

**SB82 INTRODUCED**



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



1  
2  
3

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.

20  
21  
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

## SB82 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.



## SB82 INTRODUCED

57           (3) (4) HEALTH CARE REPORTS. The written reports to the  
58 SHPDA which are required to be submitted by this article.

59           (4) (3) HEALTH CARE INFORMATION AND DATA ADVISORY  
60 COUNCIL. The body created by this article which is charged  
61 with advising and participating in the writing of rules  
62 necessary to implement this article and reviewing reports  
63 prior to dissemination by the 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  
78 any act of acquisition. The term "~~acquisition" shall does~~ not  
79 mean or include:

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

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

## SB82 INTRODUCED



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

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

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

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

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



113                   a. Exceeds two million dollars (\$2,000,000) indexed  
114 annually for inflation for major medical equipment; eight  
115 hundred thousand dollars (\$800,000) for new annual operating  
116 costs indexed annually for inflation; four million dollars  
117 (\$4,000,000) indexed annually for inflation for any other  
118 capital expenditure. The index referenced in this paragraph  
119 shall be the Consumer Price Index Market Basket Professional  
120 Medical Services index as published by the U.S. Department of  
121 Labor, Bureau of Labor Statistics. The SHPDA shall publish  
122 this index information to the general public.

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

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

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

136                   ~~(5)~~(6) FIRM COMMITMENT or OBLIGATION. Any of the  
137 following:

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



141 or purchase of equipment therefor.

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

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

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



169 regardless of ownership, or Christian Science sanatoriums  
170 operated or listed and certified by the First Church of  
171 Christ, Scientist, Boston, Massachusetts, or a veterans'  
172 nursing home or veterans' home owned or operated by the State  
173 Department of ~~Veterans'~~Veterans Affairs, not to exceed 150  
174 beds to be built in Bay Minette, Alabama, and a veterans'  
175 nursing home or veterans' home owned or operated by the State  
176 Department of ~~Veterans'~~Veterans Affairs not to exceed 150 beds  
177 to be built in Huntsville, Alabama, for which applications for  
178 federal funds under federal law are being considered by the  
179 U.S. Department of ~~Veterans'~~Veterans Affairs prior to March  
180 18, 1993.

181 ~~(7)~~(8) HEALTH SERVICE AREA. A geographical area  
182 designated by the Governor, as being appropriate for effective  
183 planning and development of health services.

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

192 ~~(9)~~(10) INSTITUTIONAL HEALTH SERVICES. Health services  
193 provided in or through health care facilities or health  
194 maintenance organizations, including the entities in or  
195 through which such services are provided.

196 ~~(9.1)~~(11) MAJOR MEDICAL EQUIPMENT. Medical clinical

## SB82 INTRODUCED



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

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

209 ~~(11)~~ (14) PERSON. Any ~~person~~individual, firm,  
210 partnership, association, joint venture, corporation, limited  
211 liability company, or other legal entity, the State of Alabama  
212 and its political subdivisions or parts thereof, and any  
213 agencies or instrumentalities and any combination of persons  
214 herein specified, but ~~person shall~~the term does not include  
215 the United States or any agency or instrumentality thereof,  
216 except in the case of voluntary submission to the regulations  
217 established by this article.

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



## SB82 INTRODUCED

225           (13)(16) STATE HEALTH PLAN. a. A comprehensive plan  
226       which is prepared triennially and reviewed at least annually  
227       and revised as necessary by the Statewide Health Coordinating  
228       Council, with the assistance of the State Health Planning and  
229       Development Agency, and approved by the Governor.

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

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

249           (14)(17) STATE HEALTH PLANNING AND DEVELOPMENT AGENCY  
250       (SHPDA) or STATE AGENCY or SHPDA. An agency of the State of  
251       Alabama which is designated by the Governor as the sole State  
252       Health Planning and Development Agency, which shall consist of



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

258 ~~(15)~~ (18) STATEWIDE HEALTH COORDINATING COUNCIL. A  
259 council~~s~~ appointed by the Governor~~s~~ established pursuant to  
260 Sections 22-4-7 and 22-4-8 to advise the State Health Planning  
261 and Development Agency on matters relating to health planning  
262 and resource development and to perform other functions as may  
263 be delegated to it, to include an annual review of the State  
264 Health Plan.

265 ~~(16)~~ (13) ~~TO~~ OFFER. When used in connection with health  
266 services, a health care facility or health maintenance  
267 organization that holds itself out as capable of providing, or  
268 as having the means for the provision of, specified health  
269 services."

