



Kelli Fleming  
kfleming@burr.com  
Direct Dial: (205) 458-5429  
Direct Fax: (205) 244-5762

RV2026-017  
**RECEIVED**  
**Jun 16 2026**  
STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

420 North 20th Street  
Suite 3400  
Birmingham, AL 35203

Office (205) 251-3000  
Fax (205) 458-5100

BURR.COM

June 16, 2026

**VIA EMAIL**

Ms. Emily Marsal  
Executive Director  
State Health Planning and Development Agency  
100 North Union Street, Suite 870  
Montgomery, Alabama 36104  
[shpda.online@shpda.alabama.gov](mailto:shpda.online@shpda.alabama.gov)

**Re: Request for Determination of Non-Reviewability  
Baptist Health Brookwood Hospital (073-6530175)  
Jefferson County, Alabama**

Dear Ms. Marsal:

This firm represents Baptist Health Brookwood Hospital (“Brookwood”), an acute care hospital located in Birmingham, Alabama that serves patients in Jefferson County and surrounding areas.<sup>1</sup> Brookwood’s defined service area is Jefferson County, Alabama. Brookwood is not owned by any other Alabama licensed healthcare facility, and is operated as part of the Brookwood Baptist Health System (a joint venture between Baptist Health System and Orlando Health).

Pursuant to Alabama Certificate of Need Program Rules and Regulations (“CON Rules(s)”) § 410-1-7-.02, Brookwood requests a determination that re-purposing an existing CON-authorized mixed-use operating room (“OR”) to an OR in which open-heart procedures may be performed, all under applicable thresholds, is not subject to certificate of need (“CON”) review under *Ala. Code* § 22-21-260 *et. seq.*, and the CON Rules. Pursuant to CON Rule § 410-1-7-.02, a \$1200.00 filing fee is being paid to the Alabama State Health Planning and Development Agency (“SHPDA”) via the online payment portal. To assist with your determination, we submit the following information:

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<sup>1</sup> Contact information for Brookwood is as follows: Baptist Health Brookwood Hospital, 2010 Brookwood Medical Center Dr., Homewood, Alabama 35209, Attn: Sarah Gilbert, CEO, (205) 877-1000.

Brookwood currently operates an open-heart unit and utilizes two (2) ORs to provide open-heart procedures at its facility within its existing open-heart unit. Brookwood received authority to provide open-heart services in 1975 by way of an Assurance of Need. See Attachment A. All open-heart services are provided on behalf of Brookwood.

Due to anticipated increased demands for open-heart surgery, Brookwood desires to re-purpose a mixed-use OR to allow for the performance of open-heart procedures. The open-heart procedures will be performed in an existing OR. Based on the most recent annual report filed by Brookwood, Brookwood has 37 ORs, 2 of which are used to perform open-heart procedures and 35 of which are reported as mixed-use. Following the re-purpose, Brookwood will still have 37 ORs, 3 of which will be used to perform open-heart procedures and 34 of which will be reported as mixed-use. Therefore, an additional OR is not being added at Brookwood as part of this project. Following the re-purpose, Brookwood anticipates that it will continue to perform at least 200 open-heart procedures per year to maintain quality of patient care and to minimize the unnecessary duplication of health resources.

No new health services will be provided as a result of this project, as Brookwood currently provides open-heart procedures at its facility within its open-heart unit. Thus, Brookwood is not opening a new open-heart unit/facility or adding an open-heart unit/facility. Instead, Brookwood is simply re-purposing an existing OR to an OR in which open-heart procedures may be performed.

In connection with the entire project, the total cost of construction is anticipated to be approximately \$0.0; the total cost for the purchase of major medical equipment is anticipated to be approximately \$750,000.00; other capital costs are anticipated to be less than approximately \$100,000.00; and new first year annual operating costs are estimated to be less than approximately \$1,140,000.00; none of which will exceed the capital expenditure thresholds set forth in *Ala. Code* § 22-21-263 and CON Rule § 410-1-4-.01 (as adjusted in SHPDA's Memorandum dated September 16, 2025). Thus, the project will be less than the capital expenditure thresholds set forth in *Ala. Code* § 22-21-263 and CON Rule § 410-1-4-.01 (as adjusted in SHPDA's Memorandum dated September 16, 2025). All expenditures will be incurred by Brookwood.

