

**SB285 INTRODUCED**



1 SB285  
2 UA2CDXG-1  
3 By Senator Stutts  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 01-Apr-25



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SYNOPSIS:

Under existing law, health care institutions and providers 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 facility or health care service that provides obstetric care or psychiatric treatment.

This bill would also delete duplicative language and 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 Section 22-21-265, Code of Alabama 1975, to exclude new or expanded health care facilities that provide obstetric or psychiatric care from the certificate of need requirement; to amend Sections 22-21-260, 22-21-263, and 22-21-264, Code of



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29 Alabama 1975, to make conforming changes; and to delete  
30 duplicative language and make nonsubstantive, technical  
31 revisions to update the existing code language to current  
32 style.

33 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

34 Section 1. Sections 22-21-260, 22-21-263, 22-21-264,  
35 and 22-21-265, Code of Alabama 1975, are amended to read as  
36 follows:

37 "§22-21-260

38 As used in this article, the following words and terms,  
39 and the plurals thereof, ~~shall~~ have the meanings ascribed to  
40 them in this section, unless otherwise required by their  
41 respective context:

42 (1) ACQUISITION. Obtaining the legal equitable title to  
43 a freehold or leasehold estate or otherwise obtaining the  
44 substantial benefit of such titles or estates, whether by  
45 purchase, lease, loan or suffrage, gift, devise, legacy,  
46 settlement of a trust or means whatever, and shall include any  
47 act of acquisition. The term "~~acquisition~~" ~~shall~~ does not mean  
48 or include:

49 a. Any ~~any~~ conveyance, or creation of any lien or  
50 security interest by mortgage, deed of trust, security  
51 agreement, or similar financing instrument, ~~nor shall it mean~~  
52 ~~or include any;~~

53 b. Any transfer of title or rights as a result of the  
54 foreclosure, or conveyance or transfer in lieu of the  
55 foreclosure, of any such mortgage, deed of trust, security  
56 agreement, or similar financing instrument, ~~nor shall it mean~~



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57 ~~or include any; or~~

58 c. Any gift, devise, legacy, settlement of trust, or  
59 other transfer of the legal or equitable title of an interest  
60 specified hereinabove by ~~a natural person~~ an individual to any  
61 member of ~~such person's~~ the individual's immediate family. For  
62 the purposes of this ~~section~~ paragraph, "immediate family"  
63 ~~shall mean~~ means the spouse of the grantor or transferor and  
64 any other person related to the grantor or transferor to the  
65 fourth degree of kindred as such degrees are computed  
66 according to law.

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

69 ~~(2.1)~~ (3) CAMPUS. The contiguous real property,  
70 contained within a single county, which is owned or leased by  
71 a health care facility and upon which is located the buildings  
72 and any other real property used by the health care facility  
73 to provide existing institutional health services which are  
74 subject to review.

75 ~~(3)~~ (4) CAPITAL EXPENDITURE. An expenditure, including a  
76 force account expenditure (i.e., an expenditure for a  
77 construction project undertaken by the health care facility as  
78 its own contractor), which, under generally accepted  
79 accounting principles, is not properly chargeable as an  
80 expense of operation and maintenance and which satisfies any  
81 of the following:

82 a. Exceeds two million dollars (\$2,000,000) indexed  
83 annually for inflation for major medical equipment; eight  
84 hundred thousand dollars (\$800,000) for new annual operating



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85 costs indexed annually for inflation; four million dollars  
86 (\$4,000,000) indexed annually for inflation for any other  
87 capital expenditure. The index referenced in this paragraph  
88 shall be the Consumer Price Index Market Basket Professional  
89 Medical Services index as published by the U.S. Department of  
90 Labor, Bureau of Labor Statistics. The SHPDA shall publish  
91 this index information to the general public.

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

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

96 ~~(4)~~ (5) CONSTRUCTION. Actual commencement, with bona  
97 fide intention of completing the construction, or completion  
98 of the construction, erection, remodeling, relocation,  
99 excavation, or fabrication of any real property constituting a  
100 facility under this article, and the term ~~construct shall mean~~  
101 ~~and include~~ means and includes any act of construction.  
102 "Ground breaking ceremony," "receipt of bids," "receipt of  
103 quotation," or similar action that will permit unilateral  
104 termination without penalty shall not be considered  
105 construction.

