

**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

**INTENDED ACTION:** Repeal and Replace

**RULE NO.:** Chapter 410-2-5

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

**RULE TITLE:** Alabama Health Statistics and Revision Procedures

**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)

(Date Filed)  
(For LRS Use Only)  
**REC'D & FILED**  
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 410-2-5  
ALABAMA HEALTH STATISTICS AND REVISION PROCEDURES

TABLE OF CONTENTS

410-2-5-.01	Introduction
410-2-5-.02	Population
410-2-5-.03	Vital Events
410-2-5-.04	Plan Revision Procedures
410-2-5-.05	Application For State Health Plan Adjustment
410-2-5-.06	Open Meetings Act
410-2-5-.07	Electronic Notice
410-2-5-.08	SHCC Committee Responsibilities
410-2-5-.09	State Of Emergency Provisions

410-2-5-.01      Introduction.

This chapter contains information that is pertinent to the *State Health Plan*, but of such detail that it is best included in this Appendix. Population is based on Center for Business and Economic Research (CBER) The University of Alabama.

**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**Repealed and New Rule:** Filed October 18, 2004; effective November 22, 2004.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.

410-2-5-.02      Population.

The most current population data supplied to SHPDA by the Center for Business and Economic Research (CBER), University of Alabama, is available by contacting the Data Division as follows:

**MAILING ADDRESS**  
(U. S. Postal Service)

**STREET ADDRESS**  
(Commercial Carrier)

PO BOX 303025  
MONTGOMERY, AL 36130-3025

100 NORTH UNION STREET, SUITE 870  
MONTGOMERY, AL 36104

TELEPHONE:  
(334) 242-4103

FAX:  
(334) 242-4113

EMAIL:

[Data.submit@shpda.alabama.gov](mailto:Data.submit@shpda.alabama.gov)

WEBSITE:

<http://www.shpda.alabama.gov>

**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.

**410-2-5-.03      Vital Events.**

The most recent publicly available information on Vital Events can be obtained from the Center for Health Statistics, Alabama Department of Public Health, at [www.alabamapublichealth.gov / healthstats/index.html](http://www.alabamapublichealth.gov/healthstats/index.html), or at (334) 206-5429.

For additional assistance with any data related to this section contact the Data Division as follows:

**MAILING ADDRESS**  
(U. S. Postal Service)

**STREET ADDRESS**  
(Commercial Carrier)

PO BOX 303025  
MONTGOMERY, AL 36130-3025

100 NORTH UNION STREET, SUITE 870  
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**TELEPHONE:**  
(334) 242-4103

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(334) 242-4113

**EMAIL:**  
[data.submit@shpda.alabama.gov](mailto:data.submit@shpda.alabama.gov)

**WEBSITE:**  
<http://www.shpda.alabama.gov>

**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.

**410-2-5-.04      Plan Revision Procedures.**

**1. Introduction**

The Statewide Health Coordinating Council (SHCC) is responsible for the development of the State Health Plan (SHP) with final approval required by the Governor. The SHCC desires (a) a process that will maintain a viable and current SHP; (b) a coordinated system of revising the SHP; and (c) required information to be provided as outlined in Ala. Admin Code r 410-2-5-.05 by individuals, groups, or other entities seeking a specific revision to the SHP commonly called an adjustment.

(2) There are three types of plan revisions:

- a. Plan Adjustment. In addition to such other criteria that may be set out in the SHP, a requested modification or exception to the SHP of limited duration, to permit additional facilities, beds, services, or equipment to address circumstances and meet the identified needs of a specific planning area, or part thereof, that is less than statewide and identified in the State Health Plan. A Plan Adjustment is not of general applicability and is thus not subject to the AAPA's rulemaking requirements. Unless otherwise provided by the SHCC, a Plan Adjustment shall be valid for only one (1) year from the date the Plan Adjustment becomes effective, subject to the exceptions provided in this paragraph. If an Application is not filed with SHPDA seeking a Certificate of Need for all or part of the additional facilities, beds, services or equipment identified in the Plan Adjustment within one (1) year of the Governor's approval of the Plan Adjustment, the Plan Adjustment shall expire and be null and void. If an Application(s) seeking a Certificate of Need for all or part of the additional facilities, beds, services or equipment identified in the Plan Adjustment is filed prior to the expiration of the one (1) year period, the Plan Adjustment shall remain effective for purposes of such pending Certificate of Need Application(s). Such one (1) year period shall be further extended for the duration of any deadline provided by SHPDA for the filing of applications as part of a batching schedule established in response to a letter of intent filed within nine (9) months of the effective date of the adjustment. Upon the expiration of such deadlines, no Certificate of Need Applications shall be accepted by SHPDA which are based, in whole or in part, upon the expired Plan Adjustment.
- b. Statistical Update - An update of a specific section of the SHP to reflect more current population, utilization, or other statistical data.
- c. Plan Amendment - The alteration or adoption of rules, policies, methodologies, or any other plan revision that does not meet the plan adjustment or statistical update definition. An amendment is of "general applicability" and subject to the AAPA's rulemaking requirements.

