

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
ADMINISTRATIVE CODECHAPTER 410-1-5A
ADDITION OF NURSING HOME BEDS WITHOUT A CERTIFICATE OF NEED

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410-1-5A-.01 Exemption From Certificate Of Need Review.

(1) An increase in the bed capacity of a licensed skilled or intermediate care nursing facility shall be exempt from certificate of need review provided:

(a) the increase does not exceed ten percent (10%) of the total nursing home beds of the applying facility, rounded to the nearest whole number, or ten beds, whichever is greater; and

(b) the average rate of occupancy of the applying facility is ninety-five percent (95%) or greater during the 24-month period ending on June 30th of the year immediately preceding the application for exemption; and

(c) the aggregate average rate of occupancy for all other skilled and intermediate care nursing home facilities situated in the same county as the applicant is ninety-five percent (95%) or greater during the 24-month period ending on June 30th of the year immediately preceding the application for exemption; and

(d) the increase does not require capital expenditures exceeding the capital spending thresholds prescribed in 22-21-263(a) (2), or result in the addition of a new health service or result in the conversion of beds; and

(e) the facility has not been granted an increase in beds under this exemption within the 24-month period immediately preceding the application; and

(f) the applying facility is not an intermediate care facility designated ICF-MR by the State Board of Health and operated by the Department of Mental Health; and

(g) the executive director of the state agency approves the exemption after receipt of the proper application.

Author:

Statutory Authority: Code of Ala. 1975, §22-21-265(c), as amended.

History: New Rule: Filed: September 22, 1994; effective: October 27, 1994.

410-1-5A-.02 Determination Of Exemption Status.

(1) Determination of whether the increase in beds capacity is exempt from review shall be made by the executive director of the state agency upon the filing of an application requesting such determination on the application forms prescribed by the state agency.

(a) the applicant shall submit the original and three copies of the application to the state agency;

(b) applications pursuant to this section can be submitted only during the 90-day period beginning January 1st through March 31st of each year;

(c) within 60 days of receipt of the application, the executive director shall notify the applicant in writing of the decision and the basis for the determination. The absence of a decision within the 60 day period is deemed a denial and the applicant may appeal under Rule 410-1-5A-.05;

(d) the application shall be deemed to be filed on the date that it is received by the state agency. No facsimiles will be accepted.

Author:

Statutory Authority: Code of Ala. 1975, §22-21-265(e), as amended.

History: New Rule: Filed: September 22, 1994; effective October 27, 1994.

410-1-5A-.03 Determination Of Occupancy.

(1) In determining the occupancy of a facility the executive director shall disregard licensed beds removed from service by state or federal requirements, or otherwise removed from service or beds not in use during the three (3) year period immediately preceding the application. The executive director may require, and

applicant must provide all information/ documentation necessary to make such determination. For occupancy determination, all beds granted under this exemption or under a certificate of need shall be deemed available for service as of the date granted. Beds granted under this exemption or a CON which are not placed in service within the applicable time frame will not be counted in calculating occupancy for a county

(2) Occupancy shall be computed from the annual report filed with the state agency, or the agency may use statistical data filed with the Division of Licensure and Certification, Department of Public Health, or cost reports filed with the Alabama Medicaid Agency.

Author:

Statutory Authority: Code of Ala. 1975, §22-21-265(e), as amended 1994.

History: New Rule: Filed: September 22, 1994; effective October 7, 1994. **Amended:** Filed: October 24, 1995; effective November 28, 1995.

410-1-5A-.04 Expiration Of Exemption.

Any exemption from review granted hereunder shall expire and be determined null and void 12 months after the date of issue. Notwithstanding the foregoing, the executive director may grant one extension not to exceed 12 months upon a showing of substantial progress.

Author:

Statutory Authority: Code of Ala. 1975, §22-21-165(e), as amended 1994.

History: New Rule: Filed: September 22, 1994; effective October 27, 1994.

410-1-5A-.05 Appeal.

A denial of exemption under this section may be appealed within fifteen days of the date of the decision to the CON review Board. No new material or information will be considered.

Author:

Statutory Authority: Code of Ala. 1975, §22-21-265(e), as amended 1994.

History: New Rule: Filed: September 22, 1994; effective October 27, 1994.

410-1-5A-.06 Fees.

The applicant shall submit with the application a non-refundable fee as set by the Agency.

Author:

Statutory Authority: Code of Ala. 1975, §22-21-265(e), as amended 1994.

History: New Rule: Filed: September 22, 1994; effective October 27, 1994.