

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

State Health Planning and Development Agency
(Statewide Health Coordinating Council)

Control 410 Department or Agency

Rule No. 410-2-5-.09

Rule Title: State of Emergency Provisions, 2020-2023 Alabama State Health Plan

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 action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

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 Services Agency.

Signature of certifying officer Emily T. Marsaf
Date 6-17-20

(DATE FILED)
(STAMP)

REC'D & FILED

JUN 17 2020

LEGISLATIVE SVC AGENCY

APA-2

State Health Planning and Development Agency

NOTICE OF INTENDED ACTION

AGENCY NAME: State Health Planning and Development Agency (Statewide Health Coordinating Council)

RULE NO. & TITLE:

410-2-5-.09, State of Emergency Provisions, 2020-2023 Alabama State Health Plan

INTENDED ACTION:

The State Health Planning and Development Agency (Statewide Health Coordinating Council) proposes to adopt a new rule, 410-2-5-.09, State of Emergency Provisions.

SUBSTANCE OF PROPOSED ACTION:

To allow expansion of institutional health services by existing providers, regardless of existing need methodology and planning areas as provided in the State Health Plan, upon a State of Emergency declared by the Governor authorizing the issuance of temporary waivers to the Certificate of Need program.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

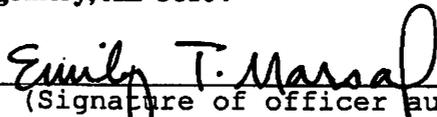
All interested persons are invited to submit data, views, comments and/or arguments, orally or in writing. Any and all such data, comments, arguments and/or requests to orally address the SHCC shall be made in writing on or before August 21, 2020, at 5:00 p.m., to the State Health Planning and Development Executive Director.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

On September 8, 2020, at 10:00 a.m., the SHCC will conduct a public hearing at a location to be determined, at which time it shall consider the adoption of the proposed new rule, 410-2-5-.09, along with all written and oral submissions in respect to the proposal. Only those interested persons who have made timely written requests will be afforded the opportunity to speak.

CONTACT PERSON AT AGENCY:

**Ms. Emily T. Marsal, Executive Director
State Health Planning and Development Agency
100 North Union Street, Suite 870 Montgomery, AL 36104
(334) 242-4103**



(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

APA-7

**TRANSMITTAL SHEET FOR
BUSINESS ECONOMIC IMPACT STATEMENT
(Section 41-22-5.1)**

Control No. 410 Department/Agency State Health Planning and Development Agency
(Statewide Health Coordinating Council)

Rule No. 410-2-5-.09

Rule Title: State of Emergency Provisions, 2020 - 2023 Alabama State Health Plan

New Amend Repeal Adopt by Reference

Attached is a Business Economic Impact Statement filed pursuant to
Section 41-22-5.1, Code of Alabama 1975.

Signature of Filing Officer Emily T. Marsaf
Date 6-17-20

(DATE FILED)
(STAMP)

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5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

 6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

 7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

 8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

 9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

 10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

****Additional pages may be used if needed.**

410-2-5-.09 State of Emergency Provisions

1. Finding of Emergency Need and Waiver.

A. The Statewide Health Coordinating Council recognizes 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"). Accordingly, upon the issuance of a Declaration authorizing temporary waivers to Certificate of Need ("CON") requirements, the State Health Planning and Development Agency (the "Agency") may grant waivers for:

(1) Any proposed expansion of institutional health services, beds, facilities, equipment and other resources (hereafter "institutional health services") by existing providers to meet the declared emergency, regardless of existing need methodology and without respect to health planning areas otherwise provided in the State Health Plan ("SHP"); and

(2) The establishment of emergency alternate care sites, or their equivalent, as may be approved by ADPH for the duration of the declared emergency.

2. Waiver Filing Requirements.

A. Any provider seeking a waiver from CON authority under this provision shall provide the State Health Planning and Development Agency ("the Agency") in writing, on abbreviated forms to be prescribed by the Agency, an application containing the following information, as applicable:

- (1) Name and address of the provider;
- (2) Expanded institutional health services or any other services to be provided;
- (3) Number of beds or additional hemodialysis stations requested exceeding the current CON authorized capacity;
- (4) A description of any equipment being acquired;
- (5) The date that the proposed expanded facilities, equipment or services will be in service and available to address the emergency;
- (6) Projected cost;
- (7) Information demonstrating that the project is required to address the public health emergency identified in the Declaration; and
- (8) An unqualified commitment, by an authorized officer of the applicant, to comply with the requirements and limitations of this rule and any similar rule adopted by the CON Board.

B. The application shall be signed by an authorized officer of the applicant under oath.