

Law Office of David E. Belser
Attorneys at Law

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Montgomery, AL 36106
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David E. Belser
dbelser@davidbelserlaw.com

March 29, 2022

Hon. Emily T. Marsal
Executive Director
State Health Planning and Development Agency
100 North Union Street
RSA Union Building, Suite 870
Montgomery, Alabama 36130

RE: Request for Letter of Non-Reviewability for Central Alabama CT Imaging, LLC

Dear Ms. Marsal:

On behalf of Central Alabama CT Imaging, LLC ("CACTI"), I am writing to submit a reviewability request in accordance with the Alabama State Health Planning and Development Agency's ("SHPDA") Certificate of Need ("CON") program rules and regulations. This request seeks approval that the proposed project is exempt from CON review provided to the "offices of private physicians" under Ala. Code § 22-21-260(6) (1975 as amended) (otherwise known as the "physician's office exemption" or "POE").

CACTI is a private radiology physician practice that is wholly owned by Ross W. Barnett, MD. Dr. Barnett is the sole owner, manager and diagnostic radiologist. This practice provides CT (CAT scan) diagnostic imaging services to patients in the Alexander City, Alabama, area. This includes chest CT scans to evaluate for lung cancer or COVID, abdominal CT scans to evaluate for cancer or infection, and brain CT scans to evaluate for stroke or trauma. This private radiology practice serves a vital service to the community, offering a distinct diagnostic modality to patients in the community who might otherwise be unable to afford diagnostic services offered by existing facilities. The proposed services and associated equipment will be used exclusively by the owner or employees of the physicians' practice.

In 2012, the Alabama Supreme Court in *ex parte Sacred Heart Health Systems, Inc.*, 155 So. 3d 980, 988 (Ala. 2012) adopted the following four-part test to be used to determine whether a proposed medical facility or project qualifies for the POE:

1. The proposed services are to be provided, and related equipment used, exclusively by the physicians identified as owners or employees of the physician's practice for the care of their patients.

2. The proposed services are to be provided, and related equipment used, at any office of such physicians.
3. All patient billings related to such services are through, or expressly on behalf of, the physician's practice.
4. The equipment shall not be used for inpatient care, nor by, through, or on behalf of a health care facility.

CACTI will meet the above criteria respectively as follows:

1. All procedures will be performed only by the physician owner or employees of the practice.
2. All procedures will be performed in the office of the practice located at 1080 Airport Drive, Suite B, Alexander City, AL. 35010.
3. All patient billing for the procedures performed will be done through and on behalf of the physicians' practice.
4. At no time will the facility and equipment be used for inpatient care, nor by, through or on behalf of any healthcare facility. The facility will not be leased to or licensed to any person or entity other than the physician owner and its employees.

This letter is also to inform the agency that CACTI and the physician owner are aware of the financial thresholds for CON review, which are: major medical equipment is \$3,165,569; new annual operating cost is \$1,266,226; and other capital expenditures is \$6,331,138.

Based on the information given above, the proposed project should meet the criteria adopted by the Alabama Supreme Court for application of the physician's office exemption. Therefore, CACTI requests SHPDA grant a determination of non-reviewability to CACTI for the uses described above.

An electronic payment for the filing fee in the amount of \$1,000.00 will be made today via the SHPDA online portal.

Please do not hesitate to contact me if you request any further information.

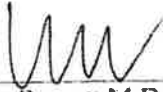
Sincerely,



David E. Belser

Affirmation of requesting party:

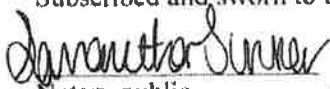
The undersigned, being first duly sworn, hereby makes oath or firms that he, Ross Barnett, MD, the sole owner of Central Alabama CT Imaging, LLC has knowledge of the facts in this notice and request, and to the best of his information, knowledge and belief such facts are true and correct



Ross Barnett M.D.



Subscribed and sworn to before me this 30 day of March 2022.



Notary public

My commission expires: 9/24/2025

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April 13 , 2022

Hon. Emily T. Marsal
Executive Director
State Health Planning and Development Agency
100 North Union Street
RSA Union Building, Suite 870
Montgomery, Alabama 36130

RE: RV2022-022 - Central Alabama CT Imaging, LLC

Dear Ms. Marsal:

On behalf of Central Alabama CT Imaging, LLC ("CACTI"), I am responding to SHPDA's letter of April 5, 2022 requesting additional information about the above referenced matter. I will address each request below:

1.) Central Alabama CT Imaging, LLC will operate as a private radiology physician practice, as outlined by and compliant with CMS guidelines. CACT will only provide CT (Computed Tomography) scan diagnostic imaging at this time. This radiology practice will offer CT diagnostic imaging services to patients that have been referred to Dr. Barnett's radiology practice, CACT. This practice will operate under the same business model and principles as he operates his other radiology practices. CACT and all of his offices are accredited by the American College of Radiology and are credentialed with Medicare as radiology physician practices. The CT scanner installed offers the full diagnostic suite of services to diagnose patients. These diagnostic procedures include chest imaging, abdomen imaging, pelvis imaging, cardiac imaging, spine imaging and brain imaging.

2.) The service area for CACT will be Tallapoosa County, Alabama.

3.) Total cost of project:

Equipment total is \$107,421.60

Construction total is \$12,957.43

Expected 1st year annual operating expenses \$264,000.00

Please let me know if you have additional questions.

