

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on Thursday, April 11, 2024, and filed with the agency secretary on Friday, April 12, 2024.

AGENCY NAME: State Health Planning and Development Agency State Health Plan 2020-2023

INTENDED ACTION: Repeal and Replace

RULE NO.: Chapter 410-2-1

(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

RULE TITLE: Introduction to Health Planning

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

Adopted without changes. No public comments were received. No changes to the rule originally published in the Alabama Administrative Monthly were made. The rule was adopted, was supported by all those who participated in the rule-making proceeding.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XLII, ISSUE NO. 5, AAM, DATED THURSDAY, FEBRUARY 29, 2024.

STATUTORY RULEMAKING AUTHORITY: Code of Alabama, 1975 22-21-260(4)

REC'D & FILED
(Date Filed)
(For LRS Use Only)
APR 19, 2024
LEGISLATIVE SVC AGENCY

Emily T Marsal

Emily Marsal

Certifying Officer or his or her
Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

2024-2027 STATE HEALTH PLAN
ADMINISTRATIVE CODE

CHAPTER 410-2-1
INTRODUCTION TO HEALTH PLANNING

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410-2-1-.01 Statutory Authority.

The *Alabama State Health Plan* (SHP) is required by § 22-21-260(4), Code of Alabama, 1975.

Author: Statewide Health Coordinating Council (SHCC)

Statutory Authority: Code of Ala. 1975, §22-21-260(4).

History: Amended: Filed June 19, 1996; effective July 25, 1996.

Repealed and New Rule: Filed October 18, 2004; effective November 22, 2004. **Amended (SHP Year Only):** Filed December 2, 2014; effective January 6, 2015. **Repealed and New Rule:**

Published March 31, 2020; effective May 15, 2020. **Repealed and New Rule:** Published April 30, 2024; effective June 14, 2024.

410-2-1-.02 Overview Of Chapters.

(1) The Alabama State Health Plan is divided into five chapters.

(2) Chapter I, Introduction to Health Planning, provides the Statutory Authority, the Health Planning Structure in Alabama, the Alabama Health Policy Analysis, Data Collection and Publication, and the Overview of the State Health Plan. These sections provide information to the public and to providers about the statutory authority granted to the Statewide Health Coordinating Council ("SHCC"); information on the makeup of the SHCC and its various committees; the methods of Health Policy determinations by the Governor and execution through the SHCC and the Certificate of Need Review Board ("CONRB"); the methods of collection of data utilized by the State Health Planning and

Development Agency ("SHPDA") in support of the *State Health Plan*; and a brief overview of the organization of this Plan.

(3) Chapter II, *Health Priorities*, provides an identification and summary of the health issues in the state, and reflect the priorities identified by the Governor and/or the SHCC as critical items that should be addressed by various state agencies and/or private entities to improve the overall health of all Alabamians. Where applicable, discussion of certain health priorities may reference other agencies that address those issues. The issues discussed in this Chapter, along with any recommendations provided, are meant to supplement the actions, policies, and initiatives put forward by other state agencies, the Legislature, and the Governor's office, to ensure a common set of priorities and goals are established and reinforced throughout all state health care and regulatory services.

(4) Chapters III, *Specialty Services*, and IV, *Facilities*, focus on resources. These chapters identify both existing and needed health care resources. The planning methodologies for such resources are based on economic and social criteria for health care resources allocation. Chapter III focuses on those resources that do not usually require a stand-alone facility to operate, or do not require a physical "bed" in order for services to be provided. Chapter IV focuses on those resources that usually do require a stand-alone facility to operate, or require a physical "bed" for services to be provided. More provider types addressed in these sections have statistical formulas, called "methodologies", which are used to determine need for additional services. Many also define a planning area in which need is to be determined. While the default planning area for a service is the county in which the service is to be provided, some more specialized services will have defined regions, instead of the county, as a planning area.

(5) Chapter V, *Alabama Health Statistics and Revision Procedures* contains sources for support data and other information pertinent to the *State Health Plan*. Additionally, sections exist in this chapter which explain the procedures for adjusting or amending the *State Health Plan*; the methods for updating the methodologies for services utilizing finite needs; the requirements for SHCC compliance with the Open Meetings Act; and the method of notifications in compliance with the Open Meetings Act. A list of the current standing committees of the SHCC, and the State Health Plan responsibilities assigned to each committee is also included in this Chapter.

Author: Statewide Health Coordinating Council (SHCC)

Statutory Authority: Code of Ala. 1975, §22-21-260(4).

History: Effective May 18, 1993. **Amended:** Filed June 19, 1996; effective July 25, 1996. **Repealed and New Rule:** Filed October 18, 2004; effective November 22, 2004. **Amended (SHP Year Only):** Filed December 2, 2014; effective January 6, 2015. **Repealed and New Rule:** Published March 31, 2020; effective May 15, 2020. **Repealed and New Rule:** Published April 30, 2024; effective June 14, 2024.