106 ~~(5)~~ (6) FIRM COMMITMENT or OBLIGATION. Any of the  
107 following:

108 a. Any executed, enforceable, unconditional, l written  
109 agreement or contract not subject to unilateral cancellation  
110 for the acquisition or construction of a health care facility  
111 or purchase of equipment therefor.

112 b. Actual construction of facilities peculiarly adapted



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113 to the furnishing of one or more particular services and with  
114 the bona fide intention of furnishing such service or  
115 services.

116 c. Any executed, unconditional, l written agreement not  
117 subject to unilateral cancellation for the bona fide purpose  
118 of furnishing one or more services.

119 ~~(6)~~ (7) HEALTH CARE FACILITY. General and specialized  
120 hospitals, including tuberculosis, ~~psychiatric,~~ long-term  
121 care, and other types of hospitals, and related facilities  
122 such as, laboratories, out-patient clinics, and central  
123 service facilities operated in connection with hospitals;  
124 skilled nursing facilities; intermediate care facilities;  
125 skilled or intermediate care units operated in veterans'  
126 nursing homes and veterans' homes, owned or operated by the  
127 State Department of Veterans' Affairs, as these terms are  
128 described in Chapter 5A (commencing with Section 31-5A-1) of  
129 Title 31, rehabilitation centers; public health centers;  
130 facilities for surgical treatment of patients not requiring  
131 hospitalization; kidney disease treatment centers, including  
132 free-standing hemodialysis units; ~~community mental health~~  
133 ~~centers and related facilities;~~ alcohol and drug abuse  
134 facilities; facilities for the developmentally disabled;  
135 hospice service providers; and home health agencies and health  
136 maintenance organizations. The term ~~health care facility~~  
137 ~~shall~~ does not include the offices of private physicians or  
138 dentists, whether for individual or group practices and  
139 regardless of ownership, or Christian Science sanatoriums  
140 operated or listed and certified by the First Church of



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141 Christ, Scientist, Boston, Massachusetts, or a veterans'  
142 nursing home or veterans' home owned or operated by the State  
143 Department of ~~Veterans'~~Veterans Affairs, not to exceed 150  
144 beds to be built in Bay Minette, Alabama, and a veterans'  
145 nursing home or veterans' home owned or operated by the State  
146 Department of ~~Veterans'~~Veterans Affairs not to exceed 150 beds  
147 to be built in Huntsville, Alabama, for which applications for  
148 federal funds under federal law are being considered by the  
149 U.S. Department of ~~Veterans'~~Veterans Affairs prior to March  
150 18, 1993.

151 ~~(7)~~ (8) HEALTH SERVICE AREA. A geographical area  
152 designated by the Governor, as being appropriate for effective  
153 planning and development of health services.

154 ~~(8)~~ (9) HEALTH SERVICES. Clinically related (i.e.,  
155 diagnostic, curative, or rehabilitative) services, including  
156 alcohol, and drug abuse, ~~and mental health services~~  
157 ~~customarily furnished on either an in-patient or out-patient~~  
158 ~~basis by health care facilities,~~ but not including the lawful  
159 practice of any profession or vocation conducted independently  
160 of a health care facility and in accordance with applicable  
161 licensing laws of this state.

162 ~~(9)~~ (10) INSTITUTIONAL HEALTH SERVICES. Health services  
163 provided in or through health care facilities or health  
164 maintenance organizations, including the entities in or  
165 through which such services are provided.

166 ~~(9.1)~~ (11) MAJOR MEDICAL EQUIPMENT. Medical clinical  
167 equipment intended for use in the diagnosis or treatment of  
168 medical conditions, which is used to provide institutional



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169 health services of a health care facility which are subject to  
170 review, and which expenditure exceeds the thresholds  
171 referenced in this section and in Section 22-21-263.

172 ~~(10)~~ (12) MODERNIZATION. The alteration, repair,  
173 remodeling, and renovation of existing buildings, including  
174 equipment within the existing buildings. Modernization does  
175 not include the replacement of existing buildings which are  
176 used by a health care facility to provide institutional health  
177 services which are subject to review and does not include the  
178 replacement of major medical equipment.

