

**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.: 410-1-7-.06

Rule Title: Filing of a Certificate of Need Application

       New  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.

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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 Alvan 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: 410-1-7-.06 Filing of a Certificate of Need Application

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 Certificate of Need applications must be filed electronically in accordance with Rule 410-1-3-.09 and provides for electronic payment of the required filing fee.

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:

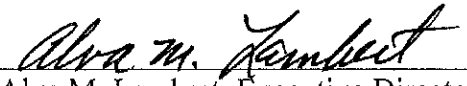
Nicole Horn

100 North Union Street

RSA Union, STE 870

Montgomery, AL 36104

(334) 242-4103

  
Alva M. Lambert, Executive Director

**410-1-7-.06 Filing of a Certificate of Need Application**

- (1) Formal application for a Certificate of Need review shall be made on the appropriate forms provided by the State Agency, or reasonable facsimile thereof. Information required for review may vary depending on the nature of the proposal. The filing of a formal application with the Agency shall be a prerequisite for the issuance of a Certificate of Need.
  - (a) The applicant ~~must will~~ submit ~~the an electronic pdf copy the original and two (2) copies of the application to the Agency, along with an electronic pdf copy~~ electronically in text searchable, PDF format, as required under SHPDA Rule 410-1-3-.09. In addition, applicants for a certificate of need for substance abuse treatment facilities or psychiatric beds shall also provide proof of publication of notice of the application once a week for two consecutive weeks in a newspaper of general circulation in the areas(s) affected, in such size and using such forms as provided by the Agency, and electronically submit proof of publication to the Agency no later than the 30<sup>th</sup> day of the review cycle. Where publication has occurred within the thirty day deadline but the newspaper failed to provide a notarized proof of publication, counsel may provide copies of the actual publication along with a notarized certificate from counsel or an employee of the applicant attesting to the newspaper and publication date. Failure to provide proof of publication by the 30<sup>th</sup> day of the review cycle will deem the application incomplete, and it will be dismissed from the review cycle in accordance with Rule 410-1-7-.07.
  - (b) Each application for a Certificate of Need except as provided below, shall be accompanied by a nonrefundable fee of one percent of the estimated cost of the proposed cost of the new institutional health service, or a maximum of \$12,000.00 indexed and a minimum of \$3,500.00.
    1. An applicant, other than a rural hospital as defined by the Health Care Financing Administration, who has had an average daily census comprised of fifty percent (50%) or more Medicaid patients within the last year prior to the filing of the application must pay a filing fee of three-quarters of one percent of the cost of the proposed cost of the new institutional health service with a maximum of \$8,000.00 and a minimum of \$3,000.00.
    2. A rural hospital applicant who has had an average daily census comprised of thirty percent (30%) or more Medicaid/Medicare patients within the last year prior to the filing of the application must pay a filing fee of three-quarters of one percent of the estimated cost of the proposed cost of the new institutional health service with a maximum of \$6,000.00 and a minimum of \$1,500.00.
    3. All required filing fees must be submitted to the State Agency via overnight mail and marked in such a way as to clearly identify the fee with the

electronic submission; or the fee may be submitted electronically via the payment portal available through the State Agency's website.

- (c) The application shall include a sworn statement as to the validity of the facts stated therein and shall be notarized by an official authorized to administer oaths in the State of Alabama.
  - (d) The filing fee is not refundable after the fee has been tendered to the State Agency.
  - (e) Any provisions of this regulation notwithstanding, a filing fee shall not be required at the time of the filing of the application if the Statewide Health Coordinating Council has not met and reviewed and/or revised the State Health Plan in the year proceeding the filing of the application unless and until the Statewide Health Coordinating Council shall subsequently meet and review and/or revise the State Health Plan. In said instances where the annual review comes after the initial filing of an application, the applicant shall have 30 days in which to pay the requisite filing fee as established at the time of filing.
- (2) The State Agency will have fifteen (15) days in which to determine whether the application is complete or incomplete. The 15-day period shall begin on the first working day following the date the application is received by the Agency; provided, however, that where an application is subject to the batching rules, the 15-day period shall begin on the 61st day of the batching cycle.

Statutory Authority: §§ 22-21-267, 271, -275, Code of Alabama, 1975, Act 2003-331.

History: Amended: Filed February 12, 1996; effective March 18, 1996. Amended: Filed September 26, 2003; effective October 31, 2003. Amended: Filed May 3, 2005; effective June 7, 2005. Amended: Filed August 18, 2011; effective September 22, 2011. Amended: Filed July 24, 2012; effective: August 28, 2012. Amended: Filed \_\_\_\_\_; effective: \_\_\_\_\_.