

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

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

Control 410 Department or Agency _____

Rule No. 410-1-3-06

Rule Title: State Agency Records

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. Marshall*

Date April 19, 2023

(DATE FILED)
(STAMP)

STATE HEALTH PLANNING AND
DEVELOPMENT AGENCY

NOTICE OF INTENDED ACTION

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

RULE NO. & TITLE:

Chapter 410-1-3-.06 State Agency Records

INTENDED ACTION:

The State Health Planning and Development Agency (Certificate of Need Review Board) proposes to amend

SUBSTANCE OF PROPOSED ACTION:

Section 410-1-3-.06 State Agency Records, became effective on August 28, 2012, and has been amended most recently on October 7, 2016. This proposed amendment will align Agency rules and regulations regarding Public Records requests with the Governor's Executive Order No. 734 dated January 26, 2023.

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 CONRB shall be made in writing on or before June 2, 2023 at 5:00 p.m., to the State Health Planning and Development Executive Director.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

On June 21, 2023 at 10:00 a.m., the CONRB will conduct a public hearing at which time it shall consider the Proposed Rule 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 the opportunity to speak. The location of the meeting will be posted to the Agency's website, www.shpda.alabama.gov.

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)

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 410 Department or Agency State Health Planning and Development Agency
(Certificate of Need Review Board)

Rule No: 410-1-3-06

Rule Title: State Agency Records

New Amend Repeal Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

This amendment will align Agency rules and regulations regarding Public Records requests with the Governor's Executive Order No. 734 dated January 26, 2023.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

Not Applicable

3. EFFECT OF THIS RULE ON COMPETITION:

None

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

None

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

None

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

Not Applicable

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:

None

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

None

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

None

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

None

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

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

Control No. 410 Department/Agency State Health Planning and Development Agency
(Certificate of Need Review Board)

Rule No. 410-1-3-06

Rule Title: State Agency Records

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. Mansel
Date April 19, 2023

(DATE FILED)
(STAMP)

Ala. Admin. Code r. 410-1-3-.06 - State Agency Records

(1) All information collected, assembled, or maintained by the state agency in connection with its transaction of official business is public information and available for public inspection and disclosure during normal business hours; unless otherwise protected from disclosure under law.

(2) Upon request to the Agency's public records coordinator, designated by the Executive Director, public records maintained by the Board shall be available for inspection and duplication at the office of the Board during regular business hours in accordance with this rule. The inspection and duplication of public records shall be under the supervision of the Executive Director or other agency designee, at a designated time coordinated with the public records coordinator.

(3) For purpose of this rule, a request for copies of public records shall be considered a "Standard Request", if it seeks one or more discretely identified public records that the Executive Director or other agency designee determines will take less than eight (8) hours of staff time to process, taking into consideration the need to identify and to redact or take other measures to withhold legally protected action. A Standard Request should require no or minimal clarification by the requestor. A "Time-Intensive Request" is defined as a request that the Executive Director or other agency designee determines will take more than eight (8) hours of staff time to process, taking into consideration the need to obtain clarification of broad or vague requests, and to identify and to redact or take other measures to withhold legally protected action and any time needed to redact or take other measures to withhold legally protected information.

(4) Any person wishing to obtain copies of public records shall submit a written request in PDF format by email to public.records@shpda.alabama.gov, addressed to the Agency's public records coordinator, using the form provided for this purpose on the public records page of the Board's public web site. "Standard Requests" shall be accompanied by a minimum fee of \$20.00. Should the staff time associated with the response exceed one hour, the requesting party shall pay an additional fee of \$20.00 for each additional hour incurred prior to production. All requests will be acknowledged within two (2) business days from receipt, at which time the requesting party shall be notified if the request is deemed a Time-Sensitive Request. If practicable, the requestor will be given an estimate of the staff time and related fees associated with a Time-Intensive Request prior to processing, which must be paid prior to production. The requestor will be provided a substantive response fulfilling or denying the request within fifteen (15) business days for Standard Requests, and forty-five (45) days for Time-Intensive Requests. These deadlines may be extended in additional fifteen (15) day and forty-five (45) day increments, respectively, upon written notice to the requestor. All fees must be paid prior to production.

(5) Records requests fulfilled will be provided via electronic means wherever possible. Where paper copies are required, the agency may charge an additional per-page fee of \$.50 per page for copies per black and white copied page, 8.5 x 11 inches in size. All certified copies shall be provided in printed form.

(6) In addition, upon request, the Agency shall may provide non-routine data compilation or summary of health care data to third parties in accordance with a fee schedule based on total costs incurred by the Agency, as determined by the Executive Director, approved by the CON Review Board, and published on the Agency's website.

~~(7)(b) Requests for inspection and/or copying of records shall be submitted by email to shpda.online@shpda.alabama.gov, to the Executive Director, State Health Planning and Development Agency. Data requests may be submitted by e-mail to data.submit@shpda.alabama.gov. Personnel records, data and/or materials relating to judicial proceedings, and other documents subject to a legal privilege or confidentiality requirement under state or federal law are not available for public disclosure or access. Unofficial copies of public records are available in an electronic format. All certified official copies shall be provided in printed form.~~

~~(c) Requests shall include the following information:~~

- ~~1. the date of the request;~~
- ~~2. the name, address, telephone number, facsimile number and e-mail address of the requesting party;~~
- ~~3. a statement agreeing to payment of the cost of copying, research and administrative charges;~~
- ~~4. a description of the specific data and/or materials being requested.~~

~~(d) Copying of project files can only be done after an application has been deemed complete by the State Agency. Transcripts are not available for copying and must be obtained independently from the court reporter. Copying charges for project files and routine data requests are as follows:~~

- ~~1. One dollar (\$1.00) per black and white page, 8.5 x 11, 8.5 x 14 or 11 x 17 inches in size.~~
- ~~2. An additional five dollar (\$5.00) administrative cost for each one hundred pages.~~
- ~~3. Five dollars (\$5.00) per hour for any requested staff research in excess of two hours.~~
- ~~4. Electronic records can be emailed for a cost of twenty five cents (\$0.25) per page, plus administrative and research costs per (d) 3 above.~~

~~(e) Upon establishment of an electronic filing system, there will be a charge of ten cents (\$0.10) per page for downloading electronically filed documents.~~

(7) Nothing in this rule shall authorize the Agency to impose a fee for staff time associated with preparation and initial publication of any report or statistical update which it is required to publish under law or rule.

Author: Alva M. Lambert

Statutory Authority: § 22-21-271 and 274, Code of Alabama, 1975.

History: Amended: Filed July 24, 2012; effective August 28, 2012. Amended: Filed July 24, 2013; effective August 28, 2013. Amended: Filed August 23, 2016; effective October 7, 2016.