179 ~~(11)~~ (14) PERSON. Any ~~person~~ individual, firm,  
180 partnership, association, joint venture, corporation, limited  
181 liability company, or other legal entity, the State of Alabama  
182 and its political subdivisions or parts thereof, and any  
183 agencies or instrumentalities and any combination of persons  
184 herein specified, but ~~person shall~~ the term does not include  
185 the United States or any agency or instrumentality thereof,  
186 except in the case of voluntary submission to the regulations  
187 established by this article.

188 ~~(12)~~ (15) RURAL HEALTH CARE PROVIDER/APPLICANT/HOSPITAL.  
189 A provider or applicant or hospital which is designated by the  
190 United States government Health Care Financing Administration  
191 as rural.

192 ~~(13)~~ (16) STATE HEALTH PLAN. a. A comprehensive plan  
193 which is prepared triennially and reviewed at least annually  
194 and revised as necessary by the Statewide Health Coordinating  
195 Council, with the assistance of the State Health Planning and  
196 Development Agency, and approved by the Governor.





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197           **b.** The Statewide Health Coordinating Council shall meet  
198 at least annually to determine whether revisions for the State  
199 Health Plan are necessary. If the Statewide Health  
200 Coordinating Council fails to meet and to review or revise the  
201 State Health Plan on an annual basis, there shall be no fees  
202 required on all certificate of need applications filed with  
203 the Certificate of Need Review Board until the Statewide  
204 Health Coordinating Council meets and reviews or revises the  
205 State Health Plan. For purposes of this paragraph, the annual  
206 meeting of the Statewide Health Coordinating Council shall  
207 occur on or before August 1 of each calendar year.

208           **c.** The State Health Plan shall provide for the  
209 development of health programs and resources to assure that  
210 quality health services will be available and accessible in a  
211 manner which assures continuity of care, at reasonable costs,  
212 for all residents of the state. Nothing in this section should  
213 be construed as permitting expenditures for facilities,  
214 services, or equipment which are inconsistent with the State  
215 Health Plan.

216           ~~(14)~~ (17) STATE HEALTH PLANNING AND DEVELOPMENT AGENCY  
217 ~~(SHPDA)~~ or STATE AGENCY or SHPDA. An agency of the State of  
218 Alabama which is designated by the Governor as the sole State  
219 Health Planning and Development Agency, which shall consist of  
220 three consumers, three providers, and three representatives of  
221 the Governor who all shall serve staggered terms and all be  
222 appointed by the Governor. ~~Where used in this article, the~~  
223 ~~terms, "state agency," and the "SHPDA," shall be synonymous~~  
224 ~~and may be used interchangeably.~~



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225           ~~(15)~~ (18) STATEWIDE HEALTH COORDINATING COUNCIL. A  
226 council, appointed by the Governor, established pursuant to  
227 Sections 22-4-7 and 22-4-8 to advise the State Health Planning  
228 and Development Agency on matters relating to health planning  
229 and resource development and to perform other functions as may  
230 be delegated to it, to include an annual review of the State  
231 Health Plan.

232           ~~(16)~~ (13) ~~TO~~ OFFER. When used in connection with health  
233 services, a health care facility or health maintenance  
234 organization that holds itself out as capable of providing, or  
235 as having the means for the provision of, specified health  
236 services."

237           "§22-21-263

238           (a) All new institutional health services ~~which~~ that are  
239 subject to this article and ~~which~~ that are proposed to be  
240 offered or developed within the state shall be subject to  
241 review under this article. No institutional health services  
242 ~~which~~ that are subject to this article shall be permitted which  
243 are inconsistent with the State Health Plan. For the purposes  
244 of this article, new institutional health services shall  
245 include any of the following:

246           (1) The construction, development, acquisition through  
247 lease or purchase, or other establishment of a new health care  
248 facility or health maintenance organization. A transaction  
249 involving the sale, lease, or other transfer or change of  
250 control of an existing health care facility, existing health  
251 maintenance organization, or existing institutional health  
252 service is not subject to certificate of need review or



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

258 Notwithstanding anything to the contrary in this article,  
259 expenditures incurred in the sale, lease, or other transfer of  
260 an existing health care facility or existing health  
261 maintenance organization or existing institutional health  
262 service shall not be subject to subdivision (2).

