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1 SB82
2 TBWAC91-1
3 By Senators Stutts, Orr
4 RFD: Healthcare
5 First Read: 13-Jan-26



4 SYNOPSIS:

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

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

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

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

22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 Relating to the Certificate of Need Program; to amend
27 Sections 22-4-32, 22-21-260, 22-21-263, 22-21-265, and
28 22-21-271, Code of Alabama 1975; and to repeal Section



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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§22-4-32

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

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

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



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~~(3)~~ (4) HEALTH CARE REPORTS. The written reports to the SHPDA which are required to be submitted by this article.

~~(4)~~ (3) HEALTH CARE INFORMATION AND DATA ADVISORY COUNCIL. The body created by this article which is charged with advising and participating in the writing of rules necessary to implement this article and reviewing reports prior to dissemination by the SHPDA.

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

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

"§22-21-260

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

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

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

b. Any transfer of title or rights as a result of the



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foreclosure, or conveyance or transfer in lieu of the
foreclosure, of any such mortgage, deed of trust, security
agreement, or similar financing instrument, ~~nor shall it mean~~
~~or include any; or~~

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

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

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

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



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

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

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

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

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

a. Any executed, enforceable, unconditional written agreement or contract not subject to unilateral cancellation for the acquisition or construction of a health care facility



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or purchase of equipment therefor.

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

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

~~(6)~~ (7) HEALTH CARE FACILITY. General and specialized hospitals, including tuberculosis, psychiatric, long-term care, and other types of hospitals, and related facilities such as, laboratories, out-patient clinics, and central service facilities operated in connection with hospitals; skilled nursing facilities; intermediate care facilities; skilled or intermediate care units operated in veterans' nursing homes and veterans' homes, owned or operated by the State Department of ~~Veterans'~~ Veterans Affairs, as these terms are described in Chapter 5A, ~~+~~ commencing with Section 31-5A-1~~+~~, + of Title 31, rehabilitation centers; public health centers; facilities for surgical treatment of patients not requiring hospitalization; kidney disease treatment centers, including free-standing hemodialysis units; community mental health centers and related facilities; alcohol and drug abuse facilities; facilities for the developmentally disabled; hospice service providers; and home health agencies and health maintenance organizations. The term ~~health care facility~~ ~~shall~~ does not include the offices of private physicians or dentists, whether for individual or group practices and



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regardless of ownership, or Christian Science sanatoriums operated or listed and certified by the First Church of Christ, Scientist, Boston, Massachusetts, or a veterans' nursing home or veterans' home owned or operated by the State Department of ~~Veterans'~~Veterans Affairs, not to exceed 150 beds to be built in Bay Minette, Alabama, and a veterans' nursing home or veterans' home owned or operated by the State Department of ~~Veterans'~~Veterans Affairs not to exceed 150 beds to be built in Huntsville, Alabama, for which applications for federal funds under federal law are being considered by the U.S. Department of ~~Veterans'~~Veterans Affairs prior to March 18, 1993.

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

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

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

~~(9.1)~~ (11) MAJOR MEDICAL EQUIPMENT. Medical clinical



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equipment intended for use in the diagnosis or treatment of medical conditions, which is used to provide institutional health services of a health care facility which are subject to review, and which expenditure exceeds the thresholds referenced in this section and in Section 22-21-263.

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

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

~~(12) RURAL HEALTH CARE PROVIDER/APPLICANT/HOSPITAL. A provider or applicant or hospital which is designated by the United States government Health Care Financing Administration as rural~~ (15) RURAL AREA. Any area in the State of Alabama which is located outside of a metropolitan statistical area that is listed in the Office of Management and Budget Bulletin No.20-01 dated March 6, 2020.



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

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

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

~~(14)~~ (17) STATE HEALTH PLANNING AND DEVELOPMENT AGENCY ~~(SHPDA)~~ or STATE AGENCY or SHPDA. An agency of the State of Alabama which is designated by the Governor as the sole State Health Planning and Development Agency, which shall consist of



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three consumers, three providers, and three representatives of the Governor who all shall serve staggered terms and all be appointed by the Governor. ~~Where used in this article, the terms, "state agency," and the "SHPDA," shall be synonymous and may be used interchangeably.~~

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

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

"§22-21-263

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

(1) The construction, development, acquisition through lease or purchase, or other establishment of a new health care



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facility or health maintenance organization. A transaction involving the sale, lease, or other transfer or change of control of an existing health care facility, existing health maintenance organization, or existing institutional health service is not subject to certificate of need review or approval under this article unless the transaction also involves implementing one or more of the new institutional health services described in subdivision (2), (3), or (4). ~~The two immediately preceding sentences are applicable to all transactions occurring on or after July 30, 1979.~~

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

(2) Any expenditure by or on behalf of a health care facility or health maintenance organization which, under generally accepted accounting principles consistently applied, is a capital expenditure in excess of two million dollars (\$2,000,000) indexed annually for inflation for major medical equipment; in excess of eight hundred thousand dollars (\$800,000) for new annual operating costs indexed annually for inflation; and in excess of four million dollars (\$4,000,000) indexed annually for inflation for any other capital expenditure by or on behalf of a health care facility or a health maintenance organization. The index referenced in this subdivision shall be the Consumer Price Index Market Basket Professional Medical Services index as published by the U.S.



