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RV2026-009

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STATE HEALTH PLANNING AND
DEVELOPMENT AGENCY

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December 10, 2025

Via Electronic Filing To: shpda.online@shpda.alabama.gov

State Health Planning & Development Agency

Attn: Executive Director Emily T. Marsal

P.O. Box 303025

Montgomery, Alabama 36130

RE: Nuclear Care Partners, LLC – Request for Reviewability Determination

Dear Ms. Marsal:

We write to you as our client, Nuclear Care Partners, LLC (“NCP”), is hereby requesting a determination from the State of Alabama’s State Health Planning & Development Agency (“SHPDA”) that its proposed offering of health services is not subject to Certificate of Need (“CON”) review under Ala. Code § 22-21-260, *et seq.*, or subject to compliance with the CON Rules. To assist with your determination as to whether NCP is exempt, we submit the following information regarding NCP’s operations and its anticipated operations within the State of Alabama.

NCP provides no cost health care services for former Department of Energy (“DOE”) workers who have been diagnosed with work related illnesses and qualify for in-home medical benefits. NCP primarily serves individuals who qualify for benefits under the Energy Employees Occupational Illness Compensation Program Act (hereinafter “EEOICPA”), but the company is also approved to provide no cost health care services through the Federal Employees Compensation Act, the federal Black Lung Program, and the Radiation Exposure Compensation Act.

The EEOICPA is a federal program administered by the Department of Labor (“DOL”) through the Division of Energy Employees Occupational Illness Compensation, which is part of the Office of Worker’s Compensation Programs. The EEOICPA provides benefits to former DOE employees, or to people who worked for companies that contracted with the DOE, who have developed certain fatal illnesses resulting from their exposure to toxic substances in the course of their employment. The illnesses that entitle former DOE employees to benefits are identified by the EEOICPA.

Notably, NCP only provides services to individuals who qualify for care through the above named DOL programs and NCP primarily cares for individuals who qualify for benefits through the EEOICPA. Qualifying individuals constitute a very limited portion of the population, and NCP is one of only a few companies that cater exclusively to DOE employees. NCP does not treat or provide services to any other individuals, and it does not receive payment from private health insurers or Medicare/Medicaid. NCP only provides services to these former DOE employees and contractors, and NCP is paid by the DOL for the services it provides.

As a DOL provider of EEOICPA benefits, NCP is subject to strict federal regulation and oversight. Once a former DOE employee is determined to qualify for benefits, and the patient decides to utilize NCP's services, NCP becomes responsible for communicating all patient information to the DOL and ensuring that the level of care complies with federal regulations. NCP works with the patient's physician to tailor a plan of care that fits the patient's needs, but NCP is neither affiliated with any physicians, nor is the care the company provides directed by the patient's physician. Rather, NCP utilizes case managers, registered nurses, certified nursing assistants, and often a patient's own family members to ensure the patient receives the highest quality of care. The DOL will only reimburse NCP for patient care that the DOL has pre-approved, and therefore, the role of NCP's case managers is crucial, as they are responsible for ensuring that the care patients are provided with is consistent with the patient's DOL plan of care.

Previously, NCP requested a determination from the SHPDA on April 7, 2025, that its then-proposed offering of health care services at no cost to patients in Montgomery and St. Clair counties is not subject to CON review. In particular, NCP had a few patients that were considering moving to Alabama to be closer to family, and NCP did not intend to market to additional patients at the time. On June 6, 2025, the SHPDA issued its response determining that NCP did not require a CON to operate in Alabama under the circumstances that existed at the time. Subsequently, NCP began providing its services to one patient in St. Clair County and one patient in Montgomery County.