263 (2) Any expenditure by or on behalf of a health care  
264 facility or health maintenance organization which, under  
265 generally accepted accounting principles consistently applied,  
266 is a capital expenditure in excess of two million dollars  
267 (\$2,000,000) indexed annually for inflation for major medical  
268 equipment; in excess of eight hundred thousand dollars  
269 (\$800,000) for new annual operating costs indexed annually for  
270 inflation; and in excess of four million dollars (\$4,000,000)  
271 indexed annually for inflation for any other capital  
272 expenditure by or on behalf of a health care facility or a  
273 health maintenance organization. The index referenced in this  
274 subdivision shall be the Consumer Price Index Market Basket  
275 Professional Medical Services index as published by the U.S.  
276 Department of Labor, Bureau of Labor Statistics. The SHPDA  
277 shall publish this index information to the general public.

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



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281 one physical facility to another, or reallocation among  
282 services of existing beds through the conversion of one or  
283 more beds from one category to another within the following  
284 bed categories: general medical surgical, ~~inpatient~~  
285 ~~psychiatric~~, inpatient/residential alcohol and drug abuse or  
286 inpatient rehabilitation beds, or long-term care beds  
287 including skilled nursing care, intermediate care,  
288 transitional care, and swing beds. Notwithstanding any  
289 provision of this subdivision to the contrary, any health care  
290 facility or health maintenance organization in which at least  
291 65 percent of the beds are dedicated or used exclusively for  
292 acute care services, general medical surgical, or  
293 nonspecialized services may reallocate existing beds within  
294 the following specialized bed categories: ~~inpatient~~  
295 ~~psychiatric~~, inpatient/residential alcohol and drug  
296 rehabilitation beds, to acute care services, or general  
297 medical surgical beds without first obtaining a certificate of  
298 need from the SHPDA.

299 (4) Health services proposed to be offered in or  
300 through a health care facility or health maintenance  
301 organization, and which were not offered on a regular basis in  
302 or through ~~such~~the health care facility or health maintenance  
303 organization within the ~~12-month~~12-month period prior to the  
304 time ~~such~~the services would be offered. Health services, other  
305 than those health services involving long-term care services,  
306 including, without limitation, skilled and intermediate  
307 nursing home care, swing beds services, or transitional care  
308 services, provided directly by acute care hospitals classified



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309 as rural by the U.S. Bureau of ~~Census/Office~~Census, Office of  
310 Management and Budget, United States government Health Care  
311 Financing Administration or acute care hospitals with less  
312 than 105 beds that are located over 20 miles from the nearest  
313 acute health care facility located within Alabama shall not be  
314 subject to this subdivision but shall be subject to the other  
315 subdivisions of this subsection. Provided, however, that the  
316 exemption from this subdivision ~~herein established~~ shall not  
317 apply to home health services provided outside of the county  
318 in which the hospital is located.

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

321 (c) Notwithstanding all other provisions of this  
322 article to the contrary, those facilities and distinct units  
323 operated by the Department of Mental Health and those  
324 facilities and distinct units operating under contract or  
325 subcontract with the Department of Mental Health where the  
326 contract constitutes the primary source of income to the  
327 facility shall not be subject to review under this article.

328 (d) For the purposes of this article, and  
329 notwithstanding all other provisions of this article to the  
330 contrary ~~and notwithstanding any and all provisions of the~~  
331 ~~State Health Plan on September 1, 2003, relating to~~  
332 ~~lithotripsy, magnetic resonance imaging, and positron emission~~  
333 ~~tomography~~, new institutional health services, ~~which~~ that are  
334 subject to this article, shall not include any health services  
335 provided by a mobile or fixed-based extracorporeal shock wave  
336 lithotripter, mobile or fixed-based magnetic resonance



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337 imaging, or positron emission tomography proposed to be  
338 offered in or through a health care facility or health  
339 maintenance organization. ~~The SHPDA, after consultation with  
340 and the advice of the Statewide Health Coordinating Council,  
341 in accordance with the Alabama Administrative Procedure Act  
342 and within 60 days of September 1, 2003, shall cause the State  
343 Health Plan to be amended to repeal and delete all sections of  
344 the Alabama State Health Plan relating to mobile and  
345 fixed-based lithotripters, mobile and fixed-based magnetic  
346 resonance imaging, and positron emission tomography, and cause  
347 the amendment and repeal of any other SHPDA rules and  
348 regulations inconsistent with this article."~~