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Department of Labor, Bureau of Labor Statistics. The SHPDA shall publish this index information to the general public.

(3) A change in the existing bed capacity of a health care facility or health maintenance organization through the addition of new beds, the relocation of one or more beds from one physical facility to another, or reallocation among services of existing beds through the conversion of one or more beds from one category to another within the following bed categories: general medical surgical, inpatient psychiatric, inpatient/residential alcohol and drug abuse or inpatient rehabilitation beds, or long-term care beds including skilled nursing care, intermediate care, transitional care, and swing beds. Notwithstanding any provision of this subdivision to the contrary, any health care facility or health maintenance organization in which at least 65 percent of the beds are dedicated or used exclusively for acute care services, general medical surgical, or nonspecialized services may reallocate existing beds within the following specialized bed categories: inpatient psychiatric, inpatient/residential alcohol and drug rehabilitation beds, to acute care services, or general medical surgical beds without first obtaining a certificate of need from the SHPDA.

(4) Health services proposed to be offered in or through a health care facility or health maintenance organization, and which were not offered on a regular basis in or through ~~such~~the health care facility or health maintenance organization within the ~~12-month~~12-month period prior to the



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~~(d)~~ (e) For the purposes of this article, and notwithstanding all other provisions of this article to the contrary ~~and notwithstanding any and all provisions of the State Health Plan on September 1, 2003, relating to lithotripsy, magnetic resonance imaging, and positron emission tomography,~~ new institutional health services, ~~which~~ that are subject to this article, shall not include any health services provided by a mobile or fixed-based extracorporeal shock wave lithotripter, mobile or fixed-based magnetic resonance imaging, or positron emission tomography proposed to be offered in or through a health care facility or health maintenance organization. ~~The SHPDA, after consultation with and the advice of the Statewide Health Coordinating Council, in accordance with the Alabama Administrative Procedure Act and within 60 days of September 1, 2003, shall cause the State Health Plan to be amended to repeal and delete all sections of the Alabama State Health Plan relating to mobile and fixed-based lithotripters, mobile and fixed-based magnetic resonance imaging, and positron emission tomography, and cause the amendment and repeal of any other SHPDA rules and regulations inconsistent with this article."~~

"§22-21-265

(a) ~~On or after July 30, 1979, no~~ No person to which this article applies shall acquire, construct, or operate a new institutional health service, as defined in this article, or furnish or offer, or purport to furnish a new institutional health service, as defined in this article, or make an arrangement or commitment for financing the offering of a new



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institutional health service, unless the person shall first obtain from the SHPDA a certificate of need~~therefor.~~, except for the following, which shall not be required to obtain a certificate of need:

(1) Any person who proposes to acquire, construct, operate, furnish, or offer a new institutional health service, to be located in a rural area, or who arranges for or commits to the financing of the same.

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

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

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

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

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

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



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(2) A determination of whether the acquisition of equipment is exempt from review under this section shall be made by the Executive Director of the SHPDA upon the filing of an application requesting the determination, on the form or forms prescribed by the CON Review Board, together with a fee in the amount of 20 percent of the fee provided in Section 22-21-271. If it is determined that the replacement is not reviewable pursuant to this section, the applicant shall be notified in writing that no certificate of need is required. The SHPDA shall define an appeals process.

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

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

(d) The SHPDA shall maintain the Alabama State Health Plan to include separate bed need methodologies for inpatient psychiatric services, inpatient rehabilitation services, and inpatient/residential alcohol and drug abuse services. The



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SHPDA shall utilize these methodologies in considering all certificate of need applications.

(e) Notwithstanding ~~all other provisions~~ any other provision of this article to the contrary, the increase in the number of nursing home beds of a health care facility licensed ~~pursuant to Section 22-21-260(6)~~ as a skilled nursing care facility or an intermediate care facility, but excluding an increase in the bed capacity of an intermediate care facility designated as an ICF-MR by the State ~~Board of~~ Committee on Public Health and operated by the ~~state~~ Department of Mental Health which facilities ~~shall be~~ are governed by the other provisions of this article, ~~shall be~~ are exempt from certificate of need review, provided:

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

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

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



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

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

In calculating the average occupancy for the facility under subdivision (2) ~~of this subsection~~ and for all other skilled and intermediate nursing facilities in the same county under subdivision (3) ~~of this subsection~~, beds previously granted, including beds granted after January 1, 1995, to the facility, and to other skilled or intermediate nursing facilities in the same county as the requesting facility, pursuant to a certificate of need or to this exemption shall be deemed built and available for occupancy as of the date granted regardless of when the beds were placed in service.