410-2-1-.03 Health Planning Structure In Alabama.

(1) The Alabama Statewide Health Coordinating Council (SHCC) is charged by statute and the Governor to prepare a State Health Plan (SHP) every three (3) years. Revisions may be accomplished as necessary, however the SHCC is required to review, and where appropriate revise, the SHP on at least an annual basis. The *State Health Plan* shall be utilized by the Certificate of Need (CON) Review Board pursuant to § 22-21-264, Code of Alabama, 1975, in the CON review process, and by other entities to the overall health systems development and operation in Alabama. The provisions of this plan are severable. If any part of this plan is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

(2) The SHCC shall consist of not less than sixteen (16) members, the majority of whom shall be consumers. They are appointed by the Governor for staggered terms of one (1) to three (3) years and shall serve until reappointed or a replacement is appointed.

(3) The SHCC chairman shall appoint committees and/or task forces to address specific subjects of the SHP and shall appoint chairs of each. The committees or task forces shall elect their own Vice-Chair and Secretary from their membership. Committees shall be composed of only SHCC members. Task forces may have SHCC and non-SHCC members. A current list of the SHCC Committees, with a list of their responsibilities and the corresponding sections of the SHP, shall be maintained by the Agency on the SHPDA website at www.shpda.alabama.gov or any successor address maintained by the Agency. Committee reports shall be directed to the SHCC. Task force reports may or may not be presented directly to the SHCC at the discretion of the SHCC chairman. The SHCC shall hear and make decisions on the acceptance or adoption of the SHP, and any amendments or adjustments thereto, subject, at the chairman's discretion, to preliminary review and recommendation by the appropriate committee. Procedures for an amendment or adjustment to specific provisions of the SHP are addressed in Ala. Admin Code r 410-2-5-.04, Plan Revision Procedures, and 410-2-5-.05,

Application for State Health Plan Adjustment. Statistical updates to reflect more current population and utilization data may be accomplished by staff with the approval of the SHCC chairman.

(4) Parliamentary procedure shall be conducted within the sound discretion of the SHCC chairman and the committee and task force chairs, according to the latest version of Robert's Rules of Order, Newly Revised, except as otherwise specified in these rules.

(5) The Governor is the final approval authority for the SHP and any amendments/adjustments by the SHCC, subject to the provisions of the Alabama Administrative Procedures Act (APA).

Author: Statewide Health Coordinating Council (SHCC)

Statutory Authority: Code of Ala. 1975, §§22-21-260(2), (4), 22-21-264, 22-4-7.

History: Effective May 18, 1993. **Amended:** Filed June 19, 1996; effective July 25, 1996. **Repealed and New Rule:** Filed October 18, 2004; effective November 22, 2004. **Amended (SHP Year Only):** Filed December 2, 2014; effective January 6, 2015. **Repealed and New Rule:** Published March 31, 2020; effective May 15, 2020.

Repealed and New Rule: Published April 30, 2024; effective June 14, 2024.

410-2-1-.04 Alabama Health Policy Analysis.

(1) Policy is defined as a definite course or method of action selected from among alternatives and in light of given conditions to guide and determine present and future decisions. Policy may be expressed in writing or it may be implied by actions and commitments. Action policy may imply, in fact, that no policy is desired, thereby leaving the decision makers free to meet any given condition with actions that may or may not be considered as precedent setting.

(2) Basic to analyzing Alabama State Health Policy is the determination of who sets the policies and how or to what degree these policies interface to meet a general overall health policy.

(3) Health policy in Alabama finds its basis in State statutes as determined by the Legislature, State budgets, decisions and expectations of the Governor, expressions of the Statewide Health Coordinating Council in the *State Health Plan*, and regulatory decisions made by the State Certificate of Need Review Board.

(4) The Governor, through the cabinet and legislative programs, expresses a general health policy for maximizing a high rate of wellness for all citizens. The Governor's actions indicate a special concern for child health, infant mortality, prevention, the socio/medical problems of teenage pregnancy, the availability and accessibility of health care in the rural areas, the special health problems of the elderly, mentally ill, and disabled, and treatment of opioid addictions. The Governor's concerns are manifested in budget requests and funding in these areas through the various state agencies, such as the State Health Planning and Development Agency, the Alabama Medicaid Agency, the Alabama Department of Mental Health, the Alabama Department of Public Health, and the Alabama Department of Human Resources.

(5) The Governor's concern for overall health planning and development is highlighted by the appointment of providers and consumers to function in the planning and regulatory areas.

Author: Statewide Health Coordinating Council (SHCC)

Statutory Authority: Code of Ala. 1975, §22-21-260(4).

History: Effective June 16, 1989. **Amended:** Filed June 19, 1996; effective July 25, 1996. **Repealed and New Rule:** Filed October 18, 2004; effective November 22, 2004. Amended (SHP Year Only): Filed December 2, 2014; effective January 6, 2015.