349           "§22-21-264

350           The SHPDA, pursuant to the provisions of Section  
351 22-21-274, shall prescribe by rules ~~and regulations~~ the  
352 criteria and clarifying definitions for reviews covered by  
353 this article. These criteria shall include at least the  
354 following:

355           (1) Consistency with the appropriate State Health  
356 Facility and services plans effective at the time the  
357 application was received by the State Agency, which shall  
358 include the latest approved revisions of the following plans:

359           a. The most recent Alabama State Health Plan which  
360 shall include updated inventories and separate bed need  
361 methodologies for inpatient rehabilitation beds, ~~inpatient~~  
362 ~~psychiatric beds~~ and inpatient/residential alcohol and drug  
363 abuse beds.

364           b. Alabama State Health Plan for services to the



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365 mentally ill.

366 c. Alabama State Health Plan for rehabilitation  
367 facilities.

368 d. Alabama developmental disabilities plan.

369 e. Alabama ~~State~~state alcoholism plan.

370 f. ~~Such other~~Other state plans~~State Plans~~ as may ~~from~~  
371 ~~time to time~~ be required by state or federal statute.

372 (2) The relationship of services reviewed to ~~the~~any  
373 long-range development plan ~~(if any)~~ of the person providing  
374 or proposing such services.

375 (3) The availability of alternative, less costly, or  
376 more effective methods of providing such services.

377 (4) Determination of a substantially unmet public  
378 requirement for the proposed health care facility, service, or  
379 capital expenditure that is consistent with orderly planning  
380 within the state and the community for furnishing  
381 comprehensive health care, ~~such determination~~ to be  
382 established on the merits of the proposal after giving  
383 appropriate consideration to all of the following:

384 a. Financial feasibility of the proposed change in  
385 service ~~o~~for facility~~+~~.

386 b. Specific data supporting the demonstration of need  
387 for the proposed change in facility or service shall be  
388 reasonable, relevant, and appropriate~~+~~.

389 c. Evidence of evaluation and consistency of the  
390 proposed change in facility or service with the facility's and  
391 the community's overall health and health-related plans~~+~~.

392 d. Evidence of consistency of the proposal with the



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393 need to meet nonpatient care objectives of the facility such  
394 as teaching and research~~†~~.

395 e. Evidence of review of the proposed facility,  
396 service~~,~~ or capital expenditure when appropriate and requested  
397 by other state agencies.

398 f. Evidence of the ~~locational~~ appropriateness of the  
399 location of the proposed facility or service~~,~~ ~~such~~  
400 ~~as~~ including, but not limited to, ~~transportation~~ accessibility,  
401 manpower availability, local zoning, and environmental health~~†~~  
402 ~~etc.†~~.

403 g. Reasonable potential of the facility to meet  
404 licensure standards.

405 h. ~~Reasonable consideration shall be given to medical~~  
406 ~~facilities~~ Consideration of whether the proposed facility or  
407 service will be involved in medical education.

408 (5) Determination that the person applying is an  
409 appropriate applicant, or the most appropriate applicant in  
410 the event of duplicative applications, for providing the  
411 proposed health care facility or service, ~~such determination~~  
412 to be established from the evidence ~~as to~~ of the ability of the  
413 person, directly or indirectly, to render adequate service to  
414 the public, including affirmative evidence as to the  
415 following:

416 a. Professional capability of the facility proposing  
417 the capital expenditure~~†~~.

418 b. Management capability of the facility proposing the  
419 capital expenditure~~†~~.

420 c. Adequate manpower to enable the facility to offer





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421 the proposed service~~;~~.

422 d. Evidence of the ~~existence of the~~ applicant's  
423 long-range planning program and an ongoing planning process~~;~~.

424 e. Evidence of existing and ongoing monitoring of  
425 utilization and the fulfilling of unmet or ~~under met~~under-met  
426 health needs in the case of expansion~~;~~.

427 f. Evidence of communication with all planning,  
428 regulatory, and utility agencies and organizations that  
429 influence the facility's destiny.

430 (6) Consideration of the special needs and  
431 circumstances of those entities which provide a substantial  
432 portion of their services or resources, or both, to  
433 individuals not residing in the health service area in which  
434 the entities are located or in adjacent health service areas.

435 (7) The special needs and circumstances of health  
436 maintenance organizations.