In addition, NCP requested a second determination on August 29, 2025, as to whether it is subject to Alabama's CON requirements as an EEOICPA-eligible individual living in Cullman County, Alabama had expressed their interest in using NCP's services. NCP had not contacted this individual or prompted their communication to NCP, and NCP did not market or advertise its services to this individual or any others in Alabama, apart from its website that anyone can freely visit. This patient was without a healthcare provider and preferred to have NCP provide services to them. On October 23, 2025, the SHPDA issued its response determining that NCP did not require a CON to operate in Alabama under the circumstances that existed at the time. Consequently, NCP began also providing its services to one additional patient in Cullman County, Alabama. Currently, NCP still only provides its services within the State of Alabama to these three individuals, and it does not market its services within the State of Alabama.

NCP is currently seeking a determination as to whether it is subject to Alabama's CON requirements based on its proposed plan to offer, market, and provide its services to additional EEOICPA-eligible individuals within all counties of the State of Alabama. NCP does not have any particular individuals that it intends to provide services to within the State of Alabama, but it

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intends to market its services to prospective patients within the State of Alabama, and to offer and provide its services in all counties within the State of Alabama. NCP does not intend to lease, purchase, or use any office, building, or facility within the State of Alabama, including any health facility. All of NCP's healthcare services would be provided by NCP employees in the individuals' own homes.

That said, the following information is being provided as part of this Request:

1. Name of company seeking the reviewability determination: Nuclear Care Partners, LLC

2. Address and contact information for the authorized company representative seeking the determination: Patti Kendall, Vice President of Clinical Compliance, 631 24 ½ Road, Suite C, Grand Junction, Colorado 81505; (970) 244-0900; pkendall@nuclearcarepartners.com

3. Service areas for the proposed service/equipment: the State of Alabama, including Autauga County, Baldwin County, Barbour County, Bibb County, Blount County, Bullock County, Butler County, Calhoun County, Chambers County, Cherokee County, Chilton County, Choctaw County, Clarke County, Clay County, Cleburne County, Coffee County, Colbert County, Conecuh County, Coosa County, Covington County, Crenshaw County, Cullman County, Dale County, Dallas County, DeKalb County, Elmore County, Escambia County, Etowah County, Fayette County, Franklin County, Geneva County, Greene County, Hale County, Henry County, Houston County, Jackson County, Jefferson County, Lamar County, Lauderdale County, Lawrence County, Lee County, Limestone County, Lowndes County, Macon County, Madison County, Marengo County, Marion County, Marshall County, Mobile County, Monroe County, Montgomery County, Morgan County, Perry County, Pickens County, Pike County, Randolph County, Russell County, St. Clair County, Shelby County, Sumter County, Talladega County, Tallapoosa County, Tuscaloosa County, Walker County, Washington County, Wilcox County, and Winston County.

4. Any new/additional services to be provided under the proposed project: NCP does not intend to provide any new or different services compared to what it is currently offering its patients within the State of Alabama or in the other states it provides services to former DOE employees and contractors in.

5. Approximated costs of the proposed project for:

a. Equipment: None.

b. First year annual operating costs: Limited to payroll, insurance, and marketing expenses. Estimated yearly total payroll is \$108,740 - \$284,420. Estimated annual insurance costs are \$400-\$900. Estimated annual marketing costs are \$7,000.

c. Capital costs, to include:

i. Leases: None.

ii. Land/Building costs: None.

iii. Construction costs: None.

6. Disclosure of financial interests in the entity requesting the reviewability determination held by any other healthcare facilities or groups: NCP is wholly owned by NCP Investor, Inc. However, NCP Investor, Inc. is not a healthcare facility, a healthcare group, or a health maintenance organization.

