

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY  
ADMINISTRATIVE CODE

CHAPTER 410-1-6  
REVIEW CRITERIA AND STANDARDS

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410-1-6-.01	<u>The Certificate of Need Review Board Use of Criteria.</u>

(1) The Certificate of Need Review Board will apply as appropriate, the criteria and standards contained herein in conducting the review of a certificate of need application. The applicant should present information in the application which addresses each relevant criterion and each sub-part of the criterion. The burden of producing evidence is on the applicant.

(a) Mandated Criteria and Standards. Pursuant to and consistent with Code of Ala. 1975, §22-21-264, the state agency shall review and report its findings on each proposal for a new institutional health service, health care facility, and/or capital expenditure included in the certificate of need review program.

(b) Supplemental Review Criteria. The proposal for the new institutional health service, health care facility and/or capital expenditure shall be consistent with additional criteria prescribed by regulation adopted under state law as well as all other applicable state and local requirements to which the proposal may be related.

(c) Compliance with Criteria and Standards. To receive favorable findings, each application and proposal must be found in conformity with the criteria and standards established herein insofar as the criteria or standards established herein apply to the proposed new institutional health service, health care facility, and/or capital expenditure. These requirements are in addition to the required findings for inpatient facilities found in Code of Ala. 1975, §22-21-266. Favorable findings shall be made in writing and shall be made a part of the administrative record on the project.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§22-21-264, 274.

**History:**

**410-1-6-.02      State Health Plan Or Plans.**

(1) The proposed new institutional health service shall be consistent with the appropriate state health facility and services plans effective at the time the application was received by the state agency, which shall include the latest approved revisions of the following plans:

- (a) the most recent Alabama State Health Plan;
- (b) Alabama State Plan for Services to the Mentally Ill;
- (c) Alabama State Plan for Rehabilitation Services;
- (d) Alabama Developmental Disabilities Plan;
- (e) Alabama State Alcoholism Plan;
- (f) such other state plans as may from time to time be required by federal or state statute.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §22-21-264(1).

**History:**

**410-1-6-.03      Applicant's Long-Range Development Plan.**

The relationship to the long-range development plan (if any) of the person providing, or proposing the project shall be addressed.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §22-21-264.

**History:**

**410-1-6-.04      Availability Of Alternatives.**

(1) The availability of less costly, more efficient, more appropriate, or more effective alternatives to the proposed facility or service to be offered, expanded, or relocated will be considered.

(a) In the consideration of the availability of alternatives, priority may be given to those alternatives that are in existence.

(b) Less costly alternatives must be judged against the need for greater accessibility, availability, and the impact on the total health care system.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§22-21-264, 274.

**History:**

**410-1-6-.05      Need For The Project.**

(1) Determination of a substantially unmet public requirement for the proposed health care facility, service, or capital expenditure shall be made before approval may be granted. The need shall be consistent with orderly planning within the state and community for furnishing comprehensive health care. Such determination of need shall be made based on the merits of the proposal after giving appropriate consideration to the following:

(a) financial feasibility of the proposed change in service of the facility;

(b) specific data supporting the demonstration of need for the proposed change in facility or service shall be reasonable, relevant, and appropriate;

(c) evidence of evaluation and consistency of the proposed change in facility or service with the facility's and the community's overall health and health-related plans;

(d) evidence of consistency of the proposal with the need to meet nonpatient care objectives of the facility such as teaching and research;

(e) evidence of review of the proposed facility, service, or capital expenditure when appropriate and requested by other state agencies;

(f) evidence of the locational appropriateness of the proposed facility or service such as transportation accessibility, manpower availability, local zoning, environmental health, etc.;

(g) reasonable potential of the facility to meet licensure standards;

(h) reasonable consideration shall be given to medical facilities involved in medical education.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §22-21-264(4).

**History:**

**410-1-6-.06      Additional Criteria For Determining Need.**

(1) The following criteria shall be considered in determining whether a need for the project exists, which criteria shall be in addition to the criteria set forth in Section 410-1-6-.05:

(a) The need that the population served or to be served has for the services proposed to be offered, expanded, or relocated, will be considered. Specific data supporting the demonstration of need shall be reasonable, relevant, and appropriate. In cases involving the relocation of a facility or service, the extent to which a need will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the relocation of the service on the ability of affected persons to obtain needed health care will be examined in determining whether there is a need for the proposed facility or service.

(b) Population Statistics and Growth. Unless clearly shown otherwise, current population estimates or projections published by the Center for Business and Economic Research, University of Alabama, and data from the SHPDA Division of Data Management will be considered to be the most reliable data available. Population factors are normally included within those methodologies contained in the State Health Plan for determining need.

