs prior to March 18, 1993.

176 ~~(7)~~ (8) HEALTH SERVICE AREA. A geographical area
177 designated by the Governor, as being appropriate for effective
178 planning and development of health services.

179 ~~(8)~~ (9) HEALTH SERVICES. Clinically related (i.e.,
180 diagnostic, curative, or rehabilitative) services, including
181 alcohol, drug abuse, and mental health services customarily
182 furnished on either an in-patient or out-patient basis by
183 health care facilities, but not including the lawful practice
184 of any profession or vocation conducted independently of a
185 health care facility and in accordance with applicable
186 licensing laws of this state.

187 ~~(9)~~ (10) INSTITUTIONAL HEALTH SERVICES. Health services
188 provided in or through health care facilities or health
189 maintenance organizations, including the entities in or
190 through which such services are provided.

191 ~~(9.1)~~ (11) MAJOR MEDICAL EQUIPMENT. Medical clinical
192 equipment intended for use in the diagnosis or treatment of
193 medical conditions, which is used to provide institutional
194 health services of a health care facility which are subject to
195 review, and which expenditure exceeds the thresholds
196 referenced in this section and in Section 22-21-263.



SB236 INTRODUCED

197 ~~(10)~~ (12) MODERNIZATION. The alteration, repair,
198 remodeling, and renovation of existing buildings, including
199 equipment within the existing buildings. Modernization does
200 not include the replacement of existing buildings which are
201 used by a health care facility to provide institutional health
202 services which are subject to review and does not include the
203 replacement of major medical equipment.

204 ~~(11)~~ (13) PERSON. Any person, firm, partnership,
205 association, joint venture, corporation, limited liability
206 company, or other legal entity, the State of Alabama and its
207 political subdivisions or parts thereof, and any agencies or
208 instrumentalities and any combination of persons herein
209 specified, but person shall not include the United States or
210 any agency or instrumentality thereof, except in the case of
211 voluntary submission to the regulations established by this
212 article.

213 ~~(12) RURAL HEALTH CARE PROVIDER/APPLICANT/HOSPITAL. A~~
214 ~~provider or applicant or hospital which is designated by the~~
215 ~~United States government Health Care Financing Administration~~
216 ~~as rural~~ (14) RURAL AREA. Any area in the State of Alabama
217 which is located outside of a metropolitan statistical area
218 that is listed in Office of Management and Budget Bulletin No.
219 20-01 dated March 6, 2020.

220 ~~(13)~~ (15) STATE HEALTH PLAN. A comprehensive plan which
221 is prepared triennially and reviewed at least annually and
222 revised as necessary by the Statewide Health Coordinating
223 Council, with the assistance of the State Health Planning and
224 Development Agency, and approved by the Governor.



SB236 INTRODUCED

225 The Statewide Health Coordinating Council shall meet at
226 least annually to determine whether revisions for the State
227 Health Plan are necessary. If the Statewide Health
228 Coordinating Council fails to meet and to review or revise the
229 State Health Plan on an annual basis, there shall be no fees
230 required on all certificate of need applications filed with
231 the Certificate of Need Review Board until the Statewide
232 Health Coordinating Council meets and reviews or revises the
233 State Health Plan. For purposes of this paragraph, the annual
234 meeting of the Statewide Health Coordinating Council shall
235 occur on or before August 1 of each calendar year.

236 The State Health Plan shall provide for the development
237 of health programs and resources to assure that quality health
238 services will be available and accessible in a manner which
239 assures continuity of care, at reasonable costs, for all
240 residents of the state. Nothing in this section should be
241 construed as permitting expenditures for facilities, services,
242 or equipment which are inconsistent with the State Health
243 Plan.

244 ~~(14)~~ (16) STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
245 (SHPDA). An agency of the State of Alabama which is designated
246 by the Governor as the sole State Health Planning and
247 Development Agency, which shall consist of three consumers,
248 three providers, and three representatives of the Governor who
249 all shall serve staggered terms and all be appointed by the
250 Governor. Where used in this article, the terms, "state
251 agency," and the "SHPDA," shall be synonymous and may be used
252 interchangeably.



