STATE HEALTH PLANNING AND DEVELOPMENT AGENCY ADMINISTRATIVE CODE

CHAPTER 410-1-2 DEFINITIONS

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410-1-2-.01 State Health Planning And Development Agency (SHPDA).

An agency of the State of Alabama which is designated by the Governor as the sole state health planning and development agency, which shall consist of three consumers, three providers and three representatives of the governor who all shall serve staggered terms and all be appointed by the Governor. Where used in these rules, the terms, "State Agency", "Certificate of Need Review

Board", and the "SHPDA" shall be synonymous and may be used interchangeably.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260.
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.02 Statewide Health Coordinating Council (SHCC).

A council, appointee by the Governor, established pursuant to Code of Ala. 1975, Sections 22-4-7 and 22-4-8, and Executive Order Number 13, dated July 9, 1987. The purpose of such council is to prepare the State Health Plan, to advise the State Health Planning and Development Agency on matters relating to health planning and resource development and to perform other functions as may be delegated to it to include an annual review of the State Health Plan.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(2), Act 2003-331.
History: Amended: Filed February 26, 1991; effective April 2, 1991. **Amended:** Filed September 26, 2003; effective October 31, 2003.

410-1-2-.03 Health Service Area.

A geographical area designated by the Governor, as being appropriate for effective planning and development of health services. Such geographical areas may vary according to the types of individual health services. In the absence of a designated geographical area for a particular service, the county in which the service is to be provided shall be deemed to be the health service area.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(3).
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.04 State Health Plan (SHP).

A comprehensive plan which is prepared triennially and reviewed at least annually and revised as necessary by the Statewide Health Coordinating Council with the assistance of the State Health Planning and Development Agency and approved by the Governor. The State Health Plan shall provide for the development of health programs and resources to assure that quality health services will

be available and accessible in a manner which assures continuity of care, at reasonable costs, for all residents of the State.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(4).
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.05 Health Care Facility.

(1) Such term shall include: General and specialized hospitals, including tuberculosis, psychiatric, long term care and other types of hospitals; and related facilities; such as laboratories; outpatient clinics and central service facilities operated in connection with hospitals; skilled nursing facilities; intermediate care facilities; skilled or intermediate care units operated in veteran's nursing homes and veterans' homes, owned or operated by the State Department of Veterans' Affairs, as these terms are described in Chapter 5A (commencing with Section 31-5A-1) of Title 31; rehabilitation centers; public health centers; facilities for surgical treatment of patients not requiring hospitalization; kidney disease treatment centers, including freestanding hemodialysis units; community mental health centers and related facilities; alcohol and drug abuse facilities; facilities for the developmentally disabled; hospice service providers; and home health agencies and health maintenance organizations.

(2) The term "health care facility" shall not include any of the following:

(a) The private office of any duly licensed physician, dentist, chiropractor, or podiatrist, whether for individual or group practice and regardless of ownership.

(b) Christian Science sanatoriums operated or listed and certified by the First Church of Christ, Scientists, Boston, Massachusetts.

(c) Veterans nursing homes or veterans homes operated by the Department of Veterans Affairs, not to exceed 150 beds to be built in Bay Minette, Alabama, and a veterans' nursing home or veterans' home owned or operated by the State Department of Veterans' Affairs not to exceed 150 beds to be built in Huntsville, Alabama, for which applications for federal funds under federal law are being considered by the U.S. Department of Veterans' Affairs prior to March 18, 1993.

(3) Any expenditure, which is otherwise reviewable under Code of Ala. 1975, Section 22-21-263, made by any entity enumerated in Rule 410-1-2-.05(2) herein and which is on behalf of any entity

enumerated in Rule 410-1-2-.05(1) herein shall remain subject to such review.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260.
History: **Amended:** Filed February 26, 1991; effective April 2, 1991. **Amended:** Filed August 23, 2016; effective October 7, 2016.

410-1-2-.06 Health Services..

Clinically related (i.e, diagnostic curative or rehabilitative) services, including alcohol, drug abuse and mental health services customarily furnished on either an inpatient or outpatient basis by health care facilities, but not including the lawful practice of any profession or vocation conducted independently of a health care facility and in accordance with applicable licensing laws of this State.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(6).
History: **Amended:** Filed February 26, 1991; effective April 2, 1991.

