

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 410 Department or Agency State Health Planning and Development
Agency (Certificate of Need Review Board)
Rule No. 410-1-3-.09
Rule Title: Electronic Filing
 New X 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 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 Reference Service.

Signature of certifying officer Alva M. Lambert

Date Jan. 21, 2016

DATE FILED
(STAMP)



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870
MONTGOMERY, ALABAMA 36104

NOTICE OF INTENDED ACTION

AGENCY NAME: STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
(Certificate of Need Review Board)

RULE NO. & TITLE: 410-1-3-.09 Electronic Filing

INTENDED ACTION:

The State Health Planning and Development Agency and the Certificate of Need Review Board propose to amend the above-styled section of the *Alabama Certificate of Need Program Rules and Regulations*.

SUBSTANCE OF PROPOSED ACTION:

This amendment revises the current provisions regarding electronic filing. This amendment will standardize the electronic filing process at SHPDA, including a process for the acceptance of electronic filings requiring a filing fee, and standard formatting and file size limits.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

In response to this Proposed Rule, 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 Certificate of Need Review Board shall be made in writing on or before March 7, 2016, and shall be made to:

Nicole Horn, Executive Secretary
State Health Planning and Development Agency
P. O. Box 303025
Montgomery, Alabama 36130-3025

On March 16, 2016, at 10:00 a.m., the Certificate of Need Review Board shall conduct a public hearing in the State Capitol, Capitol Auditorium, 600 Dexter Avenue, Montgomery, Alabama, at which time it shall consider the Proposed Amendment, along with all written and oral submissions respecting the Proposed Amendment. Only those interested persons who have made timely written requests will be afforded the opportunity to speak.

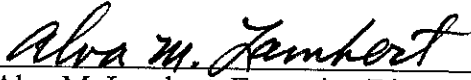
Copies of the proposed changes are available for review at 100 North Union Street, RSA Union Building, Suite 870, Montgomery, Alabama. Phone (334) 242-4103 or visit the office Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding State holidays.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

March 7, 2016

CONTACT PERSON AT AGENCY:

Nicole Horn
100 North Union Street
RSA Union, STE 870
Montgomery, AL 36104
(334) 242-4103


Alva M. Lambert, Executive Director

410-1-3-.09 Electronic Filing

(1) ~~Copies of All~~ documents to be filed with the State Agency, with the exception of any Mandatory Report as defined in Rule 410-1-3-.11, may shall be submitted electronically to shpda.online@shpda.alabama.gov ~~in accordance with Rule 410-1-3-.08 and § 8-1A-1, et seq., Code of Alabama, 1975.~~ All Mandatory Reports shall be submitted electronically to data.submit@shpda.alabama.gov. The electronic submittal shall contain all required information for the type filing being made and be formatted in text searchable, PDF format. ~~The documents may be submitted on a clean compact disk and delivered to the State Agency by U.S. mail, hand delivery, or overnight or express mail or submitted via e-mail to shpda.online@shpda.alabama.gov.~~ The documents may also be submitted in text searchable, PDF format on a clean compact disk or other electronic media approved by the Executive Director and delivered to the State Agency by hand delivery or overnight or express mail by the deadline.

(2) ~~Effective January 1, 2014, any written request or application required to be filed with the State Agency in accordance with its rules shall be submitted electronically. Applicants for a Certificate of Need shall also be required to submit an original and two (2) paper copies of the application to the Agency within twenty-four (24) hours of the electronic submission, in accordance with Rule 410-1-7-.06. Electronic filing will become available for some filings, as determined by SHPDA, on an optional trial basis, beginning July 1, 2013. In the event of an outage of the SHPDA's electronic filing system, paper filings will be accepted, subject to the submission of an electronic copy within twenty-four (24) hours after service restoration. All required filing fees must be submitted via overnight mail or other delivery method, for delivery to the State Agency at the address below on the day of electronic filing or on the next Agency business day, as follows:~~

State Health Planning and Development Agency
Attention: Secretary

Mailing Address:
P.O. Box 303025
Montgomery, Alabama 36130-3025

For Physical Deliveries:
RSA Union Building
100 N. Union Street - Suite 870
Montgomery, Alabama 36104

Fees should be accompanied by transmittal letter with following information:

Subject: Filing Fee for:
Name of Filing Entity
Filing Description: [CON application, reviewability determination request,
change of ownership notice, etc.]
Date of Electronic Filing