SB236 INTRODUCED

253 ~~(15)~~ (17) STATEWIDE HEALTH COORDINATING COUNCIL. A
254 council, appointed by the Governor, established pursuant to
255 Sections 22-4-7 and 22-4-8 to advise the State Health Planning
256 and Development Agency on matters relating to health planning
257 and resource development and to perform other functions as may
258 be delegated to it, to include an annual review of the State
259 Health Plan.

260 ~~(16)~~ (18) TO OFFER. When used in connection with health
261 services, a health care facility or health maintenance
262 organization that holds itself out as capable of providing, or
263 as having the means for the provision of, specified health
264 services."

265 "§22-21-263

266 (a) All new institutional health services ~~which~~ that
267 are subject to this article and ~~which~~ that are proposed to be
268 offered or developed within the state shall be subject to
269 review under this article. No institutional health services
270 ~~which~~ that are subject to this article shall be permitted
271 which are inconsistent with the State Health Plan. For the
272 purposes of this article, new institutional health services
273 shall include any of the following:

274 (1) The construction, development, acquisition through
275 lease or purchase, or other establishment of a new health care
276 facility or health maintenance organization. A transaction
277 involving the sale, lease, or other transfer or change of
278 control of an existing health care facility, existing health
279 maintenance organization, or existing institutional health
280 service is not subject to certificate of need review or



SB236 INTRODUCED

281 approval under this article unless the transaction also
282 involves implementing one or more of the new institutional
283 health services described in subdivision (2), (3), or (4). The
284 two immediately preceding sentences are applicable to all
285 transactions occurring on or after July 30, 1979.

286 Notwithstanding anything to the contrary in this article,
287 expenditures incurred in the sale, lease, or other transfer of
288 an existing health care facility or existing health
289 maintenance organization or existing institutional health
290 service shall not be subject to subdivision (2).

291 (2) Any expenditure by or on behalf of a health care
292 facility or health maintenance organization which, under
293 generally accepted accounting principles consistently applied,
294 is a capital expenditure in excess of two million dollars
295 (\$2,000,000) indexed annually for inflation for major medical
296 equipment; in excess of eight hundred thousand dollars
297 (\$800,000) for new annual operating costs indexed annually for
298 inflation; in excess of four million dollars (\$4,000,000)
299 indexed annually for inflation for any other capital
300 expenditure by or on behalf of a health care facility or a
301 health maintenance organization. The index referenced in this
302 subdivision shall be the Consumer Price Index Market Basket
303 Professional Medical Services index as published by the U.S.
304 Department of Labor, Bureau of Labor Statistics. The SHPDA
305 shall publish this index information to the general public.

306 (3) A change in the existing bed capacity of a health
307 care facility or health maintenance organization through the
308 addition of new beds, the relocation of one or more beds from



SB236 INTRODUCED

309 one physical facility to another, or reallocation among
310 services of existing beds through the conversion of one or
311 more beds from one category to another within the following
312 bed categories: general medical surgical, inpatient
313 psychiatric, inpatient/residential alcohol and drug abuse or
314 inpatient rehabilitation beds, or long-term care beds
315 including skilled nursing care, intermediate care,
316 transitional care, and swing beds. Notwithstanding any
317 provision of this subdivision to the contrary, any health care
318 facility or health maintenance organization in which at least
319 65 percent of the beds are dedicated or used exclusively for
320 acute care services, general medical surgical, or
321 nonspecialized services may reallocate existing beds within
322 the following specialized bed categories: inpatient
323 psychiatric, inpatient/residential alcohol and drug
324 rehabilitation beds, to acute care services, or general
325 medical surgical beds without first obtaining a certificate of
326 need from the SHPDA.