The SHPDA shall ~~promulgate regulations~~adopt rules to determine how occupancy shall be calculated for the purpose of this subsection, taking into account certain factors such as, but without limitation, disregarding beds that have not been available for use for the three years ~~next~~ preceding the period for which occupancy is being measured.

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

(7) a. Any exemption to add beds without a certificate of need shall expire and be deemed ~~null and~~ void unless the



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beds are placed in service not less than 12 months after the date the exemption is granted. Notwithstanding the foregoing, the SHPDA may ~~promulgate~~adopt rules permitting the Executive Director of SHPDA to grant one extension not to exceed ~~twelve~~12 months upon a showing of substantial progress. Notwithstanding the foregoing, any exemption granted by the SHPDA prior to April 10, 1995, for facilities which have agreed to the provisions of the June 21, 1995, consent decree, is ratified and confirmed and shall be deemed to have been granted in accordance with this subsection. In addition, any facility which was granted an exemption by the SHPDA prior to April 10, 1995, is ratified and confirmed and shall be deemed to have been approved as of the latter of the actual date approved or March 3, 1995, and to have been granted in accordance with this subsection.

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

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



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

(f) (1) Notwithstanding ~~all other provisions~~ any other provision of this article to the contrary, an existing home health agency may accept referrals of patients from outside its Medicare certified service area without obtaining a certificate of need, provided all of the following conditions are met:

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

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

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

(2) The home health agency shall notify the SHPDA that it has begun accepting referrals from a county contiguous to its service area within 14 days of the receipt of the first referral from the contiguous county. No notice to the SHPDA shall be required related to subsequent referrals in the same contiguous county. The SHPDA shall take steps to provide for the inclusion of statistical information relating to the service to referrals outside the Medicare certified service



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area in its annual statistical reports. The SHPDA may impose, by rule, a reasonable charge upon home health agencies accepting such referrals to cover the additional cost of gathering and processing the information.

(g) Notwithstanding ~~all other provisions~~ any other provision of this article to the contrary, the replacement, including relocation in the same county, of an existing acute care hospital by the construction of a new digital hospital shall be exempt from certificate of need review provided the hospital meets all of the following:

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

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

(3) Medical records shall only be accessed by authorized clinical personnel who are provided access by hospital consoles, physician offices, physician homes, or any



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remote location via unique identification requirements.

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

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

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

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

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

a. Operate as an acute care hospital.

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

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



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

e. Shall not exceed the number of inpatient and outpatient surgical suites as contained in the existing acute care hospital to be replaced by the digital hospital, unless otherwise approved by the SHPDA approval process.

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

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

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



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(12) A determination whether the construction of a digital hospital is exempt from review under this subsection shall be made by the Executive Director of the SHPDA, upon the filing of an application requesting the determination, on the forms acceptable to the Executive Director of the SHPDA together with an application fee as provided in Section 22-21-271. If it is determined that the replacement facility is not reviewable pursuant to this section, the SHPDA shall notify the applicant in writing that the application is exempt from certificate of need review and shall issue a certificate of need. The applicant shall have a right of appeal from any adverse ruling denying exemption and the SHPDA shall ~~promulgate~~adopt rules affording an applicant a right to appeal adverse rulings pursuant to this subsection.

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

"§22-21-271

(a) Each application for a certificate of need shall be accompanied by a fee of one percent of the estimated cost of the proposed cost of the new Institutional Health Service, or a maximum of twelve thousand dollars (\$12,000) (indexed) per application. Provided, that the application fee shall be



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three-fourths of one percent of the estimated cost of the proposed new Institutional Health Service, or a maximum of eight thousand dollars (\$8,000) if the applicant has had an average daily census comprised of 50 percent or more Medicaid patients within the last year prior to the filing of the application ~~and a maximum of six thousand dollars (\$6,000) if a rural hospital applicant has had an average daily census comprised of 30 percent or more Medicaid/Medicare patients within the last year prior to the filing of the application.~~

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

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

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

(d) In addition to all other fees, the SHPDA shall impose a temporary surcharge of two thousand dollars (\$2,000)



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on each certificate of need application and three hundred dollars (\$300) for each reviewability determination to defray expenses incurred in developing and implementing, by January 1, 2014, an online, searchable filing system for filings and orders in administrative proceedings and requests for reviewability or exemption determinations and related agency findings. The surcharge shall automatically terminate on the first day of the ninth month after certification to the CON Review Board by the SHPDA's Executive Director that the online filing system has been successfully implemented.

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

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

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

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

Section 3. This act shall become effective on October 1, 2026.