410-1-2-.07 Capital Expenditure.

An expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by the health care facility at its own contractor), which, under generally accepted accounting principles, is not properly chargeable as expense of operation and maintenance, and which

(a) exceeds $2,000,000.00 indexed annually for inflation for major medical equipment; results in $800,000.00 indexed for inflation for new annual operating costs; or $4,000,000.00 indexed annually for inflation for any capital expenditures;

(b) changes the bed capacity of the facility with respect to which such expenditure is made, or

(c) substantially changes the health services of the facility with respect to which such expenditure is made.

Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(7), Act 2003-331.
History: **Amended:** Filed February 26, 1991; effective April 2, 1991. **Amended:** Filed September 26, 2003; effective October 31, 2003.

410-1-2-.08 Person.

Any person, firm, partnership, association, joint venture or corporation, the State of Alabama and its political subdivisions or parts thereof and any agencies or instrumentalities and any combination of persons herein specified, but "person" shall not include the United States or any agency or instrumentality thereof, except in the case of voluntary submission to these regulations.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(8).
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.09 Applicant.

Any person as defined herein, who files an application for a certificate of need.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(9).
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.10 Acquisition.

Such term shall mean and include obtaining the legal equitable title to a freehold or leasehold estate or otherwise obtaining the substantial benefit of such titles or estates, whether by purchase, lease, loan or sufferance, gift, devise, legacy, settlement of a trust or means whatever, and shall include any act of acquisition. The term "acquisition" shall not mean or include any conveyance, or creation of any lien of security interest by mortgage, deed of trust, security agreement or similar financing instrument, nor shall it mean or include any transfer of title or rights as a result of the foreclosure, or conveyance or transfer in lieu of the foreclosure, of any such mortgage, deed of trust, security agreement or similar financing instrument, nor shall it mean or include any profit, devise, legacy, settlement of trust, or other transfer of the legal or equitable title of an interest specified hereinabove by a natural person to any member of such person's immediate family. For the purposes of this section "immediate family" shall mean the spouse of the grantor or transferor and any other person related to the grantor or transferor to the fourth degree of kindred as such degrees are computed according to law.
Author: State Health Planning and Development Agency

Statutory Authority: Code of Ala. 1975, §22-21-260(10).
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.11 Health Maintenance Organization (HMO).

(1) A public or private organization, organized under the law of the state which

(a) provides or otherwise makes available to enrolled participants, health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out-of-area coverage; and

(b) is compensated (except for co-payments) for the provision of the basic health care services listed in paragraph (1)(a) of this definition to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to frequency, extent, or kind of health service actually provided; and

(c) provides physicians' services primarily directly through physicians who are either employees or partners of the organization or through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis); and

(d) owns or operates a facility wherein clinical services are provided to enrolled participants.

Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §§22-21-263, 264.
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.12 Construction.

Such term shall mean and include actual commencement, with bona fide intention of completing, the same, or completion of the construction, erection, remodeling, relocation, excavation or fabrication of any real property constituting a facility under this article, and the term "construct" shall mean and include any act of construction. "Ground breaking ceremony", "receipt of bids", "receipt of quotation" or similar action that will permit unilateral termination without penalty shall not be considered "construction".
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(1).

History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.13 Firm Commitment Or Obligation.

(1) Such terms shall mean and include:

(a) Any executed, enforceable, unconditional written agreement or contract not subject to unilateral cancellation for the acquisition or construction of a health care facility or purchase of equipment therefor;

(b) Actual construction of facilities peculiarly adapted to the furnishing of one or more particular services and with the bona fide intention of furnishing such service or services; and

(c) Any executed, unconditional written agreement not subject to unilateral cancellation for the bona fide purpose of furnishing one or more services.

Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260.
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.14 Institutional Health Services.

Health services, as herein defined provided in or through health care facilities or health maintenance organizations, including the entities in or through which such services are provided.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(13).
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.15 Modernization.

The alteration, repair, remodeling, and renovation of existing buildings, including equipment within the existing buildings. Modernization does not include the replacement of existing buildings which are being used by a health care facility to provide institutional health services which are subject review and does not include the replacement of major medical equipment.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(14), Act 2003-331.

History: Amended: Filed February 26, 1991; effective April 2, 1991. **Amended:** Filed September 26, 2003; effective October 31, 2003.