327 (4) Health services proposed to be offered in or
328 through a health care facility or health maintenance
329 organization, and which were not offered on a regular basis in
330 or through ~~such~~ the health care facility or health maintenance
331 organization within the ~~12-month~~ 12-month period prior to the
332 time ~~such~~ the services would be offered. Health services,
333 other than those health services involving long-term care
334 services, including without limitation, skilled and
335 intermediate nursing home care, swing beds services, or
336 transitional care services, provided directly by ~~acute care~~



SB236 INTRODUCED

337 ~~hospitals classified as rural by the U.S. Bureau of~~
338 ~~Census/Office of Management and Budget, United States~~
339 ~~government Health Care Financing Administration or~~ acute care
340 hospitals with less than 105 beds that are located over 20
341 miles from the nearest acute health care facility located
342 within Alabama shall not be subject to this subdivision but
343 shall be subject to the other subdivisions of this subsection.
344 Provided, however, that the exemption from this subdivision
345 herein established shall not apply to home health services
346 provided outside of the county in which the hospital is
347 located.

348 (b) The four conditions of new institutional health
349 services listed in this section shall be mutually exclusive.

350 (c) Any new institutional health service proposed to be
351 offered or developed in a rural area on or after October 1,
352 2024, shall not be subject to review under this article.

353 ~~(e)~~ (d) Notwithstanding all other provisions of this
354 article to the contrary, those facilities and distinct units
355 operated by the Department of Mental Health and those
356 facilities and distinct units operating under contract or
357 subcontract with the Department of Mental Health where the
358 contract constitutes the primary source of income to the
359 facility shall not be subject to review under this article.

360 ~~(d)~~ (e) For the purposes of this article, and
361 notwithstanding all other provisions of this article to the
362 contrary and notwithstanding any and all provisions of the
363 State Health Plan on September 1, 2003, relating to
364 lithotripsy, magnetic resonance imaging, and positron emission



SB236 INTRODUCED

365 tomography, new institutional health services, which are
366 subject to this article, shall not include any health services
367 provided by a mobile or fixed-based extracorporeal shock wave
368 lithotripter, mobile or fixed-based magnetic resonance
369 imaging, or positron emission tomography proposed to be
370 offered in or through a health care facility or health
371 maintenance organization. The SHPDA, after consultation with
372 and the advice of the Statewide Health Coordinating Council,
373 in accordance with the Alabama Administrative Procedure Act
374 and within 60 days of September 1, 2003, shall cause the State
375 Health Plan to be amended to repeal and delete all sections of
376 the Alabama State Health Plan relating to mobile and
377 fixed-based lithotripters, mobile and fixed-based magnetic
378 resonance imaging, and positron emission tomography, and cause
379 the amendment and repeal of any other SHPDA rules and
380 regulations inconsistent with this article."

381 "§22-21-265

382 (a) On or after July 30, 1979, no person to which this
383 article applies shall acquire, construct, or operate a new
384 institutional health service, ~~as defined in this article,~~ or
385 furnish or offer, or purport to furnish a new institutional
386 health service, ~~as defined in this article,~~ or make an
387 arrangement or commitment for financing the offering of a new
388 institutional health service, unless the person shall first
389 obtain from the SHPDA a certificate of need ~~therefor.~~ except
390 for the following, which shall not be required to obtain a
391 certificate of need:

392 (1) Any person who proposes to acquire, construct,



SB236 INTRODUCED

393 operate, furnish, or offer a new institutional health service
394 to be located in a rural area, or who arranges for or commits
395 to the financing of the same.

396 (2) Notwithstanding any provisions of this article to
397 the contrary, those facilities and distinct units operated by
398 the Department of Mental Health, and those facilities and
399 distinct units operating under contract or subcontract with
400 the Department of Mental Health where the contract constitutes
401 the primary source of income to the facility, ~~shall not be~~
402 ~~required to obtain a certificate of need under this article.~~

403 (b) (1) Notwithstanding all other provisions of this
404 article to the contrary, the replacement of equipment by
405 health care facilities shall be exempt from certificate of
406 need review, provided:

407 ~~(1)~~ a. The replacement does not change the purpose, use,
408 or application of the equipment.

