

**CERTIFICATION OF ADMINISTRATIVE RULES  
FILED WITH THE LEGISLATIVE REFERENCE SERVICE  
JERRY L. BASSET, DIRECTOR**

(Pursuant to Code of Alabama 1975, § 41-22-6, as amended).

I certify that the attached is/are a correct copy/copies of rule/s as promulgated and adopted on the 17<sup>th</sup> day of August, 2016, and filed with the agency secretary on the 23<sup>rd</sup> day of August, 2016.

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

Amendment;  New;  Repeal; (Mark appropriate space)

**Rule No. 410-1-10-.01(1)(a), (c), (d), and (2)**

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

**Rule Title: Emergency Review**

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

No public comments were received; the rule was adopted without changes and as published for comment in the Alabama Administrative Monthly.

**NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XXXIV**

**ISSUE NO. 9, DATED JUNE 30, 2016.**

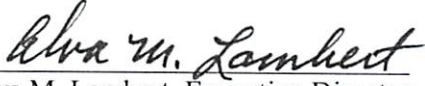
**Statutory Rulemaking Authority: Code of Alabama, 1975 §§ 22-21-271, -274 and -275.**

(Date Filed)  
(For LRS Use Only)

**REC'D & FILED**

**AUG 23 2016**

**LEGISLATIVE REF SERVICE**

  
Alva M. Lambert, Executive Director  
State Health Planning and Development Agency  
(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-.01 Emergency Review**

- (1) Any person may apply independently and without notice for an emergency Certificate of Need for the authorization of capital expenditures made necessary by unforeseen events which endanger the health and safety of the patients. Emergency capital expenditures include, but are not necessarily limited to, emergency expenditures to maintain quality care, overcome failure of fixed equipment, including heating and air conditioning equipment, elevators, electrical transformers, and switch gear, sterilization equipment, emergency generators, water supply and other utility connections and damage caused by natural or manmade disaster.
  - (a) The applicant must notify the State Agency in writing, describing the nature of the emergency, the probable amount of the emergency expenditure and the anticipated date that the emergency expenditure would be obligated. The applicant must clearly demonstrate that an emergency exists. A copy of the application shall be served on any party that has a pending application seeking a Certificate of Need for similar authority in the same health service area. Each application for an emergency Certificate of Need shall be accompanied by a nonrefundable filing fee as provided for in Rule 410-1-7-.06(1)(b).
  - (b) The Executive Director shall publish notice of the application on the agency's website and provide general notice to the general distribution list maintained by the agency and notify the Chairman and the Vice Chairman of the Certificate of Need Review Board of the stated emergency, who may, upon a determination that an emergency actually exists, order that a Certificate of Need be issued. The Chairman and Vice-Chairman may approve an application for an emergency Certificate of Need prior to the fifteen (15) comment period referenced in paragraph (c) below upon a finding that a fifteen day (15) delay in issuance of the emergency Certificate of Need would result in direct and immediate danger to the health and safety of patients. Should the Chairman or Vice-Chairman recuse himself or herself from consideration of the application, it may be approved with the signature of the remaining officer.
  - (c) Within fifteen (15) days of publication pursuant to (b) above, any affected person may file with the agency comments regarding the application, regardless of whether it has been approved by the Chairman and Vice-Chairman.
  - (d) The Executive Director, prior to the meeting of the Certificate of Need Review Board ("Board") where ratification is to be considered, shall provide copies of any comments to the Certificate of Need Review Board members for their consideration.
  - (e) An emergency Certificate of Need which has been issued by the Chairman and Vice-Chairman shall be voted upon and ratified or disapproved by the Board at the next regularly scheduled meeting in which a quorum exists to consider the

matter. Failure to ratify the emergency Certificate of Need at such meeting shall render the Certificate of Need null and void.

- (f) The applicant or intervenor may appeal the Board's grant or denial of an Emergency Certificate of Need to a Fair Hearing. Such appeal shall be conducted in accordance with the provisions of ALA. ADMIN. CODE r. 410-1-8-.16 applicable to regular Certificate of Need applications; provided, however, that the Fair Hearing Officer shall conduct a hearing on an expedited basis and shall issue an order within two (2) weeks of the filing of the appeal, unless this period is extended by consent of all parties. There is no right to a Fair Hearing appeal for an emergency Certificate of Need request not signed by the Chairman and Vice-Chairman pursuant to paragraph (b) above.
- (g) A firm commitment or obligation shall be incurred pursuant to the emergency Certificate of Need within ninety (90) days from the date of issuance thereof. No extensions of Emergency Certificates of Need will be authorized.

(2) All written documents submitted pursuant to this rule must be filed in accordance with the provisions of Rule 410-1-3-.09. 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.

Statutory Authority: § 22-21-268, Code of Alabama, 1975.

History: Amended: Filed May 27, 2015; Effective July 1, 2015. Amended: Filed August 23, 2016; effective October 7, 2016.