(c) Current and Projected Utilization in the Area. The current and projected utilization of like facilities or services

within the proposed service area will be considered in determining the need for additional facilities or services. Unless clearly shown otherwise, data, where available from the SHPDA Division of Data Management shall be considered to be the most reliable data available.

1. Current and projected utilization may be expressed in the State Health Plan as a guideline to the SHPDA Board. Where such is the case, the SHPDA Board should give due consideration to the guidelines.

(d) Specialization of the Facility or Service. The allocation of beds in the appropriate state plan addresses a general medical surgical bed need as well as a bed need for certain specialized services in the area. An applicant proposing to use such general medical surgical beds for a reviewable limited purpose service, such as obstetrical, must prove a need or an additional need in the service area.

(e) Effect on Existing Facilities or Services. The probable effect of the proposed facility or service on existing facilities or services providing similar services to those proposed shall be considered. When the service area of the proposed facility or service overlaps the service area of an existing facility or service, then the effect on the existing facility or service shall be considered. The applicant or interested party must clearly present the methodologies, and assumptions upon which any proposed project's impact on utilization in affected facilities or services is calculated.

1. Expanded Services or New Services. Expansion of existing services may be reviewed more favorably than the establishment of new services as a generally more cost effective alternative, however, the availability and accessibility of services must be considered.

2. Merger, Sharing, or Modernization of Services. Any merger of services into one facility or entity from two or more facilities or entities which can be shown to result in lower health care costs without adversely affecting need of access will be considered a favorable factor. Sharing of services which result in lower health care cost shall be considered a favorable factor. Modernization of services as an alternative to new construction which result in lower health care costs shall be considered a favorable factor.

(f) Community Reaction to the Facility or Service. The community reaction to the facility should be considered. The applicant may, at its option, submit endorsements from community officials and individuals expressing their reaction to the proposal. If significant opposition to the proposal is expressed in writing or at a public hearing, the opposition

may be considered an adverse factor and weighed against endorsements received. Absence of opposition may be considered a favorable factor.

**Author:****Statutory Authority:** Code of Ala. 1975, §22-21-264.**History:****410-1-6-.07      Access To The Facility Or Service.**

(1) The contribution of the proposed service or facility in meeting the health related needs of traditionally medically underserved groups (for example, low income persons, racial and ethnic minorities, women, and handicapped persons) particularly those needs identified in the appropriate state plan will be considered. This purpose is to ensure that the medically underserved will receive equal access to care, that the project will be accessible to the whole community, and that the community needs the proposed project. For the purpose of determining the extent to which the proposed service will be accessible, the state agency will consider:

(a) the extent to which the medically underserved currently use the applicant's services in comparison to the percentage of the population in the applicant's service areas which is medically underserved, and the extent to which the medically underserved are expected to use the proposed services;

(b) the applicant's performance in meeting its obligation, if any, under any applicable federal regulations requiring provision of uncompensated care, community service, or access by minorities or handicapped to programs receiving federal financial assistance;

(c) the extent to which the unmet needs of Medicare, Medicaid, and medically indigent patients are proposed to be served by the applicant; and

(d) the extent to which the application offers a range of means by which a person will have access to the proposed services.

(2) The state agency shall not be required to consider access criteria in the following situations:

(a) where the project proposes to eliminate or prevent certain imminent safety hazards or to comply with certain licensure or accreditation standards; or

(b) where the project proposes a capital expenditure not directly related to the provision of health services or to beds or major medical equipment.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §22-21-264.

**History:**

**410-1-6-.08      Relationship Of Existing Health Care System.**

The relationship of the services proposed to be provided to the existing health care system of the area in which the services are proposed to be provided will be considered. The proposed services shall be complimentary to and supportive of the existing health care system.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§22-21-264, 274.

**History:**

**410-1-6-.09      Appropriate Applicant.**

(1) Determination shall be made that the person applying is an appropriate applicant, or the most appropriate applicant in the event of competing applications, for providing the proposed health care facility or service, such determination to be established from the evidence as to the ability of the person, directly or indirectly, to render adequate service to the public, including affirmative evidence as to the following:

(a) Professional capability of the facility proposing the capital expenditure.

1. If the application requires the services of a specialist, such as an open heart surgeon, the applicant will comment on the availability of such specialist.

(b) Management capability of the facility providing the capital expenditure.

(c) Adequate manpower, including health personnel and management personnel, enable the facility to offer the proposed service.

