

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. 410-1-10-.05

Rule Title: State of Emergency Provisions, Alabama Certificate of Need Program Rules and Regulations

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 6-17-20

(DATE FILED)
(STAMP)

REC'D & FILED

JUN 17 2020

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:

410-1-10-.05, State of Emergency Provisions, Alabama Certificate of Need Program Rules and Regulations

INTENDED ACTION:

The State Health Planning and Development Agency (Certificate of Need Review Board) proposes to adopt a new rule, 410-1-10-.05, State of Emergency Provisions.

SUBSTANCE OF PROPOSED ACTION:

To provide for the expansion of institutional health services by existing providers upon a State of Emergency declared by the Governor authorizing the issuance of temporary waivers to the Certificate of Need program, and not requiring the issuance of a Certificate of Need by the Certificate of Need Review Board.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

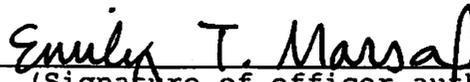
All interested persons are invited to submit data, views, comments and/or arguments, orally or in writing. Any and all such data, comments, arguments and/or requests to orally address the SHCC shall be made in writing on or before August 21, 2020, at 5:00 p.m., to the State Health Planning and Development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

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

On September 16, 2020, at 10:00 a.m., the Certificate of Need Review Board (CONRB) will conduct a public hearing at a location to be determined, at which time it shall consider the adoption of the proposed new rule, 410-1-10-.05, 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)

**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. 410-1-10.05

Rule Title: State of Emergency Provisions, Alabama Certificate of Need Program Rules and Regulations

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. Mansaf
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.**

410-1-10-.05 State of Emergency Provisions

(1) The Statewide Health Coordinating Council (“SHCC”) has found that 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”). While emergency rules have been adopted addressing the COVID-19 pandemic, the SHCC has published a permanent rule, Ala. Admin. Code § 410-2-5-.09, to provide a framework to address waivers in the event of a future Declaration.

(2) Upon the issuance of a Declaration authorizing temporary waivers to Certificate of Need (“CON”) requirements, any provider submitting an application for a waiver of CON requirements that meets the requirements of Ala. Admin. Code § 410-2-5-.09 shall comply with the filing requirements of subsection 2 of such rule, utilizing an abbreviated form prepared by the Agency. A provider shall agree to the requirements and limitations of this rule and Section 410-2-5-.09 of the SHP as a condition for a waiver.

(3) 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. It is the intent of this subsection that services, facilities or other new institutional health services established as a result a waiver be considered “new” for purposes of an application for CON authority to extend such new institutional health services beyond the deadlines in this subsection.

(4) 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.

(5) 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.

(6) Notwithstanding the provisions of ALA. ADMIN. CODE r. 410-1-7-.06, any application filed pursuant to this rule shall be subject to a special filing fee of \$50.00.

Author: Statewide Health Coordinating Council

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

History: Filed: _____; Effective _____;