Repealed and New Rule: Published March 31, 2020; effective May 15, 2020. **Repealed and New Rule:** Published April 30, 2024; effective June 14, 2024.

410-2-1-.05 Data Collection And Publication.

(1) Efficient health planning and Certificate of Need decisions are dependent upon the availability of reliable health care data. Accurate inventories of existing resources and accurate utilization statistics are required in the *State Health Plan* to continue accurately projecting the need for additional health care facilities, equipment, and services that are subject to regulation herein.

(2) In 2015 the Alabama Health Planning Facilitation Act ("Act") was enacted. The Act was written to "...provide for certain mandatory health care reporting to SHPDA, to designate the SHPDA as the agency to collect, compile, and analyze the collected reports; to establish and provide for the membership of the Health Care Information and Data [Advisory] Council; to require that the SHPDA, after receiving advice and guidance from the council, adopt rules to implement this act; to provide for

penalties for failure [to] make the required reports; and to require the SHPDA to meet certain deadlines or lose its authority to require the reporting." The Health Care Information and Data Advisory Council ("HCIDAC") consists of representatives of CON authorized providers, the Statewide Health Coordinating Council, and the Certificate of Need Review Board, and has authority to review the survey instruments used by the Agency to collect utilization data from "mandatory reporters" as defined by rule, and to review and authorize publication of data collected by the Agency in furtherance of its mission. The Act further provided for the development and implementation of an electronic filing system for mandatory reports by providers with the Agency.

3. The HCIDAC, in conjunction with the CON Review Board and the Agency, developed new rules defining a "mandatory reporter"; reviewed and revised the survey instruments used by mandatory reporters to submit utilization data to the Agency; and defined electronic filing, for the purposes of the rule, as e-mailing completed mandatory reports to an e-mail address specifically created by the Agency for use in processing said reports. Amended rules related to the Act, including the new survey instruments, were approved by the CON Review Board in January 2016. Additional rules regarding enforcement of the mandate, including administrative penalties and the ability to bar providers deemed noncompliant from participating in the CON process, were also approved. The HCIDAC further directed the Agency to research the development and implementation of an online filing system for the submission of both mandatory reports and for filings related to the Certificate of Need program in general in order to increase both the efficiency and the transparency of all interactions with the Agency.
3. SHPDA, at the direction of the HCIDAC, is working with the Alabama Office of Information Technology ("OIT") to develop and implement an online filing system that will address all filings made with the Agency. The system will also allow for the purchase of copies of documents previously filed with the Agency, including CON applications, mandatory reports, etc. The system, once developed, is expected to be implemented in three stages.
 - a. Stage one will require that all new projects (CON applications, letters of non-reviewability, changes of ownership, etc.), shall be filed through the new system, and will allow for users to become familiar with the new system while other components are developed.

- b. Stage two will require all new mandatory reports be filed through the online system. During the implementation of stages one and two, existing projects and older data collections shall continue to be filed via e-mail, to allow for consistency of filings, as well as to allow time for SHPDA staff to add older documentation and data to the system.
 - c. Stage three will require that ALL filings with the Agency occur through the new system, as all existing active project files and active data collections are expected to be completely uploaded by this time.
3. To increase and improve efficiency, SHPDA staff is also working to improve internal processes through the application of technology already available to Agency personnel. These improvements are scheduled to be developed during the development and implementation of the online system, with the goal being the implementation of the online and internal system improvements occurring at the same time. The implementation of both an online filing system and internal improvements undertaken by the Agency are expected to improve the efficiency and effectiveness of staff; provide more transparency to applicants, mandatory reporters, and boards; and to provide a clearer picture of current utilization and need to allow for a more precise decision making process for both the Statewide Health Coordinating Council and the CON Review Board.
3. In furtherance of the stated desire of the Statewide Health Coordinating Council to have the best possible information available to make the most appropriate decisions for the citizens of Alabama, the Agency is directed to continue to research new technology to allow for a clearer and more accurate picture of existing facility utilization to be presented. Technology such as Business Intelligence or other analytical software would provide additional capability to Agency, Board, and provider representatives seeking to determine potential need. Any technology that provides more efficiency and effectiveness to the health planning process, if cost effective and user friendly, should be investigated and used if appropriate to the stated mission of the Agency and its boards.

Author: Statewide Health Coordinating Council (SHCC)

Statutory Authority: Code of Ala. 1975, §22-21-260(4).

History: New Rule: Filed June 19, 1996; effective July 25, 1996. **Repealed and New Rule:** Filed October 18, 2004; effective November 22, 2004. **Amended (SHP Year Only):** Filed December 2, 2014; effective January 6, 2015. **Repealed and New Rule:** Published March 31, 2020; effective May 15, 2020. **Repealed and New Rule:** Published April 30, 2024; effective June 14, 2024.