

APA-1

TRANSMITTAL SHEET FOR NOTICE
OF INTENDED ACTION

Control: 410

Department or Agency: State Health Planning and Development Agency

Rule No.: 410-1-7-.06

Rule Title: Filing Of A Certificate Of Need Application

Intended Action Amend

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? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rule-making 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

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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 Services Agency.

Signature of certifying officer

Emily Marsal
Emily Marsal

Date

Thursday, January 16, 2025
JAN 16, 2025

REC'D & FILED

LEGISLATIVE SVC AGENCY

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

NOTICE OF INTENDED ACTION

AGENCY NAME: State Health Planning and Development Agency

RULE NO. & TITLE: 410-1-7-.06 Filing Of A Certificate Of Need
Application

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

The State Health Planning and Development Agency proposes to amend the referenced rule to require sufficient information identifying the health care operator and funding accessibility to ensure successful completion and operation of the project.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

On April 16, 2025, at 10:00 a.m., the Certificate of Need Review Board (CONRB) will conduct a public hearing at which time it shall consider the proposed amendment 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 to opportunity to speak. The location of the meeting will be posted to the Agency's website, www.shpda.alabama.gov.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Monday, March 17, 2025

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

Emily Marsal

Emily Marsal

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

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 submit the application to the Agency 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 30th 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 30th 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 thirty (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. In verifying that the application is complete, the State Agency shall determine that the application contains information sufficient to identify the health care provider that will offer the health service or operate the project and what qualifications and experience the health care provider possesses to successfully offer the health service or operate the project. The application should also contain information showing the applicant's plan for accessing the funds necessary to complete and operate the requested project within the project's projected budget.

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Author: ~~Alva M. Lambert~~Emily T. Marsal

Statutory Authority: Code of Ala. 1975, §§22-21-267, 271, 275, 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 19, 2011; effective September 23, 2011.

Amended: Filed July 24, 2012; effective August 28, 2012.

Amended: Filed December 17, 2012; effective January 21, 2013.

Amended: Filed August 23, 2016; effective October 7, 2016.

Amended: Published ; effective .