**(3) Application Procedures**

- a. Application Procedure for Plan Adjustment. Any person may propose an adjustment to the SHP, which will be considered in accordance with the provisions of SHPDA Rule 410-2-5-.04(4). The proposal will state with specificity the proposed language of the adjustment and shall meet the electronic filing requirements of SHPDA Rule 410-1-3-.09 (Electronic Filing).
- b. Procedure for Statistical Update. SHPDA staff shall make statistical updates to the SHP as needed. The SHCC shall be informed at its next regularly scheduled meeting of such updates.
- c. Application Procedure for Plan Amendment. Any person may propose an amendment to the SHP by submitting a detailed description of the proposal to the SHPDA in accordance with the electronic filing requirements of SHPDA Rule 410-1-3-.09 (Electronic Filing). Such amendment shall be considered in accordance with the provisions of Rule 410-2-5-.04(4). The proposal will state with specificity the proposed language of the amendment. If it is to amend a methodology, the exact formula will be included, as well as the results of the application of the formula. The SHCC may also consider Plan Amendments on its own motion.

**(4) Review Cycle**

- a. Within fifteen (15) days from the date of receipt of an application for an amendment or adjustment, the SHPDA staff shall determine if the applicant has furnished all required information for SHCC review and may thus be accepted as complete. The SHCC Chairman and the applicant will be notified when the application is accepted as complete.
- b. Within forty-five (45) days after the application is deemed complete, the application will be added to the SHCC calendar for review. SHPDA shall provide notice of the application for an amendment or adjustment when the application is deemed complete to: (1) all certificated health care facilities known to provide similar services in the county or planning region where the adjustment is requested; (2) all

certificated health care facilities known to provide similar services in adjacent counties when the planning area is the county; and (3) such health care associations, state agencies and other entities that have requested to be placed on SHPDA's general notice list for such planning area or service. Once an application is deemed complete, persons other than the applicant will have thirty (30) days from the date of completion to electronically file statements in opposition to or in support of the application, as well as any other documentation to be considered by the SHCC. All such documentation shall be filed with SHPDA in accordance with the provisions of Rule 410-1-3-.09 (Electronic Filing), together with a certification that it has been served on the applicant and/or any other persons that have filed notices of support or opposition to the application. No documentation may be submitted beyond the deadlines in this subsection and subsection (3) unless authorized by written order issued by the Chairperson. All persons shall adhere to SHPDA's rules governing electronic filing.

- c. Procedure for Consideration of Plan Adjustments. Proposed Plan Adjustments deemed complete will be placed on the SHCC agenda (individually or collectively) for a public hearing without further action by the SHCC. Unless otherwise provided herein, all written documentation to be considered by the SHCC at the public hearing shall be filed with the State Agency and served on the applicant and any intervenors and opponents of record not less than fourteen (14) days prior to the public hearing. Interested parties may address the proposed Plan Adjustments at the SHCC meeting, subject to such time limits and notice requirements as may be imposed by the SHCC Chairman. If the SHCC approves the Plan Adjustment in whole or in part, the adjustment, along with the SHCC's favorable recommendation, will be sent to the Governor for consideration and approval/disapproval. A Plan Adjustment shall be deemed disapproved by the Governor if not acted upon within fifteen (15) days. SHPDA, upon the approval of a Plan Adjustment, shall publish a copy of the Adjustment to its website, [www.shpda.alabama.gov](http://www.shpda.alabama.gov).
- d. Procedure for Consideration of Plan Amendments. A proposed Plan Amendment deemed complete will be placed on the SHCC agenda (individually or along with

other proposed amendments) for an initial determination if the proposed amendment should be published in accordance with the AAPA and set for public hearing. At the Chairman's discretion, interested parties may be allowed to address the SHCC regarding the proposed amendments prior to such initial consideration. If the SHCC accepts the amendment for publication and hearing in accordance with the AAPA, SHPDA shall cause such publication and notice to be issued in accordance with the AAPA and the provisions of Rule 410-1-3-.10. Interested parties may address the proposed Plan Amendment at the SHCC meeting, subject to such time limits and notice requirements as may be imposed by the SHCC Chairman.

