

## **SYNOPSIS**

### ***Administrative Rules for Certificate of Need Appeal Panel***

#### ***Rule 274-1-.03***

#### ***Request for Initial Administrative Appeal Hearing or Intervention***

### **STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE**

The purpose of the proposed amendments in totality is to modify existing regulations in light of changes in the Certificate of Need statute, O.C.G.A. § 31-6 et seq., due to the passage of Senate Bill (SB) 433 in the 2008 Georgia General Assembly. SB 433 necessitates revision to the existing administrative rules for administrative appeals of certificate of need decisions. SB 433 abolished the previous Health Planning Review Board and created the Certificate of Need (CON) Appeal Panel. O.C.G.A. 31-6-44 and 31-6-44.1. The revisions are outlined in detail below.

### **DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES**

This rule is amended to reflect amended and new provisions governing the request for an initial administrative appeal hearing or intervention of the CON Appeal Panel.

### 274-1-.03 Request for Initial Administrative Appeal Hearing or Intervention.

(1) Any Applicant for a project, ~~or~~ any competing ~~A~~applicant in a joinder review, any competing applicant in the same batching cycle, or any competing health care facility that has timely notified the Department, as required by ~~111-2-2-.07(1)(f) or 111-2-2-.08(1)(g)~~ the applicable certificate of need rules, prior to its decision as applicable, in writing that such facility is opposed to the application before the Department, or any county or municipal government in whose boundaries the proposed project will be located, who is aggrieved by a decision of the Department shall have the right to an initial administrative appeal hearing before an appeal panel hearing officer or to intervene in such hearing.

(2) A Such request for ~~an initial administrative appeal~~ hearing or intervention ~~before a hearing officer or to intervene in such a hearing~~ shall be filed with the Chairperson of the Appeal Panel ~~made~~ within thirty (30) days after of the date ~~on the notification letter of the Department decision is issued, pursuant to O.C.G.A. § 31-6-43, or, if a decision is issued by the Department, and~~ within thirty (30) days after the date ~~that~~ the application is deemed to have been approved, if no decision is issued. Without exception to the status of the party, the request shall state with specificity which Certificate of Need application(s) ~~are is~~ being appealed. Unless agreed otherwise by all of the parties or determined otherwise by the hearing officer to whom the case is assigned, an appeal of one application which was joined with one or more other applications by the Department, or an application which was reviewed concurrently in a batching review cycle by the Department, pursuant to subsection (d) of O.C.G.A. § 31-6-43 shall serve as an appeal of all of the joined or batched applications.

(3) A request for an initial administrative appeal hearing before a hearing officer or to intervene in such a hearing shall be in writing and must be received by the Board Appeal Panel at the ~~Division of Health Planning~~ Office of General Counsel, Department of Community Health, 2 Peachtree Street, N.W., 5<sup>th</sup> Floor, Atlanta, Georgia 30303-3142, within the applicable thirty (30) day period. If the thirtieth (30<sup>th</sup>) day falls on a weekend

or a federal or state holiday, the time for requesting an appeal or intervention shall be extended to the next business day.

(a) The date of receipt shall be the official postmark date if mailed by registered or certified mail;

(b) The date of receipt shall be the date the Department actually received the request as documented by Department date stamp if mailed by regular first class mail or if hand delivered, except that any such request received after 5:00 p.m. shall be deemed ~~in receipt~~ to be received the following business day; and

(c) The only acceptable methods of delivery of any appeal request shall be certified mail, registered mail, regular fist class mail, and hand delivery.

Authority: O.C.G.A. § ~~31-5A, 31-6,~~ 31-6-44