

**CERTIFICATION OF ADMINISTRATIVE RULES  
FILED WITH THE LEGISLATIVE REFERENCE SERVICE  
JERRY L. BASSET, DIRECTOR**

(Pursuant to Code of Alabama 1975, § 41-22-6, as amended).

I certify that the attached is/are a correct copy/copies of rule/s as promulgated and adopted on the 17<sup>th</sup> day of August, 2016, and filed with the agency secretary on the 23<sup>rd</sup> day of August, 2016.

**AGENCY NAME:** State Health Planning and Development Agency  
(Certificate of Need Review Board)

  X   Amendment;        New;        Repeal; (Mark appropriate space)

**Rule No.** 410-1-10-.03(1)(b), (2), (3) and (4)

(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

**Rule Title:** Project Modifications After Issuance of Certificate of Need

**ACTION TAKEN:**

The rule was adopted with changes from the proposal due to a paragraph numbering error that was corrected by the Agency.

**NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME** XXXIV

**ISSUE NO.** 9, **DATED** JUNE 30, 2016.

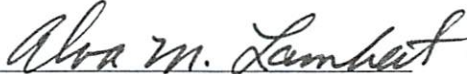
**Statutory Rulemaking Authority:** Code of Alabama, 1975 §§ 22-21-271, -274 and -275.

(Date Filed)  
(For LRS Use Only)

**REC'D & FILED**

**AUG 24 2016**

**LEGISLATIVE REF SERVICE**

  
Alva M. Lambert, Executive Director  
State Health Planning and Development Agency  
(Certifying Officer or his or her Deputy)

(NOTE: In accordance with § 41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

**410-1-10-.03 Project Modifications After Issuance of Certificate of Need**

- (1) A proposed change in a project for which the State Agency has previously issued a Certificate of Need will require approval by the Certificate of Need Review Board or the Executive Director of the State Agency as specified below. Approval is required whether or not a capital expenditure is associated with the proposed change.
  - (a) A “change in project” shall include, but not be limited to any change in the bed capacity or bed use (i.e., conversion of beds) of a facility, the addition of a health service or services, an increase in the cost of the project, in excess of ten percent (10%) of the total project cost, including, without limitation, a change in financing methods which results in an increase in the cost of the project.
  - (b) An application for a change in a project must be made pursuant to Rule 410-1-3-.09 and shall include information and any supporting data deemed necessary by the Executive Director relevant to the merits of the application. Such application shall be accompanied by a fee of thirty-five percent (35%) of the original Certificate of Need application fee for the project. The required filing fee must be submitted to the State Agency via overnight mail and marked in such a way as to clearly identify the fee with the electronic submission; or the fee maybe submitted electronically via the payment portal available through the State Agency’s website. The party seeking approval for such change must certify that a copy of such request has been served on all parties of record in the underlying administrative proceeding or who have filed letters in opposition thereto.
- (2) Any change in project involving the addition of beds, change in bed classification (conversion of beds) or the provision of new health services not specified in the original CON application shall require the filing of a new CON application. Any other proposed change in a project which falls below the financial thresholds for review provided in Rule 410-1-4-.01 and does not involve a physical relocation of the facility to a location other than that specifically designated in the application or CON shall be reviewable by the Executive Director of the agency. Otherwise, a project modification that meets the requirements of this rule shall be reviewable by the full Certificate of Need Review Board. No project modification will be granted prior to ten (10) business days after publication of the project modification request through notice provided on SHPDA’s web site. No more than two project modifications per project may be approved pursuant to this rule.
- (3) No project modification shall be granted during the pendency of an appeal of the Agency order granting the underlying CON.
- (4) The Agency shall be notified pursuant to the provisions of Rule 410-1-3-.09 of the termination of a health service or of one or more beds; provided, however, that such termination shall not require Agency review or approval.
- (5) Any adverse decision on a project modification heard by the Certificate of Need Review Board is subject to the Fair Hearing provisions of these rules, 410-1-8-.16, *et seq.*

Author: Alva M. Lambert

Statutory Authority: § 22-21-267, -271, Code of Alabama, 1975.

History: March 21, 1985; Amended: Filed May 3, 2005; effective June 7, 2005. Amended: Filed July 24, 2012; effective August 28, 2012. Amended: June 18, 2014; effective July 30, 2014. Amended: Filed: August 23, 2016; effective: October 7, 2016.

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