409 ~~(2)~~ b. The existing equipment is taken out of service.

410 ~~(3)~~ c. The replacement equipment does not enable the
411 health care facility to expand its health services.

412 ~~(4)~~ d. The replacement equipment does not enable the
413 health care facility to provide any health services not
414 previously provided on a regular basis.

415 (2) A determination of whether the acquisition of
416 equipment is exempt from review under this section shall be
417 made by the Executive Director of the SHPDA upon the filing of
418 an application requesting the determination, on the form or
419 forms prescribed by the CON Review Board, together with a fee
420 in the amount of 20 percent of the fee provided in Section



SB236 INTRODUCED

421 22-21-271. If it is determined that the replacement is not
422 reviewable pursuant to this section, the applicant shall be
423 notified in writing that no certificate of need is required.
424 The SHPDA shall define an appeals process.

425 ~~Any provision in this article to the contrary~~
426 ~~notwithstanding, a rural hospital shall only be required to~~
427 ~~submit a fee equal to 25 percent of the fee applicable to~~
428 ~~non-rural hospitals when filing a request for determination~~
429 ~~under this section.~~

430 (c) Notwithstanding any other provision of this article
431 to the contrary, the modernization or construction of a
432 nonclinical building, parking facility, or any other
433 noninstitutional health services capital item on the existing
434 campus of a health care facility shall be exempt from
435 certificate of need review, provided the construction or
436 modernization does not allow the health care facility to
437 provide new institutional health services subject to review
438 and not previously provided on a regular basis.

439 (d) The SHPDA shall maintain the Alabama State Health
440 Plan to include separate bed need methodologies for inpatient
441 psychiatric services, inpatient rehabilitation services, and
442 inpatient/residential alcohol and drug abuse services. The
443 SHPDA shall utilize these methodologies in considering all
444 certificate of need applications.

445 (e) Notwithstanding all other provisions of this
446 article to the contrary, the increase in the number of nursing
447 home beds of a health care facility licensed ~~pursuant to~~
448 ~~Section 22-21-260(6)~~ as a skilled nursing care facility or an



SB236 INTRODUCED

449 intermediate care facility, but excluding an increase in the
450 bed capacity of an intermediate care facility designated as an
451 ICF-MR by the State Board of Health and operated by the state
452 Department of Mental Health which facilities ~~shall be~~ are
453 governed by the other provisions of this article, shall be
454 exempt from certificate of need review, provided:

455 (1) The increase does not exceed 10 percent of the
456 total skilled nursing beds of the facility, rounded to the
457 nearest whole number, or 10 beds, whichever is greater.

458 (2) The average rate of occupancy for the nursing home
459 beds of the facility is not less than 95 percent, rounded to
460 the nearest whole number, for the 24-month period ending on
461 June 30 of the year immediately preceding the application for
462 exemption from the certificate of need review.

463 (3) The aggregate average rate of occupancy for all
464 other skilled nursing facilities and intermediate nursing
465 facilities in the same county as the requesting facility's is
466 not less than 95 percent, rounded to the nearest whole number,
467 for the 24-month period ending on June 30 of the year
468 immediately preceding the application for exemption from
469 certificate of need review.

470 (4) The increase does not require capital expenditures
471 exceeding the capital expenditure thresholds prescribed in
472 Section 22-21-263(a)(2).

473 (5) The facility has not been granted an increase of
474 beds under this exemption within the immediately preceding
475 24-month period.

476 In calculating the average occupancy for the facility



SB236 INTRODUCED

477 under subdivision (2) ~~of this subsection~~ and for all other
478 skilled and intermediate nursing facilities in the same county
479 under subdivision (3) ~~of this subsection~~, beds previously
480 granted, including beds granted after January 1, 1995, to the
481 facility, and to other skilled or intermediate nursing
482 facilities in the same county as the requesting facility,
483 pursuant to a certificate of need or to this exemption shall
484 be deemed built and available for occupancy as of the date
485 granted regardless of when the beds were placed in service.
486 SHPDA shall ~~promulgate regulations~~ adopt rules to determine
487 how occupancy shall be calculated for the purpose of this
488 subsection, taking into account certain factors such as, but
489 without limitation, disregarding beds that have not been
490 available for use for the three years ~~next~~ preceding the
491 period for which occupancy is being measured.