- e. If approved by the SHCC, a Plan Amendment, along with the SHCC's favorable recommendation, will be sent to the Governor for approval or disapproval. A Plan Amendment shall be deemed disapproved by the Governor if not acted upon within fifteen (15) days. Upon approval by the Governor, a Plan Amendment shall be filed with the Legislative Services Agency for further review in accordance with the AAPA. No party shall have any rights of administrative review, reconsideration or appeal of the approval or denial of a Plan Amendment except as may be specifically provided in the AAPA. SHPDA, upon final approval of a Plan Amendment, shall publish a copy of the amended section of the Plan to its website, [www.shpda.alabama.gov](http://www.shpda.alabama.gov), including the effective date of the Amendment.
- f. MEDIATION. At the discretion of the Chairman of the SHCC, non-binding mediation may be used to resolve differences between interested parties in regard to any pending matter before the SHCC. Said mediation will be conducted by the Chairman of the SHCC or his or her designee. Any modification or compromise relating to a pending proposal resulting from the mediation shall be sent to all interested parties as defined in paragraph (4)(b). No statement, representation or comment by any party to the Mediation shall be used, cited to, referenced or otherwise introduced at the SHCC's hearing on the proposal in question. Any proposed compromise or other agreement between the parties shall not be binding upon the SHCC.



**(5) Filing Fees**

Any person proposing a Plan Adjustment shall be required to pay an administrative fee equal to the minimum fee set by SHPDA for the filing of a Certificate of Need Application. Such fees shall be non-refundable and shall be used to defray costs associated with the processing and consideration of Plan Adjustment requests. All required filing fees must be submitted to the State Agency via overnight mail or other delivery method 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.

**Author:** Statewide Health Coordinating Council (SHCC)

**Statutory Authority:** Code of Ala. 1975, §22-21-260(13), (15).

**History:** Effective January 30, 1990. **Amended:** Filed June 19, 1996; effective July 25, 1996. **Repealed and New Rule:** Filed October 18, 2004; effective November 22, 2004. **Amended:** Filed February 1, 2013; effective March 8, 2013. **Amended:** Filed September 8, 2014; effective October 13, 2014. **Amended (SHP Year Only):** Filed December 2, 2014; effective January 6, 2015.

**Amended:** Filed December 22, 2016; effective February 5, 2017.

**Amended:** Filed February 6, 2018; effective March 23, 2018.

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

**410-2-5-.05 Application For State Health Plan Adjustment.**

**1. Requirements**

- a. Applicant Identification. An application for a Plan Adjustment must be filed in accordance with SHPDA Rule 410-1-3-.09, and accompanied by the administrative fee specified in Rule 410-2-5-.04(c) (5). The application must include the name of the applicant, physical address, telephone number, the contact person and mailing address, telephone number, and e-mail address.
- b. Project Description. Provide a narrative statement explaining the nature of the request, with details of the plan adjustment desired. (If the request is for additional beds, indicate the number and type, i.e., Psychiatric, Rehabilitation, Pediatric, Nursing Home, etc.) The narrative should address availability, accessibility, cost, quality of the health care in

question, and state with specificity the proposed language of the adjustment.

- c. Service Area. Describe the geographical area to be served. (Provide an 8½" x 11" map of the service area. The map should indicate the location of other similar health care facilities in the area.)
- d. Population Projections. Provide population projections for the service area. In the case of beds for a specific age group, such as pediatric beds or nursing home beds, document the existence of the affected population. An example for nursing home beds is the number of persons 65 and older. The applicant must include the source of all information provided.
- e. Need for the Adjustment. Address the current need methodology. If the application is to increase beds or services in a planning area, give evidence that those beds or services have not been available and/or accessible to the population of the area.
- f. Current and Projected Utilization. Provide current and projected utilization of similar facilities or services within the proposed service area.
- g. If additional staffing will be required to support the additional need, indicate the availability of such staffing.
- h. Effect on Existing Facilities or Services. Address the impact this plan adjustment will have on other facilities in the area both in occupancy and manpower.
- i. Community Reaction. Give evidence of project support demonstrated by local community, civic and other organizations. (Testimony and/or comments regarding plan adjustment provided by community leaders, health care professionals, and other interested citizens.)
- j. Provide any other information or data available in justification of the plan adjustment request.