437 (8) In case of a construction project, consideration  
438 shall be given to both of the following:

439 a. The costs and methods of the proposed construction  
440 including the costs and methods of energy provision~~;~~ and.

441 b. The probable impact of the construction project  
442 reviewed on the costs of providing health services."

443 "§22-21-265

444 (a) ~~On or after July 30, 1979, no~~ No person to which  
445 this article applies shall acquire, construct, or operate a  
446 new institutional health service, ~~as defined in this article,~~  
447 or furnish or offer, or purport to furnish a new institutional  
448 health service, ~~as defined in this article,~~ or make an



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449 arrangement or commitment for financing the offering of a new  
450 institutional health service, unless the person shall first  
451 obtain from the SHPDA a certificate of need ~~therefor~~.

452 (b) Notwithstanding any ~~provisions~~provision of this  
453 article to the contrary, those facilities and distinct units  
454 operated by the Department of Mental Health, and those  
455 facilities and distinct units operating under contract or  
456 subcontract with the Department of Mental Health where the  
457 contract constitutes the primary source of income to the  
458 facility, shall not be required to obtain a certificate of  
459 need under this article.

460 ~~(b)~~ (c) (1) Notwithstanding ~~all~~any other  
461 ~~provisions~~provision of this article to the contrary, the  
462 replacement of equipment by health care facilities shall be  
463 exempt from certificate of need review, provided:

464 ~~(1)~~ a. The replacement does not change the purpose, use,  
465 or application of the equipment ~~;~~;

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

467 ~~(3)~~ c. The replacement equipment does not enable the  
468 health care facility to expand its health services ~~;~~; and

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

472 (2) A determination of whether the acquisition of  
473 equipment is exempt from review under this section shall be  
474 made by the Executive Director of the SHPDA upon the filing of  
475 an application requesting the determination, on the form or  
476 forms prescribed by the CON Review Board, together with a fee



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477 in the amount of 20 percent of the fee provided in Section  
478 22-21-271. If it is determined that the replacement is not  
479 reviewable pursuant to this section, the applicant shall be  
480 notified in writing that no certificate of need is required.  
481 The SHPDA shall define an appeals process.

482 (d) Any provision in this article to the contrary  
483 notwithstanding, a rural hospital shall only be required to  
484 submit a fee equal to 25 percent of the fee applicable to  
485 non-rural hospitals when filing a request for determination  
486 under this section.

487 ~~(e)~~ (e) Notwithstanding any other provision of this  
488 article to the contrary, the modernization or construction of  
489 a nonclinical building, parking facility, or any other  
490 noninstitutional health services capital item on the existing  
491 campus of a health care facility shall be exempt from  
492 certificate of need review, provided the construction or  
493 modernization does not allow the health care facility to  
494 provide new institutional health services subject to review  
495 and not previously provided on a regular basis.

496 ~~(d)~~ (f) The SHPDA shall maintain the Alabama State  
497 Health Plan to include separate bed need methodologies for  
498 ~~inpatient psychiatric services,~~ inpatient rehabilitation  
499 services, and inpatient/residential alcohol and drug abuse  
500 services. The SHPDA shall utilize these methodologies in  
501 considering all certificate of need applications.

502 ~~(e)~~ (g) Notwithstanding ~~all any~~ other ~~provisions~~ provision  
503 of this article to the contrary, the increase in the number of  
504 nursing home beds of a health care facility licensed pursuant



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505 to Section 22-21-260(6) as a skilled nursing care facility or  
506 an intermediate care facility, but excluding an increase in  
507 the bed capacity of an intermediate care facility designated  
508 as an ICF-MR by the State ~~Board of~~Committee on Public Health  
509 and operated by the state Department of Mental Health which  
510 facilities ~~shall be~~are governed by the other provisions of  
511 this article, shall be exempt from certificate of need review,  
512 provided:

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

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

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

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

531 (5) The facility has not been granted an increase of  
532 beds under this exemption within the immediately preceding



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533 24-month period.