Project Number, if known

(3) Subject to the provisions of subsection (4) of this section, the receipt date for an electronic submittal via e-mail shall be date and time of receipt by the State Agency of a filing that meets the requirements set forth herein, as reflected in the electronic records of the State Agency. The date of receipt of an electronically submitted Certificate of Need application does not by itself constitute a determination of completeness by the State Agency under SHPDA Rule 410-1-7-.06(2). Within eight (8) business hours of receipt, the Executive Secretary of the Agency shall send an acknowledgement of receipt to the submitter via electronic mail to the electronic address appearing on the submission. For Mandatory Reports, acknowledgement of receipt shall be sent by the Data/Planning Director of the Agency or his/her designee in accordance with the requirements of Rule 410-1-3-.11(2)(a).

(4) For filings requiring the submission of a filing fee or administrative penalty, the filing shall be considered provisionally received pending receipt of the required fee or penalty, and shall be considered void should the proper filing fee or administrative penalty not be received by the end of the next business day, as provided in subsection (2) above.

(5) The size of an individual PDF file submitted to the Agency should not exceed 15 Megabytes. If the total Megabyte count of a main pdf document and attached supporting pdf documents in a single filing exceeds 15 Megabytes, the attached supporting documents should be submitted separately and related back to the main document entry. An electronic filing that is not completed due to being in excess of this restriction shall not be deemed filed.

(6) Unless otherwise provided for in an Agency form, the text of all formal filings shall be double-spaced, except that quotations from cases or other legal authorities more than 2 but not more than 25 lines long may be indented and single-spaced. Headings, footnotes, and quotations from statutes, evidentiary materials, and other matters in the record may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there. Mandatory Reports submitted in accordance with forms provided by the Agency shall be deemed in compliance with the format requirements of this rule.

(7) The typed font of all documents, including footnotes, must be plain, Roman or Courier style, although italics or boldface may be used for emphasis. References to court cases or administrative decisions should be italicized or underlined.

(8) In the event of an outage of SHPDA's electronic filing system, paper filings will be accepted, subject to the submission of an electronic copy to the authorized online address(s) set out in this Rule, within twenty-four (24) hours after service restoration, unless the outage occurs on a Friday, in which case the filing will be due on the following Monday.

(39) Applicants shall preserve a paper original of all filings made in electronic form for the duration of any SHPDA proceedings and related appeals resulting from such filings. Upon request of the State Agency or an intervenor of record, an Applicant which has submitted a Certificate of Need application electronically may be required to produce an original signed and

notarized application in paper form on or before the 55th day of the review period.

(10) In addition to meeting the requirements of this rule, specific filings are subject to other applicable provisions of these rules, including, but not limited to:

- a. Letter of Intent (Rule 410-1-7-.05)
- b. CON Applications (Rule 410-1-7-.06)
- c. Emergency CON applications (Rule 410-1-10-.01)
- d. Requests for Declaratory Rulings (Rule 410-1-9-.01)
- e. Request for Reviewability Determinations (Rule 410-1-7-.02)
- f. Change of Ownership Notifications (Rule 410-1-7-.04)
- g. Exceptions to Proposed Findings of Facts and Conclusions of Law (Rule 410-1-8-.05)
- h. Notice of Opposition, Intervention and Request for Contested Case Hearing (Rule 410-1-7-.13 and -.15, 410-1-9-.03)
- i. Request for Reconsideration (Rule 410-1-8-.09)
- j. Request for Fair Hearing (Rule 410-1-8-.16)
- k. Project Modifications (Rule 410-1-10-.03)
- l. Notice of Appeal (Rule 410-1-8-.24)
- m. Mandatory Reports (Rule 410-1-3-.11)

~~(4) Except as may be otherwise provided in these rules, the receipt date for an electronic submittal via e-mail shall be computer software accepting the submission, in accordance with § 8-1A-15, Code of Alabama, 1975. the date and time the document is received by SHPDA, as indicated by the The date of receipt of an electronically submitted Certificate of Need application does not by itself constitute a determination of completeness by the State Agency under Rule 410-1-7-.06(2).~~

(§11) Fees may be submitted electronically via an e-government contractor when the service becomes available to the State Agency.

Author: Alva M. Lambert

Statutory Authority: § 22-21-271(d), Code of Alabama, 1975.

History: New Rule: Filed July 22, 2013; effective August 26, 2013. Amended: Filed: _____; effective: _____.