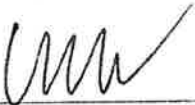
Sincerely,



David E. Belser

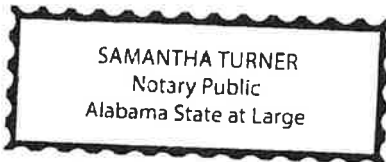
Affirmation of requesting party:

The undersigned, being first duly sworn, hereby makes oath or firms that he, Ross Barnett, MD, the sole owner of Central Alabama CT Imaging, LLC has knowledge of the facts in this notice and request, and to the best of his information, knowledge and belief such facts are true and correct

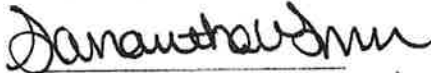


Ross Barnett M.D.

Seal



Subscribed and sworn to before me this 14 day of April, 2022.



Notary public

My commission expires: 9/24/2025

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Attorneys at Law

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David E. Belser
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RV2022-022
RECEIVED
May 05 2022
STATE HEALTH PLANNING AND
DEVELOPMENT AGENCY

May 5, 2022

Ms. Emily Marsal
Executive Director
State Health Planning and Development Agency
RSA Union Building
100 N. Union Street, Suite 870
Montgomery, Alabama 36104
shpda.online@shpda.alabama.gov

Re: RV2022-022, Central Alabama CT Imaging, LLC

Dear Ms. Marsal,

This letter is in response to SHPDA's letter of May 2, 2022 regarding Central Alabama CT Imaging, LLC's (CACTI) reviewability request dated April 14th, 2022 and supplemented on April 5, 2022. Your letter requested additional information regarding the operations of Dr Ross Barnett's radiology practice and the following provides that additional information and clarification.

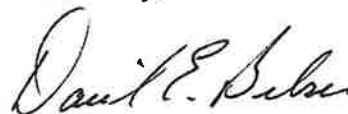
The delivery of radiology services can be rendered and billed in two method according to Medicare/CMS guidelines: as an IDTF or as a radiology physician practice. IDTF (Independent Diagnostic Testing Facility) is the legal structure required for imaging facilities owned by non-radiologists; and radiology physician practice is the legal structure option for those facilities that are owned entirely by radiology physicians. Definition and Performance standards for IDTF can be found at: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/MedicareProviderSupEnroll/downloads/independentdiagnostictestingfacility.pdf>

Dr. Barnett, a Board-Certified radiologist, will own and operate Central Alabama CT Imaging LLC (CACTI) as he does his other seven radiology practice locations, which he owns exclusively. Five of these practices are located within Alabama (Montgomery, Birmingham, Dothan), one in Jackson Mississippi and one in Niceville Florida. Dr. Barnett is also co-owner

with two additional IDTF imaging facilities, one is located in Alexander City, Alabama (Central Alabama Imaging) and the other in Fort Payne, Alabama (Fort Payne Imaging). The IDTF billing structure for these two facilities was set up over 10 years ago by the previous owners and dictated by the fact that these two facilities have additional non-radiology owners. In the case of Alexander City, Central Alabama Imaging is a separate corporation from Central Alabama CT Imaging, with different ownership (including non-radiologists), separate tax ID, separate provider numbers, separate billing numbers, separate accounting and separate operating agreements. Central Alabama Imaging and Central Alabama CT Imaging will operate in the same building owned by Dr. Barnett, but in different suites with different equipment and different staff.

Dr. Barnett will be the sole owner and only employed physician with Central Alabama CT Imaging.

Sincerely,

A handwritten signature in cursive script that reads "David E. Belser".

David E. Belser

RV2022-022
RECEIVED

Jul 12 2022

STATE HEALTH PLANNING AND
DEVELOPMENT AGENCY

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David E. Belser
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July 12, 2022

Hon. Emily T. Marsal
Executive Director
State Health Planning and Development Agency
100 North Union Street
RSA Union Building, Suite 870
Montgomery, Alabama 36130
Shpda.online@shpda.alabama.gov

RE: RV2022-022 - Central Alabama CT Imaging, LLC

Dear Ms. Marsal:

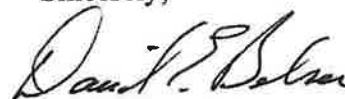
This letter is in response to SHPDA's letter of May 18th, 2022, requesting further clarification of the intent of the pending letter of non-reviewability. As previously discussed, this is a new physician's office offering CT imaging in Dr Ross Barnett's radiology physician's office. The LNR request is specifically made to clarify his practice is not an independent diagnostic testing facility (IDTF, as defined by CMS). Dr Barnett is an owner of an IDTF next door to his radiology practice which currently operates an MRI machine.

The CT imaging unit is in the same building as the IDTF MRI office; however, the CT imaging unit is located in the private physician's practice of Dr Ross Barnett. It is separate and apart from the MRI unit.

In 2016 the attorney for Russell Medical Center opposed the opening of Dr Barnett's CT imaging unit and argued it was an IDTF facility and required a certificate of need. Therefore, it is now Dr Barnett's request that an LNR be issued for the CT imaging unit which Dr Barnett is the sole owner/operator and is the only physician employed at Central Alabama CT Imaging LLC.

Please let me know if you have additional questions.

Sincerely,



David E. Belser