534 In calculating the average occupancy for the facility  
535 under subdivision (2) ~~of this subsection~~ and for all other  
536 skilled and intermediate nursing facilities in the same county  
537 under subdivision (3) ~~of this subsection~~, beds previously  
538 granted, including beds granted after January 1, 1995, to the  
539 facility, and to other skilled or intermediate nursing  
540 facilities in the same county as the requesting facility,  
541 pursuant to a certificate of need or to this exemption shall  
542 be deemed built and available for occupancy as of the date  
543 granted regardless of when the beds were placed in service.  
544 SHPDA shall ~~promulgate regulations~~ adopt rules to determine how  
545 occupancy shall be calculated for the purpose of this  
546 subsection, taking into account certain factors such as, but  
547 without limitation, disregarding beds that have not been  
548 available for use for the three years ~~next~~-preceding the  
549 period for which occupancy is being measured.

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

554 (7) a. Any exemption to add beds without a certificate  
555 of need shall expire and be deemed ~~null and~~ void unless the  
556 beds are placed in service not less than 12 months after the  
557 date the exemption is granted. Notwithstanding the foregoing,  
558 SHPDA may ~~promulgate~~ adopt rules permitting the Executive  
559 Director of SHPDA to grant one extension not to exceed  
560 ~~twelve~~ 12 months upon a showing of substantial progress.



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561 Notwithstanding the foregoing, any exemption granted by the  
562 SHPDA prior to April 10, 1995, for facilities which have  
563 agreed to the provisions of the June 21, 1995 consent decree,  
564 is ratified and confirmed and shall be deemed to have been  
565 granted in accordance with this subsection. In addition, any  
566 facility which was granted an exemption by the SHPDA prior to  
567 April 10, 1995, is ratified and confirmed and shall be deemed  
568 to have been approved as of the latter of the actual date  
569 approved or March 3, 1995, and to have been granted in  
570 accordance with this subsection.

571 b. A determination of whether the increase in beds is  
572 exempt from review under this section shall be made by the  
573 Executive Director of SHPDA upon the filing of an application  
574 requesting the determination, on the form or forms prescribed  
575 by the CON Review Board, together with a fee in an amount to  
576 be determined by the review board in accordance with Section  
577 22-21-271(a). The SHPDA shall ~~promulgate~~adopt rules affording  
578 an applicant pursuant to this subsection a right to appeal  
579 adverse rulings.

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

584 d. The provisions of this section shall automatically  
585 terminate and become ~~null and~~ void on December 31, 2005,  
586 unless a bill to continue or reestablish the provisions of  
587 this section shall be passed by both houses of the Legislature  
588 and enacted into law.



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589           ~~(f)~~ (h) Notwithstanding all other provisions of this  
590 article to the contrary, an existing home health agency may  
591 accept referrals of patients from outside its Medicare  
592 certified service area without obtaining a certificate of  
593 need, provided all of the following conditions are met:

594           (1) The county of the referral is contiguous to a  
595 county for which the home health agency holds a certificate of  
596 need or an exemption granted pursuant to ~~provisions of~~ Section  
597 22-21-263.

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

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

603           The home health agency shall notify the SHPDA that it  
604 has begun accepting referrals from a county contiguous to its  
605 service area within 14 days of the receipt of the first  
606 referral from the contiguous county. No notice to the SHPDA  
607 shall be required related to subsequent referrals in the same  
608 contiguous county. The SHPDA shall take steps to provide for  
609 the inclusion of statistical information relating to the  
610 service to referrals outside the Medicare certified service  
611 area in its annual statistical reports. The SHPDA may impose,  
612 by rule, a reasonable charge upon home health agencies  
613 accepting such referrals to cover the additional cost of  
614 gathering and processing the information.

615           ~~(g)~~ (i) Notwithstanding ~~all any~~ other ~~provisions~~ provision  
616 of this article to the contrary, the replacement, including



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617 relocation in the same county, of an existing acute care  
618 hospital by the construction of a new digital hospital shall  
619 be exempt from certificate of need review provided the  
620 hospital meets all of the following:

621 (1) The digital hospital design incorporates a fully  
622 automated, centralized, digital system to integrate all  
623 current and future medical technologies with capabilities for  
624 all systems to interface in a comprehensive medical record.  
625 The integration of medical technology shall include, but not  
626 be limited to, all patient medical records, diagnostic images,  
627 diagnostic reports, laboratory results, pharmacy data,  
628 pharmacological interactions, contraindications, surgical  
629 reports, surgical streaming video, pathology reports, unique  
630 patient identification, voice activated transcription,  
631 wireless applications, automated billing with electronic  
632 transmission capability, and electronic procurement systems.

