

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.: 410-1-8-.09

Rule Title: Reconsideration of Decision

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 Olva M. Lambert

Date 6-16-14

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: 410-1-8-.09 Reconsideration of Decision

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 clarifies that all written submissions filed with the Agency pursuant to this rule must be filed electronically in accordance with Rule 410-1-3-.09 and corrects scrivener's errors.

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 August 4, 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 August 17, 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:

August 4, 2016

CONTACT PERSON AT AGENCY:

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

A handwritten signature in cursive script that reads "Alva M. Lambert". The signature is written in black ink and is positioned above a horizontal line.

Alva M. Lambert, Executive Director

410-1-8-.09 Reconsideration of Decision

- (1) Any aggrieved party, including the applicant, any competing applicant or any aggrieved person who has intervened pursuant to ALA. CODE § 41-22-14 Code of Alabama (1975 as amended) may file a ~~written~~-request for reconsideration of the decision pursuant to the provisions of Rule 410-1-3-.09 within fifteen (15) days to the date SHPDA's decision is deemed final. The ~~written~~-request shall state with particularity the evidence which supports one or more of the grounds for reconsideration.

- (2) Such application for reconsideration will lie only:
 - (a) if the final decision of SHPDA is:
 - (i) in violation of constitutional or statutory provisions;
 - (ii) in excess of the statutory authority of SHPDA;
 - (iii) in violation of a SHPDA rule;
 - (iv) made upon unlawful procedure;
 - (v) affected by other error of law;
 - (vi) clearly erroneous in view of the reliable probative, and substantial evidence on the whole record; or
 - (vii) unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion; or
 - (b) if the party requesting reconsideration presents any significant relevant and material newly discovered information not previously considered by SHPDA which, with reasonable diligence, could not have been discovered in time to be presented before SHPDA made its decision.

There shall be no action for reconsideration of a prior order on reconsideration.

- (3) An aggrieved party shall not be required to request reconsideration prior to or as a condition requesting a fair hearing or as a condition to seeking judicial review pursuant to ALA. CODE § 41-22-20, Code of Alabama, (1975 as amended).

Author: Alva M. Lambert

Statutory Authority: § 22-21-275 (12), and § 41-22-17, Code of Alabama, 1975.

History: March 21, 1985. Amended: Filed June 12, 1997; effective July 17, 1997. Amended: Filed February 1, 2000; effective March 7, 2000. Amended: Filed: _____; effective: _____