

**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 17th day of August, 2016, and filed with the agency secretary on the 23rd day of August, 2016.

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

Amendment; New; Repeal; (Mark appropriate space)

Rule No. 410-1-8-.09(1) and (3)

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

Rule Title: Reconsideration of Decision

ACTION TAKEN: State whether the rule was adopted without changes from the proposal due to written or oral comments;

No public comments were received; the rule was adopted without changes and as published for comment in the Alabama Administrative Monthly.

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 23 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.)

410-1-8-.09 Reconsideration of Decision

- (1) Any aggrieved party, including the applicant, any competing applicant or any aggrieved person who has intervened pursuant to ALA. CODE § 41-22-14 (1975 as amended) may file a request for reconsideration of the decision pursuant to the provisions of Rule 410-1-3-.09 within fifteen (15) days to the date SHPDA's decision is deemed final. The request shall state with particularity the evidence which supports one or more of the grounds for reconsideration.
- (2) Such application for reconsideration will lie only:
 - (a) if the final decision of SHPDA is:
 - (i) in violation of constitutional or statutory provisions;
 - (ii) in excess of the statutory authority of SHPDA;
 - (iii) in violation of a SHPDA rule;
 - (iv) made upon unlawful procedure;
 - (v) affected by other error of law;
 - (vi) clearly erroneous in view of the reliable probative, and substantial evidence on the whole record; or
 - (vii) unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion; or
 - (b) if the party requesting reconsideration presents any significant relevant and material newly discovered information not previously considered by SHPDA which, with reasonable diligence, could not have been discovered in time to be presented before SHPDA made its decision.

There shall be no action for reconsideration of a prior order on reconsideration.

- (3) An aggrieved party shall not be required to request reconsideration prior to or as a condition requesting a fair hearing or as a condition to seeking judicial review pursuant to ALA. CODE § 41-22-20 (1975 as amended).

Author: Alva M. Lambert

Statutory Authority: § 22-21-275 (12), and § 41-22-17, Code of Alabama, 1975.

History: March 21, 1985. Amended: Filed June 12, 1997; effective July 17, 1997. Amended: Filed February 1, 2000; effective March 7, 2000. Amended: Filed August 23, 2016; effective October 7, 2016.