270 "§22-21-263

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

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

## SB82 INTRODUCED



281 facility or health maintenance organization. A transaction  
282 involving the sale, lease, or other transfer or change of  
283 control of an existing health care facility, existing health  
284 maintenance organization, or existing institutional health  
285 service is not subject to certificate of need review or  
286 approval under this article unless the transaction also  
287 involves implementing one or more of the new institutional  
288 health services described in subdivision (2), (3), or (4).~~The~~  
289 ~~two immediately preceding sentences are applicable to all~~  
290 ~~transactions occurring on or after July 30, 1979.~~  
291 Notwithstanding anything to the contrary in this article,  
292 expenditures incurred in the sale, lease, or other transfer of  
293 an existing health care facility or existing health  
294 maintenance organization or existing institutional health  
295 service shall not be subject to subdivision (2).

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

## SB82 INTRODUCED



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

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

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



## SB82 INTRODUCED

337 time ~~such the~~ services would be offered. Health services, other  
338 than those health services involving long-term care services,  
339 including, without limitation, skilled and intermediate  
340 nursing home care, swing beds services, or transitional care  
341 services, provided directly by ~~acute care hospitals classified~~  
342 ~~as rural by the U.S. Bureau of Census/Office of Management and~~  
343 ~~Budget, United States government Health Care Financing~~  
344 ~~Administration or~~ acute care hospitals with less than 105 beds  
345 that are located over 20 miles from the nearest acute health  
346 care facility located within Alabama shall not be subject to  
347 this subdivision but shall be subject to the other  
348 subdivisions of this subsection. ~~Provided, however, that~~  
349 ~~the~~The exemption from this subdivision ~~herein established~~  
350 shall not apply to home health services provided outside of  
351 the county in which the hospital is located.

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

354 (c) Any new institutional health service, as described  
355 in subsection (a), proposed to be offered or developed in a  
356 rural area on or after October 1, 2026, shall not be subject  
357 to review under this article.

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



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

386           "§22-21-265

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



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

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

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

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

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

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

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

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



421           (2) A determination of whether the acquisition of  
422 equipment is exempt from review under this section shall be  
423 made by the Executive Director of the SHPDA upon the filing of  
424 an application requesting the determination, on the form or  
425 forms prescribed by the CON Review Board, together with a fee  
426 in the amount of 20 percent of the fee provided in Section  
427 22-21-271. If it is determined that the replacement is not  
428 reviewable pursuant to this section, the applicant shall be  
429 notified in writing that no certificate of need is required.  
430 The SHPDA shall define an appeals process.

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

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

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



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

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

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

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

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



## **SB82 INTRODUCED**

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

480 (5) The facility has not been granted an increase of  
481 beds under this exemption within the immediately preceding  
482 24-month period.

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

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

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

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



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

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

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



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

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

544           (1)a. The county of the referral is contiguous to a  
545 county for which the home health agency holds a certificate of  
546 need or an exemption granted pursuant to ~~provisions of~~ Section  
547 22-21-263.

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

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

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



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

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

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

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

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

## SB82 INTRODUCED



589 remote location via unique identification requirements.

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

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

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

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

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

609 a. Operate as an acute care hospital.

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

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



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

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

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

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

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



645           (12) A determination whether the construction of a  
646 digital hospital is exempt from review under this subsection  
647 shall be made by the Executive Director of the SHPDA, upon the  
648 filing of an application requesting the determination, on the  
649 forms acceptable to the Executive Director of the SHPDA  
650 together with an application fee as provided in Section  
651 22-21-271. If it is determined that the replacement facility  
652 is not reviewable pursuant to this section, the SHPDA shall  
653 notify the applicant in writing that the application is exempt  
654 from certificate of need review and shall issue a certificate  
655 of need. The applicant shall have a right of appeal from any  
656 adverse ruling denying exemption and the SHPDA shall  
657 ~~promulgate~~adopt rules affording an applicant a right to appeal  
658 adverse rulings pursuant to this subsection.

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

667           "§22-21-271

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

## SB82 INTRODUCED



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

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

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

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

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



701 on each certificate of need application and three hundred  
702 dollars (\$300) for each reviewability determination to defray  
703 expenses incurred in developing and implementing, by January  
704 1, 2014, an online, searchable filing system for filings and  
705 orders in administrative proceedings and requests for  
706 reviewability or exemption determinations and related agency  
707 findings. The surcharge shall automatically terminate on the  
708 first day of the ninth month after certification to the CON  
709 Review Board by the SHPDA's Executive Director that the online  
710 filing system has been successfully implemented.

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

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

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

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

726 Section 3. This act shall become effective on October  
727 1, 2026.