

**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 the 16th day of September, 2020, and filed with the agency secretary on the 16th day of September, 2020.

AGENCY NAME: State Health Planning and Development Agency (Certificate of Need Review Board)

Amendment New Repeal (Mark appropriate space)

Rule No. 410-1-10-.05, Alabama Certificate of Need Program Rules and Regulations
(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

Rule Title: State of Emergency Provisions

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

No public comments were received and the rule was adopted as published in the Administrative Monthly. The rule was supported by all those who participated in the rule-making proceeding.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XXXVIII,
ISSUE NO. 9, AAM, DATED June 30, 2020.

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

(Date Filed)
(For LRS Use Only)

REC'D & FILED
SEP 17 2020
LEGISLATIVE SVC AGENCY

Emily T. Maroff
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.

410-1-10-.05 State of Emergency Provisions

(1) The Statewide Health Coordinating Council (“SHCC”) has found that that additional health care resources may be required, on an urgent and temporary basis, to address public health needs of the citizens of Alabama during a State of Emergency declared by the Governor (a “Declaration”). While emergency rules have been adopted addressing the COVID-19 pandemic, the SHCC has published a permanent rule, Ala. Admin. Code § 410-2-5-.09, to provide a framework to address waivers in the event of a future Declaration.

(2) Upon the issuance of a Declaration authorizing temporary waivers to Certificate of Need (“CON”) requirements, any provider submitting an application for a waiver of CON requirements that meets the requirements of Ala. Admin. Code § 410-2-5-.09 shall comply with the filing requirements of subsection 2 of such rule, utilizing an abbreviated form prepared by the Agency. A provider shall agree to the requirements and limitations of this rule and Section 410-2-5-.09 of the SHP as a condition for a waiver.

(3) Any waiver issued pursuant to this rule shall automatically terminate on the earlier of: (i) as applicable, the discontinuation of services subject to the waiver; or (ii) sixty (60) days following the termination of the State of Emergency identified in the Declaration. Any continued operation of institutional health services authorized under a waiver granted pursuant to this section shall require a CON, subject to regular CON criteria and procedures, including compliance with the SHP, without regard to this rule. It is the intent of this subsection that services, facilities or other new institutional health services established as a result a waiver be considered “new” for purposes of an application for CON authority to extend such new institutional health services beyond the deadlines in this subsection.

(4) The grant of a waiver under this rule for the temporary relocation of beds, equipment or other resources shall automatically authorize the return of such beds, equipment or other resources to their original location after the emergency, without the need for further authorization. Providers shall notify SHPDA of the effective date of such relocation in such manner as prescribed by the Executive Director.

(5) The provisions of this rule shall be subject to additional restrictions or conditions as may be imposed in a Declaration. In the event of a conflict between any provision of this rule and a Declaration, the Declaration shall prevail. Waivers previously issued under Ala. Admin. Code §§ 410-2-5-.09-E and 410-1-10-.05-E shall remain in force in accordance with their terms. The provisions of Ala. Admin. Code §410-1-10-.01, Emergency Review, are unaffected by this rule.

(6) Notwithstanding the provisions of ALA. ADMIN. CODE r. 410-1-7-.06, any application filed pursuant to this rule shall be subject to a special filing fee of \$50.00.

Author: Statewide Health Coordinating Council

Statutory Authority: §§ 41-22-5, 22-21-260(6), -264 and -275, Code of Alabama (1975)

History: Filed: September 17, 2020; Effective: November 14, 2020.