7. Affirmation of Requesting Party is provided below.

With that being said, pursuant to Ala. Admin. Code § 410-1-7-.02, NCP is requesting a determination that its proposed operations or project is not subject to CON review and compliance by the SHPDA based on the following:

1. NCP would not be considered a “new institutional health service” that is subject to CON review as it does not provide health services “in or through health care facilities or health maintenance organizations.” *See* Ala. Code §§ 22-21-260(9); 22-21-263; Ala. Admin. Code r. 410-1-4-.01. NCP does not provide any services in or through a health care facility, only in the patient’s home. NCP is not a “health care facility” as that term is defined. *See* Ala. Code § 22-21-260(6). NCP would not fall under the definition of “home health agency” as a “health care facility” because its services are not provided on an intermittent basis, and further, visits and procedures are performed on a patient according to their DOL-approved plan of care, not only “upon a physician’s written order.” *See* Ala. Admin. Code § 410-2-4-.07. As NCP’s services are not ordered by a physician, it is also not a “skilled nursing facility.” *See* Ala. Admin. Code § 660-2-4-.28. Thus, NCP does not provide health services in or through a health care facility, and NCP is not establishing a new health care facility. *See* Ala. Admin. Code § 410-1-4-.01(1)(a).

2. NCP is not constructing, developing, or acquiring a new health care facility or health maintenance organization through lease, purchase, or otherwise. *See* Ala. Admin. Code § 410-1-4-.01(1)(a).

3. Pursuant to ALA. ADMIN. CODE r. 410-1-4-.01, effective as of October 1, 2025, the 2026 CON threshold amounts are as follows: \$3,436,510 for major medical equipment, \$1,373,260 for new annual operating costs, and \$6,866,313 for other capital expenditures. NCP’s proposal would not meet or exceed these thresholds. NCP’s proposal does not entail any costs for equipment, major medical equipment, or other capital expenditures involving construction, leasing, or land/building costs. Further, NCP’s total anticipated annual operating costs are estimated to be between \$116,140 and \$292,320. *See id.*

4. NCP’s intended operations would not involve the addition, relocation, or reallocation of beds since it only cares for patients in their own homes. *See* Ala. Admin. Code § 410-1-4-.01(1)(c).

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5. NCP will not be purchasing any new major medical equipment. *See* Ala. Admin. Code § 410-1-4-.01(1)(e).

6. Within the State of Alabama, NCP only provides healthcare services to three (3) patients currently.

Based on the foregoing, NCP respectfully requests that the SHPDA issue a determination of non-reviewability with respect to NCP's intended operations within the State of Alabama. Please do not hesitate to contact us if you have any questions or would like to discuss this matter in further detail. We are submitting the applicable \$1000 filing fee contemporaneously with the filing of this request via the SHPDA electronic payment portal.

Sincerely,

WEGENER LANE & EVANS, P.C.

/s/ Dalen B. Porter

Benjamin M. Wegener, Esq.
Dalen B. Porter, Esq.

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Affirmation of Requesting Party:

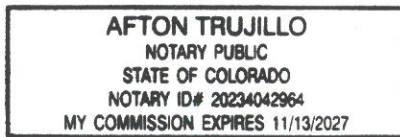
The undersigned, being first duly sworn, hereby make oath or affirm that she is the Vice President of Clinical Compliance with NCP, has knowledge of the facts in this request, and to the best of her information, knowledge and belief, such facts are true and correct.

Affiant Patty Spendall

SUBSCRIBED AND SWORN to before me this 10th day of
December 2025.

Afton Trujillo
Notary Public

My commission expires: 11/13/2027



Acknowledgment: Individual acting upon his/her own right

State of Colorado

County of Mesa

The foregoing instrument, state Health Planning & Development Agency, was acknowledged
before me on 12/10/2025 (date), by Patti Kendall

(person acknowledging)

Patti Kendall

(signature of person acknowledging)

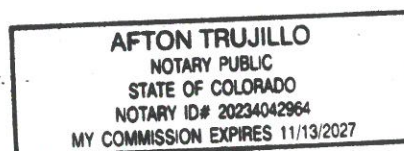
VP Compliance

(title, rank, or serial number, if any)

I have identified the person executing this document by:

(check one)

- ☒ By my own personal knowledge, or
☒ With the identifying documentation COLORADO Drivers License, or
☐ Through _____ as a Credible Witness



Afton Trujillo
Notary Signature

Afton Trujillo
Notary's Printed/Typed Name

11/13/2027
My commission expires