

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. 410-1-8-.05
Rule Title: Majority Decision
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.

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 *Abba M. Lambert*

Date *5/20/11*

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: 410-1-8-.05 Majority Decision

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:

To amend the rule to comply with the time period prescribed in Ala. Admin. Code r. 410-1-8-.02.

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 July 5, 2011, and shall be made to:

James E. Sanders, Deputy Director
State Health Planning and Development Agency
P. O. Box 303025
Montgomery, Alabama 36130-3025

On July 20, 2011, 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:

July 5, 2011

CONTACT PERSON AT AGENCY:

James E. Sanders
100 North Union Street
RSA Union, STE 870
Montgomery, AL 36104
(334) 242-4103

Alva M. Lambert

Alva M. Lambert, Executive Director

410-1-8-.05 Majority Decision

- (1) Where the public hearing has been held by the Certificate of Need Review Board, then at the conclusion of the evidence, and after an opportunity for questioning of the applicant or other party, a quorum of the CON Review Board shall, by a majority vote of the members voting, grant or deny, in whole or in part, the application for the CON or other matter properly before the Board.

- (2) Where the public hearing has been assigned to and conducted by an Administrative Law Judge, the Administrative Law Judge shall render proposed findings of fact and conclusions of law in accordance with the Alabama Administrative Procedure Act, within ~~thirty (30) days after the conclusion of the public hearing~~ the time period prescribed in Ala. Admin. Code r. 410-1-8-.02. Exceptions to the findings of fact and conclusions of law shall be filed with the agency within seven days after the findings of fact and conclusions of law are rendered. The proposed findings of fact and conclusions of law issued by the Administrative Law Judge and the record of the contested case hearing, and the exceptions to the proposed order, if any, shall be submitted to the individual members of the Certificate of Need Review Board. The proposed findings of fact and conclusions of law shall be presented to the Certificate of Need Review Board at its next regularly scheduled Board meeting and either ratified or rejected, in whole or in part, by a majority vote of a quorum of its membership.

Author: Alva M. Lambert

Statutory Authority: § 22-21-275 and § §41-22-15 & -16, Code of Alabama, 1975, as amended by Act 98-341.

History: March 21, 1985. Amended: File March 13, 1997; effective April 18, 1997. Amended: Filed February 1, 2000; effective March 7, 2000.