492 (6) The facility has had an average daily census
493 comprised of 40 percent of Medicaid patients within the fiscal
494 year ended June 30 immediately prior to filing an application
495 for exemption under this section.

496 (7) a. Any exemption to add beds without a certificate
497 of need shall expire and be deemed ~~null and~~ void unless the
498 beds are placed in service not less than 12 months after the
499 date the exemption is granted. Notwithstanding the foregoing,
500 SHPDA may ~~promulgate~~ adopt rules permitting the Executive
501 Director of SHPDA to grant one extension not to exceed
502 ~~twelve~~ 12 months upon a showing of substantial progress.
503 Notwithstanding the foregoing, any exemption granted by the
504 SHPDA prior to April 10, 1995, for facilities which have



SB236 INTRODUCED

505 agreed to the provisions of the June 21, 1995 consent decree,
506 is ratified and confirmed and shall be deemed to have been
507 granted in accordance with this subsection. In addition, any
508 facility which was granted an exemption by the SHPDA prior to
509 April 10, 1995, is ratified and confirmed and shall be deemed
510 to have been approved as of the latter of the actual date
511 approved or March 3, 1995, and to have been granted in
512 accordance with this subsection.

513 b. A determination of whether the increase in beds is
514 exempt from review under this section shall be made by the
515 Executive Director of SHPDA upon the filing of an application
516 requesting the determination, on the form or forms prescribed
517 by the CON Review Board, together with a fee in an amount to
518 be determined by the review board in accordance with Section
519 22-21-271(a). The SHPDA shall ~~promulgate~~ adopt rules affording
520 an applicant pursuant to this subsection a right to appeal
521 adverse rulings.

522 c. Applications pursuant to this section for exemption
523 from certificate of need review for an increase in bed
524 capacity shall be made only during the 90-day period beginning
525 January 1 through March 31 of each year.

526 d. The provisions of this section shall automatically
527 terminate and become ~~null and~~ void on December 31, 2005,
528 unless a bill to continue or reestablish the provisions of
529 this section shall be passed by both houses of the Legislature
530 and enacted into law.

531 (f) Notwithstanding all other provisions of this
532 article to the contrary, an existing home health agency may



SB236 INTRODUCED

533 accept referrals of patients from outside its Medicare
534 certified service area without obtaining a certificate of
535 need, provided all of the following conditions are met:

536 (1) The county of the referral is contiguous to a
537 county for which the home health agency holds a certificate of
538 need or an exemption granted pursuant to ~~provisions of~~ Section
539 22-21-263.

540 (2) The home health agency establishes no branch office
541 in the county of the referral.

542 (3) The home health agency incurs no capital
543 expenditures in the county of the referral in excess of five
544 hundred dollars (\$500).

545 The home health agency shall notify the SHPDA that it
546 has begun accepting referrals from a county contiguous to its
547 service area within 14 days of the receipt of the first
548 referral from the contiguous county. No notice to the SHPDA
549 shall be required related to subsequent referrals in the same
550 contiguous county. The SHPDA shall take steps to provide for
551 the inclusion of statistical information relating to the
552 service to referrals outside the Medicare certified service
553 area in its annual statistical reports. The SHPDA may impose,
554 by rule, a reasonable charge upon home health agencies
555 accepting such referrals to cover the additional cost of
556 gathering and processing the information.

