

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 410 Department or Agency: State Health Planning and Development Agency
(Certificate of Need Review Board)

Rule No.: 410-1-1-.04

Rule Title: Sanctions

_____ New X Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Alva M. Lambert

Date 6-16-16

DATE FILED
(STAMP)



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870
MONTGOMERY, ALABAMA 36104

NOTICE OF INTENDED ACTION

AGENCY NAME: STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
(Certificate of Need Review Board)

RULE NO. & TITLE: 410-1-1-.04 Sanctions

INTENDED ACTION:

The State Health Planning and Development Agency and the Certificate of Need Review Board propose to amend the above-styled section of the *Alabama Certificate of Need Program Rules and Regulations*.

SUBSTANCE OF PROPOSED ACTION:

This amendment clarifies that all written submissions must be filed with the Agency electronically in accordance with Rule 410-1-3-.09.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

In response to this Proposed Rule, all interested persons are invited to submit data, views, comments and/or arguments, orally or in writing. Any and all such data, comments, arguments and/or requests to orally address the Certificate of Need Review Board shall be made in writing on or before August 4, 2016, and shall be made to:

Nicole Horn, Executive Secretary
State Health Planning and Development Agency
P. O. Box 303025
Montgomery, Alabama 36130-3025

On August 17, 2016, at 10:00 a.m., the Certificate of Need Review Board shall conduct a public hearing in the State Capitol, Capitol Auditorium, 600 Dexter Avenue, Montgomery, Alabama, at which time it shall consider the Proposed Amendment, along with all written and oral submissions respecting the Proposed Amendment. Only those interested persons who have made timely written requests will be afforded the opportunity to speak.

Copies of the proposed changes are available for review at 100 North Union Street, RSA Union Building, Suite 870, Montgomery, Alabama. Phone (334) 242-4103 or visit the office Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding State holidays.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

August 4, 2016

CONTACT PERSON AT AGENCY:

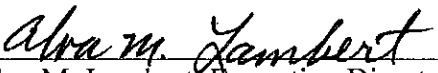
Nicole Horn

100 North Union Street

RSA Union, STE 870

Montgomery, AL 36104

(334) 242-4103


Alva M. Lambert, Executive Director

410-1-1-.04 Sanctions

- (1) Injunctive Relief. Injunctive relief against violations of the statute or any reasonable rules and regulations of the State Agency may be obtained from the Circuit Court of Montgomery County, Alabama, at the instance of the State Agency, any holder of a Certificate of Need that is adversely affected in the exercise of privileges thereunder by such violation or any member of the public directly and adversely affected by such violation. Upon written request by the State Agency, it shall be the duty of the Attorney General of the State of Alabama to furnish such legal services as may be appropriate and to prosecute such action for injunctive relief to an appropriate conclusion.
- (2) No License to Operate. The State Board of Health shall not issue a license to operate new inpatient beds or any health care facility constructed or acquired in violation of the statute and without a Certificate of Need issued pursuant to the statute.
- (3) No Reimbursement Upon Violation. Any facility or service provided or constructed in violation of the statute and without a Certificate of Need shall not receive reimbursement for services rendered by the health care facility or for the service provided by the facility which is provided in violation of the statute without a Certificate of Need. This provision applies to all reimbursement programs administered by the State of Alabama. Recommendations will be made to other reimbursing agencies that reimbursement be denied.
- (4) Revocation of Certificate of Need
 - (a) The State Agency or any person who has standing to seek injunctive relief for violations of the statute may, ~~in writing,~~ petition the Certificate of Need Review Board for the revocation of a Certificate of Need. The petition must be filed pursuant to the provisions of Rule 410-1-3-.09. No Certificate of Need can be revoked except upon sworn proof of evidence ~~that which~~ shows conclusively that the holder of the Certificate of Need has committed actual fraud in its inducement or has fraudulently exceeded the scope of the approved application. Upon receipt of such petition, the State Agency will give notice to, and an opportunity to show compliance by the holder of the Certificate of Need. No Certificate of Need can be revoked except after such notice and a public hearing, at which time the petitioner, the holder of the Certificate of Need, and any other affected party will have an opportunity to be heard.
 - (b) Any person may, upon ~~written~~ request and for good cause shown, ~~and for good cause shown,~~ request a public hearing on the reconsideration of the revocation, pursuant to the provisions of Rule 410-1-3-.09. Such a hearing shall conform with the regulations regarding reconsideration hearings herein.
 - (c) Any person adversely affected by a decision to revoke a Certificate of Need may, ~~in writing,~~ request a fair hearing on the decision pursuant to the provisions of Rule 410-1-3-.09. Such a hearing shall conform with the regulations regarding fair hearings herein.

- (d) For purposes of this section, the burden of proof is upon the petitioner to show that the holder of a Certificate of Need has materially exceeded the scope or cost of the project as evidenced by the application for the Certificate of Need as well as by the conditions made on the certificate itself.

Statutory Authority: §§ 22-21-275 (12) (13) (14), § 22-21-276, and § 41-22-19,
Code of Alabama 1975.

History: Amended: Filed: _____ ; Effective: _____.