

**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. 410-1-1-.04(4)(a) thru (c)

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

Rule Title: Sanctions

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
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.)

410-1-1-.04 Sanctions

- (1) **Injunctive Relief.** Injunctive relief against violations of the statute or any reasonable rules and regulations of the State Agency may be obtained from the Circuit Court of Montgomery County, Alabama, at the instance of the State Agency, any holder of a Certificate of Need that is adversely affected in the exercise of privileges thereunder by such violation or any member of the public directly and adversely affected by such violation. Upon written request by the State Agency, it shall be the duty of the Attorney General of the State of Alabama to furnish such legal services as may be appropriate and to prosecute such action for injunctive relief to an appropriate conclusion.
- (2) **No License to Operate.** The State Board of Health shall not issue a license to operate new inpatient beds or any health care facility constructed or acquired in violation of the statute and without a Certificate of Need issued pursuant to the statute.
- (3) **No Reimbursement Upon Violation.** Any facility or service provided or constructed in violation of the statute and without a Certificate of Need shall not receive reimbursement for services rendered by the health care facility or for the service provided by the facility which is provided in violation of the statute without a Certificate of Need. This provision applies to all reimbursement programs administered by the State of Alabama. Recommendations will be made to other reimbursing agencies that reimbursement be denied.
- (4) **Revocation of Certificate of Need**
 - (a) The State Agency or any person who has standing to seek injunctive relief for violations of the statute may petition the Certificate of Need Review Board for the revocation of a Certificate of Need. The petition must be filed pursuant to the provisions of Rule 410-1-3-.09. No Certificate of Need can be revoked except upon sworn proof of evidence that shows conclusively that the holder of the Certificate of Need has committed actual fraud in its inducement or has fraudulently exceeded the scope of the approved application. Upon receipt of such petition, the State Agency will give notice to, and an opportunity to show compliance by the holder of the Certificate of Need. No Certificate of Need can be revoked except after such notice and a public hearing, at which time the petitioner, the holder of the Certificate of Need, and any other affected party will have an opportunity to be heard.
 - (b) Any person may, upon request and for good cause shown, request a public hearing on the reconsideration of the revocation, pursuant to the provisions of Rule 410-1-3-.09. Such a hearing shall conform with the regulations regarding reconsideration hearings herein.
 - (c) Any person adversely affected by a decision to revoke a Certificate of Need may request a fair hearing on the decision pursuant to the provisions of Rule 410-1-3-.09. Such a hearing shall conform with the regulations regarding fair hearings herein.

- (d) For purposes of this section, the burden of proof is upon the petitioner to show that the holder of a Certificate of Need has materially exceeded the scope or cost of the project as evidenced by the application for the Certificate of Need as well as by the conditions made on the certificate itself.

Statutory Authority: §§ 22-21-275 (12) (13) (14), § 22-21-276, and § 41-22-19,
Code of Alabama 1975.

History: Amended: Filed: August 23, 2016; Effective: October 7, 2016.