**Author:** Statewide Health Coordinating Council (SHCC)

**Statutory Authority:** Code of Ala. 1975, §22-21-260(13), (15).

**History:** Effective January 30, 1990. **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.

**Amended:** Filed February 6, 2018; effective March 23, 2018.  
**Repealed and New Rule:** Published March 31, 2020; effective May 15, 2020. **Repealed and New Rule:** Published April 30, 2024; effective June 14, 2024.

**410-2-5-.06      Open Meetings Act.**

All meetings of the Statewide Health Coordinating Council (SHCC) shall be held in compliance with the provisions of the "Alabama Open Meetings Act" ("Act") ALA. CODE §§ 36-25A-1 through -11 (1975 as amended), which requires public notice of any gathering, whether or not prearranged, of a quorum of a governmental body, committee or subcommittee during which the members deliberate specific matters expected to come before the body, committee or subcommittee at a later date. To ensure compliance with the letter and spirit of the Act, entities seeking to sponsor inspection or educational sessions for multiple SHCC members relating, directly or indirectly, to a pending or contemplated plan adjustment or amendment must first file a written request for approval from the Chairman, with a copy to all other entities that have filed comments or pleadings relating to the matter. Such requests will only be granted in extraordinary circumstances, and will be publicized and conducted in accordance with the provisions of the Act relating to meetings involving a quorum of the SHCC.

**Author:** Statewide Health Coordinating Council (SHCC)  
**Statutory Authority:** Code of Ala. 1975, §22-21-260(13), (15).  
**History: New Rule:** Filed September 9, 2010; effective October 14, 2010. **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.

**410-2-5-.07      Electronic Notice.**

SHPDA shall provide any written notice required under these rules in electronic PDF format, which shall be considered delivered upon the date of transmission. All health care providers holding a certificate of need from SHPDA, as well as other interested parties seeking to be included in SHPDA's general distribution list, shall maintain with the agency a current e-mail address for purposes of this rule.

**Author:** Statewide Health Coordinating Council (SHCC)  
**Statutory Authority:** Code of Ala. 1975, §22-21-260(4).  
**History: New Rule:** Filed February 1, 2013; effective March 8, 2013. **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.

**410-2-5-.08      SHCC Committee Responsibilities.**

**1. Discussion.**

In order to assist the SHCC with the process of reviewing and revising the State Health Plan, the Chair of the SHCC may create committees tasked with the purpose of reviewing certain assigned sections of the Plan. The Chair of the SHCC shall assign various members to individual committees based on their knowledge and experience and shall have the authority to nominate chairs of the individual committees at the time of the committee assignments. Historically, the SHCC has kept six (6) standing committees, with additional committees and/or task forces created by the Chair as needed. The six (6) standing committees of the SHCC, and the current sections of the Plan assigned to each committee are as follows:

**(a) General Items**

The General Items Committee shall have responsibility over the section(s) of the Plan related to an introduction to health planning, as well as any healthcare or health-related priorities set forth by the Governor. The section(s) of the Plan the General Items Committee are responsible for include:

1. 410-2-1                    Introduction to Health Planning
2. 410-2-1-.01             Statutory Authority
3. 410-2-1-.02             Overview of Chapters
4. 410-2-1-.03             Health Planning Structure in Alabama
5. 410-2-1-.04             Alabama Health Policy Analysis
6. 410-2-1-.05             Data Collection and Publication
7. 410-2-2                    Health Priorities
8. 410-2-2-.01             Introduction
9. 410-2-2-.02             Maternal and Child Health
10. 410-2-2-.03            Care of the Elderly and Chronically Ill

11. 410-2-2-.04 Rural Health Care
12. 410-2-2-.05 Diseases - Prevention and Management
13. 410-2-2-.06 Health Care for the Medically Indigent
14. 410-2-2-.07 Substance Use Disorders
15. 410-2-2-.08 RESERVED