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

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

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

644 (5) The digital hospital shall have a minimum project





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645 cost of one hundred million dollars (\$100,000,000) to include  
646 design, systems, property, buildings, equipment, and  
647 electronic software development.

648 (6) The construction and design of the facility shall  
649 utilize technology and materials for patient flow to limit  
650 general public contact with patient care areas,  
651 ~~healthcare~~health care workers, and hazardous materials to  
652 reduce the potential for cross-contamination and resulting  
653 direct medical costs.

654 (7) The digital hospital environment shall be energy  
655 efficient, cost effective, and clinically designed to produce  
656 the most favorable environment.

657 (8) The digital hospital shall meet all of the  
658 following conditions:

659 a. Operate as an acute care hospital.

660 b. Replace an existing acute care hospital located in  
661 the same county as the digital hospital.

662 c. Be licensed for no more than the same number of  
663 hospital beds and for the same bed categories as the existing  
664 acute care hospital to be replaced by the digital hospital,  
665 unless otherwise approved by the Certificate of Need Review  
666 Board through issuance of a certificate of need.

667 d. Shall not exceed the same scope of health services,  
668 including the same amount of diagnostic or therapeutic major  
669 medical equipment, as the existing acute care hospital to be  
670 replaced by the digital hospital, unless otherwise approved by  
671 the SHPDA approval process.

672 e. Shall not exceed the number of inpatient and



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673 outpatient surgical suites as contained in the existing acute  
674 care hospital to be replaced by the digital hospital, unless  
675 otherwise approved by the SHPDA approval process.

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

681 (10) Any presently reviewable health service which is  
682 proposed to be offered by the digital hospital which was not  
683 offered on a regular basis within the preceding  
684 ~~twelve-month~~12-month period in or through the existing acute  
685 care hospital to be replaced by the digital hospital shall be  
686 subject to Certificate of Need Review Board approval through  
687 issuance of a certificate of need.

688 (11) The only digital hospital exempt from certificate  
689 of need review shall be the first digital hospital developed  
690 in the state, and the digital hospital shall be located in a  
691 county where there is located an accredited medical school and  
692 teaching facility and not less than 3,000 licensed general  
693 hospital beds, and construction shall be commenced within one  
694 year from the issuance of a certificate of need by SHPDA.

695 (12) A determination whether the construction of a  
696 digital hospital is exempt from review under this subsection  
697 shall be made by the Executive Director of the SHPDA, upon the  
698 filing of an application requesting the determination, on the  
699 forms acceptable to the Executive Director of SHPDA together  
700 with an application fee as provided in Section 22-21-271. If



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701 it is determined that the replacement facility is not  
702 reviewable pursuant to this section, SHPDA shall notify the  
703 applicant in writing that the application is exempt from  
704 certificate of need review and shall issue a certificate of  
705 need. The applicant ~~shall have a right of~~may appeal ~~from~~ any  
706 adverse ruling denying exemption, and the SHPDA shall  
707 ~~promulgate~~adopt rules affording an applicant a right to appeal  
708 adverse rulings pursuant to this subsection.

709 (13) The provisions of this subsection shall  
710 automatically terminate and become ~~null and~~ void upon the  
711 issuance of the first certificate of need for the construction  
712 and operation of a digital replacement hospital as herein  
713 provided or on December 31, 2005, whichever first occurs,  
714 unless a bill to continue or reestablish the provisions of  
715 this subsection shall be passed by both houses of the  
716 Legislature and enacted into law.

717 (j) Notwithstanding any other provision of this article  
718 to the contrary, the acquisition, construction, operation, or  
719 furnishing of a new institutional health service that provides  
720 any of the following shall be exempt from certificate of need  
721 review:

722 (1) Obstetric care, whether to be rendered in a  
723 freestanding birth center or in a maternity ward in any  
724 existing hospital.

725 (2) A neonatal intensive care unit.

726 (3) Mental health services as defined by Section  
727 22-56-2, regardless of whether the services are rendered in a  
728 freestanding facility or unit within an existing hospital on



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729 an inpatient or outpatient basis, including a designated  
730 mental health facility as defined by Section 22-52-1.1."

731 Section 2. This act shall become effective on October  
732 1, 2025.