(d) Evidence of the existence of the applicant's long-range planning program and an ongoing planning process.

1. A copy of the long-range plan is not required to be provided to the state agency, however, a statement from the applicant regarding the plan will be required.

(e) Evidence of existing and on-going monitoring of utilization and the fulfilling of unmet or undermet health needs in the case of expansion.

(f) Evidence of communication with all planning, regulatory, utility agencies and organizations that influence the facility's destiny.

**Author:****Statutory Authority:** Code of Ala. 1975, §22-21-264(5).**History:****410-1-6-.10      Reserved.****Author:****Statutory Authority:****History:****410-1-6-.11      Access By Health Professional Schools.**

If proposed health services are to be available in a limited number of facilities, the extent to which the health professional schools in the area, or in adjacent areas, will have access to the services for training purposes will be considered.

**Author:****Statutory Authority:** Code of Ala. 1975, §22-21-264.**History:****410-1-6-.12      Special Needs Of Multi-Area Providers.**

The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas will be considered. These entities include medical and other health professional schools, multidisciplinary clinics and specialty centers (including but not limited to obstetrical-gynecological, pediatric, eye, psychiatric, or rehabilitation hospitals, or other single specialty hospitals).

**Author:****Statutory Authority:** Code of Ala. 1975, §22-21-264.**History:****410-1-6-.13      Special Needs Of Health Maintenance Organizations.**

The special needs and circumstances of health maintenance organizations will be considered. These needs include the needs of enrolled members and reasonably anticipated new members of the health maintenance organization for the health services proposed to be provided by the organization.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§22-21-264, 274.

**History:**

**410-1-6-.14      Construction Projects.**

All construction projects shall be designed and constructed with the objective of maximizing cost containment, protection of the environment and conservation of energy. The impact of the construction costs, including financing charges on the cost of providing health care, shall be considered.

(a) All applicants for new construction need not provide evidence of appropriate zoning for the proposed construction, but must provide such should it be requested by the agency.

(b) Each proposal in excess of one million, five hundred thousand dollars (\$1,500,000.00) which involves construction, modernization, or alteration of the physical plant, shall be accompanied by a copy of the schematic drawings.

(c) Each proposal involving construction shall be accompanied by a cost estimate.

(d) Construction projects limited to the elimination of architectural barriers to the handicapped shall receive special consideration.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §22-21-264(8).

**History:**

**410-1-6-.15      Supplemental Review Criteria.**

(1) Conformity With Local Zoning and Building Codes. The proposed facility or service must conform to local zoning ordinances and building codes.

(2) Compliance with Applicable State Statutes for the Protection of the Environment. The proposed facility shall comply with all applicable state statutes and regulations for the protection of the environment.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §22-21-264.

**History:**

**410-1-6-.16      Compliance With State Licensure Rules, Regulations and Standards.**

(1) The proposed facility shall be constructed and operated in compliance with the appropriate state licensure rules, regulations, and standards.

(a) The proponent shall certify on the application form that he has read and understands the state licensure rules, regulations, and standards and that the facility or service complies, or will comply fully.

(b) In the case of an existing facility, no proposal will be approved for a facility operating with a "Probational License" unless the proposal will specifically bring the facility into compliance with rules, regulations, and standards. Facilities holding "Probational Licenses" from the Alabama Department of Public Health, based on operation deficiencies, will be denied approval until the operation deficiencies are corrected and verified by the licensure authority.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §22-21-264.

**History:**

**410-1-6-.17      Past Performance Of Existing Services and Facilities.**

In the case of existing services or facilities, the quality of care provided by those services or facilities in the past will be considered.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§22-21-264, 274.

**History:**

**410-1-6-.18      Required Findings For New Inpatient Facilities.**

No certificate of need for new inpatient facilities or services shall be issued unless the Certificate of Need Review Board makes each of the following findings as required by state statute:

(a) that the proposed facility or service is consistent with the latest approved revision of the appropriate state plan effective at the time the application was received by the state agency;

(b) that less costly, more efficient or more appropriate alternatives to such inpatient service are not available, and that the development of such alternatives has been studied and found not practicable;

(c) that existing inpatient facilities providing inpatient services similar to those proposed are being used in an appropriate and efficient manner consistent with community demands for services;

(d) that in the case of new construction, alternatives to new construction (e.g., modernization and sharing arrangement) have been considered and have been implemented to the maximum extent practicable; and

(e) that patients will experience serious problems in obtaining inpatient care of the type proposed in the absence of the proposed new service.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §22-21-266.

**History:**