557 (g) Notwithstanding all other provisions of this
558 article to the contrary, the replacement, including relocation
559 in the same county, of an existing acute care hospital by the
560 construction of a new digital hospital shall be exempt from



SB236 INTRODUCED

561 certificate of need review provided the hospital meets all of
562 the following:

563 (1) The digital hospital design incorporates a fully
564 automated centralized digital system to integrate all current
565 and future medical technologies with capabilities for all
566 systems to interface in a comprehensive medical record. The
567 integration of medical technology shall include, but not be
568 limited to, all patient medical records, diagnostic images,
569 diagnostic reports, laboratory results, pharmacy data,
570 pharmacological interactions, contraindications, surgical
571 reports, surgical streaming video, pathology reports, unique
572 patient identification, voice activated transcription,
573 wireless applications, automated billing with electronic
574 transmission capability, and electronic procurement systems.

575 (2) The electronic medical systems shall interface on a
576 single electronic platform to produce the most favorable
577 patient outcome with a reduction in medical errors.

578 (3) Medical records shall only be accessed by
579 authorized clinical personnel who are provided access by
580 hospital consoles, physician offices, physician homes, or any
581 remote location via unique identification requirements.

582 (4) Patient rooms shall be designed to provide optimal
583 electronic documentation of vital signs, real-time data entry,
584 ~~any and all~~ treatment protocols, physician orders, and patient
585 progression.

586 (5) The digital hospital shall have a minimum project
587 cost of one hundred million dollars (\$100,000,000) to include
588 design, systems, property, buildings, equipment, and



SB236 INTRODUCED

589 electronic software development.

590 (6) The construction and design of the facility shall
591 utilize technology and materials for patient flow to limit
592 general public contact with patient care areas,
593 ~~healthcare~~health care workers, and hazardous materials to
594 reduce the potential for cross-contamination and resulting
595 direct medical costs.

596 (7) The digital hospital environment shall be energy
597 efficient, cost effective, and clinically designed to produce
598 the most favorable environment.

599 (8) The digital hospital shall meet all of the
600 following conditions:

601 a. Operate as an acute care hospital.

602 b. Replace an existing acute care hospital located in
603 the same county as the digital hospital.

604 c. Be licensed for no more than the same number of
605 hospital beds and for the same bed categories as the existing
606 acute care hospital to be replaced by the digital hospital,
607 unless otherwise approved by the Certificate of Need Review
608 Board through issuance of a certificate of need.

609 d. Shall not exceed the same scope of health services,
610 including the same amount of diagnostic or therapeutic major
611 medical equipment, as the existing acute care hospital to be
612 replaced by the digital hospital, unless otherwise approved by
613 the SHPDA approval process.

614 e. Shall not exceed the number of inpatient and
615 outpatient surgical suites as contained in the existing acute
616 care hospital to be replaced by the digital hospital, unless



SB236 INTRODUCED

617 otherwise approved by the SHPDA approval process.

618 (9) The existing acute care hospital, replaced by the
619 digital hospital, shall be taken out of service as an acute
620 care hospital and shall not be converted to or used as another
621 health care facility, unless approved by the Certificate of
622 Need Review Board through issuance of a certificate of need.

623 (10) Any presently reviewable health service which is
624 proposed to be offered by the digital hospital which was not
625 offered on a regular basis within the preceding
626 ~~twelve-month~~12-month period in or through the existing acute
627 care hospital to be replaced by the digital hospital shall be
628 subject to Certificate of Need Review Board approval through
629 issuance of a certificate of need.

630 (11) The only digital hospital exempt from certificate
631 of need review shall be the first digital hospital developed
632 in the state, and the digital hospital shall be located in a
633 county where there is located an accredited medical school and
634 teaching facility and not less than 3,000 licensed general
635 hospital beds, and construction shall be commenced within one
636 year from the issuance of a certificate of need by SHPDA.