The project will not involve the addition of inpatient beds or the conversion of beds from one classification to another as described in CON Rule § 410-1-4-.01.

The project will not involve a change in ownership of Brookwood.


Consequently, the proposal does not constitute a "new institutional health service" subject to CON Review, as the proposal does not include:

- (1) the construction, development, acquisition through lease or purchase or other establishment of a new health care facility or health maintenance organization;

- (2) any expenditure by or on behalf of a health care facility which, as a capital expenditure, exceeds the CON statutory threshold for major medical equipment, new annual operating costs, or any other capital expenditure by or on behalf of a health care facility;
- (3) any change in the existing licensed bed capacity of a health care facility;
- (4) any health service which is proposed to be offered in or through a health care facility which was not offered on a regular basis in or through a health care facility within the preceding 12-month period; or
- (5) any other reviewable event under the existing CON Rules.

Accordingly, based on the above, Brookwood requests your determination that the aforementioned project is not subject to CON review under *Ala. Code § 22-21-260 et seq.* and the CON Rules, and is permissible without further filings or requests to SHPDA. We appreciate your response to this matter, and please do not hesitate to contact us should you need additional information.

Sincerely,

  
Kelli Fleming

KCF/ks

cc: Sarah Gilbert, Brookwood CEO

**Affirmation of Requesting Party:**

The undersigned, being first duly sworn, hereby make oath or affirm that she is the CEO of Baptist Health Brookwood Hospital, 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: Melba Gilbert (SEAL)

SUBSCRIBED AND SWORN to before me this 16 day of June, 2026.

Tammy L. Singletary  
Notary Public

My Commission Expires: 4.18.2028



# ATTACHMENT A

HFC-503  
(03-74)

ALABAMA STATE BOARD OF HEALTH  
DEPARTMENT OF PUBLIC HEALTH  
BUREAU OF HEALTH FACILITIES CONSTRUCTION

ASSURANCE OF NEED FOR HOSPITALS  
AND RELATED HEALTH FACILITIES

I. IDENTIFICATION		
1. Assurance of Need Number 487-H	2. Date Issued October 8, 1975	3. Termination Date October 7, 1976
4. Project Number AL-5129	5. Name of Facility Brookwood Medical Center	
6. Service Area Jefferson County	7. Location of Facility Birmingham, Alabama	
8. Type of Facility General Hospital	9. Number of Beds 0	10. Estimated Cost 50,000
11. Services to be Provided Open Heart Surgery		

II. ASSURANCE

In accordance with the provisions of Title XI, Section 1122 of the Social Security Act entitled "Limitation of Federal Participation for Capital Expenditures" as provided by Section 221 of PL 92-603 and applicable portions of Title VI of the Public Health Service Act, the ALABAMA STATE BOARD OF HEALTH, assures as follows:

1. This facility will provide the beds and/or services described above without duplicating such services already adequately provided within the service area and without exceeding present needs for such services and/or beds in the area according to the applicable approved State Plan and updated planning data.
2. It is the finding of the State and Area-wide Planning Agencies that the proposed project is consistent with approved State and Area-wide Comprehensive Health Plans.
3. It is the finding of the State Board of Health that the proposed project is consistent with the approved FY N/A and that there is a need for N/A beds to be constructed and/or modernized and for the services proposed in the service area and municipality in which this facility is to be located.
4. There are in force in the State of Alabama reasonable minimum standards of licensure and methods of operation for hospitals and health facilities.
5. The prescribed standards of licensure and operation will be applied and enforced with respect to the applicant, hospital or other health facility.
6. The findings of the State and Area-wide Planning Agencies will be forwarded to the Secretary, DHEW, and recommendations will be made that the proposed project be approved for reimbursement of capital expenditures under the Social Security Act.

III. ISSUANCE OF ASSURANCE

This Assurance of Need is issued in favor of Brookwood Medical Center, Inc. only, for the construction and/or modernization of the facility identified above only, and is in effect for a period not to exceed six months from the date of issuance. This Assurance of Need is not transferable and any action on the part of the Applicant to transfer or assign this Assurance of Need will render the Assurance of Need null and void.

Original (One Year)

Director  
Bureau of Health Facilities Construction