

Mar 14 2024

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

Colin H. Luke  
(205) 226-5717  
colin.luke@hklaw.com

March 14, 2024

**VIA ELECTRONIC FILING**

Hon. Emily T. Marsal  
Executive Director  
State Health Planning & Development Agency  
100 North Union St., Ste. 870  
Montgomery, AL 36104  
shpda.online@shpda.alabama.gov

Re: Request for Reviewability Determination – ECMO Treatment  
USA Health Providence Hospital

Dear Ms. Marsal:

Our firm represents USA Health Providence Hospital (“Providence Hospital”), a general acute care hospital located in Mobile, Alabama, a division of USA Health serving Mobile and Baldwin Counties, Alabama; South Central Mississippi; and Northwest Florida.

The purpose of this letter is to request your determination, pursuant to Section 410-1-7-.02 of the Alabama Certificate of Need Program Rules & Regulations (“Regulations”), that Providence Hospital is not required to obtain a Certificate of Need (“CON”) from the State Health Planning and Development Agency to add extracorporeal membrane oxygenation (“ECMO”) to its existing heart and lung services (the “Project”).

ECMO is a life preserving treatment option for patients with life threatening illnesses of the heart and lungs. Patients with severe infections such as COVID-19, or trauma, heart failure, or lung failure may benefit from ECMO therapy. ECMO technology removes blood from a patient, circulates it through an oxygenator to add oxygen and remove carbon dioxide and returns the oxygenated blood to the patient where it can be pumped throughout the patient’s body. This process allows the patient’s heart and lungs to rest and recover from injury.

No healthcare providers in Mobile or Baldwin County currently provide this life-saving treatment option. Currently, area patients seeking to receive ECMO treatment are forced to travel out-of-state or to Birmingham to receive this advanced therapy. As the region’s only academic medical system along the upper Gulf Coast, USA Health prides itself on offering advanced therapies like ECMO, and understands the need to offer this important treatment option to area patients.

Hon. Emily T. Marsal

March 14, 2024

Page 2

This Project will not involve any new service and will not exceed any of the current CON expenditure thresholds specified in Section 410-1-2-.07 of the Regulations: of \$3,322,582.00 for major medical equipment; of \$1,327,734.00 for new annual operating costs; or of \$6,638,679.00 for total capital expenditures. Providence Hospital represents that the proposed Project will not exceed the following approximate costs:

**Total Major Medical Equipment Cost:**     \$ 425,000

**Total New Annual Operating Cost:**         \$ 1,300,000

**Other Total Capital Expenditures:**         \$ 25,000

This change will not involve the addition of inpatient beds or the conversion of one classification of beds into another classification of beds. Further, this change will not result in the provision of any new institutional health services, but will merely expand the treatment options for Providence Hospital's existing heart and lung treatment options.

In accordance with Regulation 410-1-7-.02, the filing fee of \$1,000 for this Letter of Non-Reviewability has been paid via the SHPDA electronic payment portal.

Accordingly, based on the above, we respectfully request your determination that Providence Hospital is not required to obtain a CON in order to add ECMO treatment to its existing heart and lung program at Providence Hospital. We appreciate your consideration of this important request. Please do not hesitate to contact me (contact information above) or Todd Kennedy, Administrator of Providence Hospital, at (251) 266-1667 or [todd.s.kennedy@health.southalabama.edu](mailto:todd.s.kennedy@health.southalabama.edu) should you need further information or have any questions.

Sincerely,



Colin H. Luke

cc: Todd Kennedy, Administrator, Providence Hospital

Hon. Emily T. Marsal  
March 14, 2024  
Page 3

Affirmation of Requesting Party:

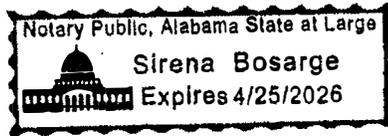
The undersigned, being first duly sworn, hereby makes oath or affirms that s/he is the Administrator of Providence Hospital, has knowledge of the facts in this request, and to the best of his/her information, knowledge and belief, such facts are true and correct.

Affiant: Todd S. Kennedy  
Todd S. Kennedy

SUBSCRIBED AND SWORN to before me this 14<sup>TH</sup> day of MARCH, 2024.

Sirena Bosarge  
Notary Public  
My commission expires: 4/25/26

(SEAL)



# Holland & Knight

1901 Sixth Avenue North, Suite 1400 | Birmingham, AL 35203 | T 205.226.5700 | F 205.214.8787  
Holland & Knight LLP | www.hklaw.com

RV2024-018

RECEIVED

Mar. 20, 2024

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

Colin H. Luke  
+1 205-226-5717  
Colin.Luke@hklaw.com

March 20, 2024

**VIA EMAIL (shpda.online@shpda.alabama.gov)**

Hon. Emily T. Marsal, Executive Director  
State Health Planning and Development Agency  
100 North Union Street, Ste. 870  
Montgomery, Alabama 36104

**Re: Response to March 19, 2024 Request for Additional Information  
RV2024-018 – USA Health Providence Hospital Reviewability Determination  
Request**

Dear Ms. Marsal,

On behalf of USA Health Providence Hospital, the requester in Reviewability Determination Request RV2024-018 (the “Request”), and in response to your March 19, 2024 correspondence requesting additional information on the Request, below please find the specific request for additional information and the Requester’s response.

- **Provide a disclosure of financial interests in the entity requesting the reviewability determination held by any other healthcare facilities or groups.**

USA Health Providence Hospital (the “Hospital”) is 100% owned by USA Health Providence Hospital, LLC, a wholly-owned subsidiary of the University of South Alabama Health Care Authority (the “Authority”). The Authority is an affiliate of the University of South Alabama.

Thank you for your prompt attention to this important Request. Should you have any other questions or need any additional information, please do not hesitate to contact me.

Best regards,



Colin H. Luke

CHL:rrl