637 A determination whether the construction of a digital
638 hospital is exempt from review under this subsection shall be
639 made by the Executive Director of the SHPDA, upon the filing
640 of an application requesting the determination, on the forms
641 acceptable to the Executive Director of the SHPDA together
642 with an application fee as provided in Section 22-21-271. If
643 it is determined that the replacement facility is not
644 reviewable pursuant to this section, the SHPDA shall notify



SB236 INTRODUCED

645 the applicant in writing that the application is exempt from
646 certificate of need review and shall issue a certificate of
647 need. The applicant shall have a right of appeal from any
648 adverse ruling denying exemption and the SHPDA shall
649 ~~promulgate~~adopt rules affording an applicant a right to appeal
650 adverse rulings pursuant to this subsection.

651 The provisions of this subsection shall automatically
652 terminate and become ~~null and~~ void upon the issuance of the
653 first certificate of need for the construction and operation
654 of a digital replacement hospital as herein provided or on
655 December 31, 2005, whichever first occurs, unless a bill to
656 continue or reestablish the provisions of this subsection
657 shall be passed by both houses of the Legislature and enacted
658 into law."

659 "§22-21-271

660 (a) Each application for a certificate of need shall be
661 accompanied by a fee of one percent of the estimated cost of
662 the proposed cost of the new Institutional Health Service, or
663 a maximum of twelve thousand dollars (\$12,000) (indexed) per
664 application. Provided, that the application fee shall be
665 three-fourths of one percent of the estimated cost of the
666 proposed new Institutional Health Service, or a maximum of
667 eight thousand dollars (\$8,000) if the applicant has had an
668 average daily census comprised of 50 percent or more Medicaid
669 patients within the last year prior to the filing of the
670 application ~~and a maximum of six thousand dollars (\$6,000) if~~
671 ~~a rural hospital applicant has had an average daily census~~
672 ~~comprised of 30 percent or more Medicaid/Medicare patients~~



SB236 INTRODUCED

673 ~~within the last year prior to the filing of the application.~~

674 The minimum fee shall be set by the SHPDA. Fees shall be used
675 for the purpose of defraying the lawful operating expense of
676 the certificate of need program conducted by the SHPDA and of
677 the Statewide Health Coordinating Council.

678 (b) Each request for an opinion from the State Agency
679 as to whether a project is subject to review under this
680 article shall be accompanied by a fee to be established by the
681 SHPDA.

682 (c) SHPDA, by rule approved by the Certificate of Need
683 Review Board or the Statewide Health Coordinating Council, as
684 applicable, may impose additional reasonable fees for any
685 administrative filing by a health care provider for which a
686 fee is not specified in this chapter, and for any non-routine
687 data compilation or summary. Nothing in this subsection shall
688 authorize SHPDA to impose a fee for the initial publication of
689 any report or statistical update which it is required to
690 publish under law or rule.

691 (d) In addition to all other fees, SHPDA shall impose a
692 temporary surcharge of two thousand dollars (\$2,000) on each
693 certificate of need application and three hundred dollars
694 (\$300) for each reviewability determination to defray expenses
695 incurred in developing and implementing, by January 1, 2014,
696 an online, searchable filing system for filings and orders in
697 administrative proceedings and requests for reviewability or
698 exemption determinations and related agency findings. The
699 surcharge shall automatically terminate on the first day of
700 the ninth month after certification to the CON Review Board by



SB236 INTRODUCED

701 SHPDA's Executive Director that the online filing system has
702 been successfully implemented.

703 (e) There is hereby authorized to be appropriated from
704 the State General Fund ~~of the State of Alabama~~ such amounts as
705 may be necessary from time to time to defray the costs of
706 administering this article over and above such fees as may be
707 collected under this section.

708 (f) Application fees collected under this article shall
709 not be refundable. Fees collected under this article are
710 hereby appropriated for the purposes stated in this article.

711 (g) All fees collected under this article shall be
712 retained in a separate fund for the purpose of enforcing and
713 administering this article, and shall be disbursed as other
714 funds of the state are disbursed."

715 Section 2. Section 22-21-278, Code of Alabama 1975,
716 relating to an exemption from the review requirement for
717 certain kidney disease treatment centers, is repealed.

718 Section 3. This act shall become effective on October
719 1, 2024.