410-1-2-.16 To Offer.

Such term, when used in connection with health services, means that the health care facility or health maintenance organization holds itself out as capable of providing, or as having the means for the provision of, specified health services. A health care facility may not offer a new institutional health service which is subject to Code of Ala. 1975, §§22-21-260(15) and 22-21-263, et seq., without first obtaining a certificate of need therefor.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §§22-21-260(15), 22-21-263, et. seq.
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.17 Rural Health Care Provider/Applicant/Hospital.

A provider or applicant or hospital located in a geographical area designated by the United States Government Healthcare Financing Administration as rural.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(16).
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.18 Affected Persons.

Includes at a minimum, the applicant, and health care facilities located in the area in which the project is proposed to be located and which provides similar services to those proposed. Also included are those persons who have an active letter of intent on file to provide similar services in the same area. Affected persons further include those state agencies which establish reimbursement rates for health care facilities in the area in which the project is proposed to be located.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(8).
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.19 Certificate Of Need.

A permit required by law before which no person, except as exempted by statute, shall acquire, construct or operate a new institutional health service or acquire major medical equipment, or furnish or offer, or purport to furnish a new institutional health service, or make arrangement or commitment for financing the offering of the new institutional health service or acquiring the major medical equipment. The duration of the certificate of need shall be for a period of twelve months from the date of issuance, unless extended, and is limited by the conditions expressed thereon, by the final order of the State Agency, and by the terms of the application submitted by the proponent.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §§22-21-265, 22-21-267, 22-21-270.
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.20 Cost Overrun (Repealed 7/30/14).

(REPEALED)
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-264.
History: Amended: Filed February 26, 1991; effective April 2, 1991. **Repealed:** Filed June 25, 2014; effective July 30, 2014.

410-1-2-.21 Substance Abuse Rehabilitation Services.

Any facility or service (i.e., diagnostic, curative, or rehabilitative) whether acute or subacute which offers treatment of alcohol, drug or other substance abuse on either an inpatient or outpatient basis.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260.
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.22 By Or On Behalf Of.

Such term shall mean and include an expenditure by a health care facility which meets a review threshold, or an expenditure by another entity which will result in a direct benefit to a health care facility including expenditures by parent corporations for

the benefit of their health facility holdings and guarantor arrangements on loans and/or leases.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-263(a)(2).
History: Amended: Filed February 26, 1991; effective April 2, 1991.

410-1-2-.23 Offices Of Private Physicians Or Dentists.

(1) Those offices, whether for individual or group practices and regardless of ownership.

(a) which are established for the purpose of providing those services which are normally performed in a physician's or dentist's office as opposed to a hospital or other health care facility as such term is herein defined. Services which will be deemed not to be those which are normally performed in a physician's or dentist's office, and therefore, will not legitimately qualify for the exception for physician's or dentist's offices found in the definition herein of the term "health care facility", shall include but not be limited to the following:

1. oncology centers,

2. diagnostic centers (including but not limited to MRI, CT, and Mammography services),

3. lithotripsy,

4. outpatient angiography, and

5. recovery centers; and,

(b) which are not reimbursed for services on a global or facility fee basis.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(3).
History: Amended: Filed February 26, 1991; effective April 2, 1991.

Ed. Note: This rule was declared void by the Montgomery County Circuit Court in the case of Medical Association of the State of Alabama v. Fancher, CV-91-1566, June 4, 1992.

410-1-2-.23.01 Campus.

The contiguous real property, contained within a single county, which is owned or leased by a health care facility and upon which

is located the buildings and any other real property used by the health care facility to provide existing institutional health services which are subject to review.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(3), Act 2003-331.
History: **New Rule:** Filed September 26, 2003; effective October 31, 2003.

410-1-2-.24 Major Medical Equipment.

Medical clinical equipment intended for sue in the diagnosis or treatment of medical conditions, which is used to provide institutional health services of a health care facility which are subject to review, and which expenditure exceeds the thresholds referenced in Alabama Administrative Code R. 410-1-2-.07, and/or Alabama Administrative Code R. 410-1-4-.01.
Author: State Health Planning and Development Agency
Statutory Authority: Code of Ala. 1975, §22-21-260(11), Act 2003-331.
History: **New Rule:** Filed September 26, 2003; effective October 31, 2003.