**(b) Home Health**

The Home Health Committee shall have responsibility over the section(s) of the Plan related to Home Health Care. The section of the Plan the Home Health Committee is responsible for includes:

1. 410-2-4-.07 Home Health

**(c) Hospital**

The Hospital Committee shall have responsibility over the section(s) of the Plan related to Hospitals, whether general acute care facilities or specialized facilities, and any or all related functions separately governed by Certificate of Need that are offered as a part of a general acute care hospital's overall institutional health services. The section(s) of the Plan the Hospital Committee are responsible for include:

1. 410-2-3-.03 Cardiac Services
2. 410-2-4 Facilities
3. 410-2-4-.01 Introduction
4. 410-2-4-.02 Acute Care (Hospitals)
5. 410-2-4-.08 Inpatient Physical Rehabilitation
6. 410-2-4-.09 Swing Beds
7. 410-2-4-.10 Psychiatric Care
8. 410-2-4-.11 Substance Abuse
9. 410-2-4-.13 Renovations
10. 410-2-4-.14 Replacements

11. 410-2-4-.16 Freestanding Emergency Departments

**(d) Long Term Care**

The Long Term Care Committee shall have responsibility over the section(s) of the Plan related to providers that serve patients over an extended period of time, especially in regard to elder care. The section(s) of the Plan the Long Term Care Committee are responsible for include:

1. 410-2-4-.03 Nursing Homes
2. 410-2-4-.04 Limited Care Facilities, Specialty Care  
Assisted Living Facilities
3. 410-2-4-.05 Assisted Living Facilities
4. 410-2-4-.06 Adult Day Care Programs

**(e) Special Needs and Assessments**

The Special Needs and Assessments Committee shall have responsibility over the section(s) of the Plan related to information required by applicants, health planners, and SHCC members to make the health planning process function, and shall have responsibility for reviewing current health planning mechanisms to provide for a more efficient and effective health planning process. The section(s) of the Plan the Special Needs and Assessments Committee are responsible for include:

1. 410-2-4-.12 Ambulatory Surgery
2. 410-2-5 Alabama Health Statistics and Revision  
Procedures
3. 410-2-5-.01 Introduction
4. 410-2-5-.02 Population
5. 410-2-5-.03 Vital Events
6. 410-2-5-.04 Plan Revision Procedures
7. 410-2-5-.05 Application for State Health Plan  
Adjustment
8. 410-2-5-.06 Open Meetings Act

- 9. 410-2-5-.07            Electronic Notice
- 10. 410-2-5-.08         SHCC Committee Responsibilities

**(f) Specialty Services**

The Specialty Services Committee shall have responsibility over the section(s) of the Plan that are not specific to the responsibilities of the other committees. These usually involve various services that are unique to health planning, and do not conveniently tie in with other sections of the Plan assigned to other committees. The section(s) of the Plan the Specialty Services Committee are responsible for include:

- 1. 410-2-3                Specialty Services
- 2. 410-2-3-.01         Introduction
- 3. 410-2-3-.02         Neonatal Services
- 4. 410-2-3-.04         Oncology-Radiation Therapy Services
- 5. 410-2-3-.05         End Stage Renal Disease Services
- 6. 410-2-3-.0          New Technology
- 7. 410-2-3-.09         Transplantation Services
- 8. 410-2-3-.10         Hospice Services
- 9. 410-2-3-.11         Air Ambulance
- 10. 410-2-4-.15        Inpatient Hospice Services

**Author:** Statewide Health Coordinating Council (SHCC)

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

**History:** Filed March 18, 2020; Effective May 15, 2020. **New**

**Rule:** Published March 31, 2020; effective May 15, 2020 **Repealed**

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

**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.



3. Waiver Term. 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.

4. New Health Care Facility. Except as specifically provided in Ala. Admin. Code §410-2-5-.09.1(A)(1) and (2), the construction, development or other establishment of a new health care facility, as defined in Section 410-1-2-.05, shall not be eligible for a waiver under this rule.

5. Subsequent Relocation. 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.

6. No Impact on Regular Need Methodology. Expanded health services authorized on a temporary basis pursuant to a waiver granted under this rule shall not be considered for purposes of the permanent need methodology in the SHP.

7. Conflict. 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.

**Author:** Statewide Health Coordinating Council

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

**History: New Rule:** Published September 30, 2020; effective November 14, 2020. **Repealed and New Rule:** Published April 30, 2024; effective June 14, 2024.