

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
ADMINISTRATIVE CODECHAPTER 410-1-1
LEGAL AUTHORITY AND SANCTIONS

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410-1-1-.01 Statutory Authority.

The statutory authority for control and regulation of development of certain health care facilities is found at Code of Ala. 1975, §§22-21-260, et. seq. The State Health Planning and Development Agency is the agency of the State of Alabama which is designated by the Governor as the sole state health planning and development agency and which administers the certificate of need program.

Author:

Statutory Authority: Code of Ala. 1975, §§22-21-260, et seq.

History:410-1-1-.02 Executive Authority.

Further authority for the certificate of need program is found in Executive Order Number Twenty-Three (23), dated March 30, 1984, and the First Amendment thereto, dated June 23, 1987.

Author:

Statutory Authority: Code of Ala. 1975, §22-21-260(1). Executive Order Number 23, March 20, 1984, and the First Amendment thereto, June 23, 1987.

History:410-1-1-.03 Adoption Of Review Procedures And Criteria.

The State Health Planning and Development Agency is authorized to prescribe by rules and regulations, with the advice and consultation of the Statewide Health Coordinating Council, review criteria, review procedures, and clarifying definitions consistent with Alabama law. (See Chapter 410-1-12.)

Author:

Statutory Authority: Code of Ala. 1975, §22-21-274.

History:

410-1-1-.04 Sanctions.

(1) Injunctive Relief. Injunctive relief against violations of the statute or any reasonable rules and regulations of the state agency may be obtained from the Circuit Court of Montgomery County, Alabama, at the instance of the state agency, any holder of a certificate of need that is adversely affected in the exercise of privileges thereunder by such violation or any member of the public directly and adversely affected by such violation. Upon written request by the state agency, it shall be the duty of the Attorney General of the State of Alabama to furnish such legal services as may be appropriate and to prosecute such action for injunctive relief to an appropriate conclusion.

(2) No License to Operate. The State Board of Health shall not issue a license to operate new inpatient beds or any health care facility constructed or acquired in violation of the statute and without a certificate of need issued pursuant to the statute.

(3) No Reimbursement Upon Violation. Any facility or service provided or constructed in violation of the statute and without a certificate of need shall not receive reimbursement for services rendered by the health care facility or for the service provided by the facility which is provided in violation of the statute without a certificate of need. This provision applies to all reimbursement programs administered by the State of Alabama. Recommendations will be made to other reimbursing agencies that reimbursement be denied.

(4) Revocation of Certificate of Need.

(a) The state agency or any person who has standing to seek injunctive relief for violations of the statute may petition the Certificate of Need Review Board for the revocation of a Certificate of Need. The petition must be filed pursuant to the provisions of Rule 410-1-3-.09. No Certificate of Need can be revoked except upon sworn proof of evidence that shows conclusively that the holder of the Certificate of Need has committed actual fraud in its inducement or has fraudulently exceeded the scope of the approved application. Upon receipt of such petition, the state agency will give notice to, and an opportunity to show compliance by the holder of the Certificate of Need. No Certificate of Need can be revoked except after such notice and a public hearing, at which time the petitioner, the holder of the Certificate of Need, and any other affected party will have an opportunity to be heard.

(b) Any person may, upon request and for good cause shown, request a public hearing on the reconsideration of the revocation, pursuant to the provisions of Rule 410-1-3-.09. Such a hearing shall conform with the regulations regarding reconsideration hearings herein.

(c) Any person adversely affected by a decision to revoke a Certificate of Need may, request a fair hearing on the decision pursuant to the provisions of Rule 410-1-3-.09. Such a hearing shall conform with the regulations regarding fair hearings herein.

(d) For purposes of this section, the burden of proof is upon the petitioner to show that the holder of a Certificate of Need has materially exceeded the scope or cost of the project as evidenced by the application for the Certificate of Need as well as by the conditions made on the certificate itself.

Author:

Statutory Authority: Code of Ala. 1975, §§22-21-275(12), (13), (14), 22-21-276, 41-22-19.

History: Amended: Filed August 23, 2016; effective October 7, 2016.