

**SYNOPSIS**

*Rule 274-1-.03*

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

The purpose of this proposed amendment is to modify an existing regulation to identify the correct address for the Health Planning Review Board.

**DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES**

The existing regulation, 274-1-.03, is modified to change the address of the Health Planning Review Board at the Department of Community Health.

**RULES  
OF  
STATE HEALTH PLANNING REVIEW BOARD**

**CHAPTER 274-1  
ADMINISTRATION**

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

(1) Any Applicant for a project, or any competing Applicant, 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), 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 a hearing officer or to intervene in such hearing.

(2) A request for an initial administrative appeal hearing before a hearing officer or to intervene in such a hearing shall be made within 30 days after the date on the notification letter of the Department, if a decision is issued by the Department, and within 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 applications are 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 pursuant to subsection (d) of O.C.G.A. § 31-6-43 shall serve as an appeal of all of the joined 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 at the Division of Health Planning, Department of Community Health, 2 Peachtree Street, N.W., 5<sup>th</sup> Floor, Atlanta, Georgia 30303-3142, within the applicable 30 day period. If the 30th 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 pm shall be deemed in receipt the following business day; and

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

Authority O.C.G.A. § 31-6-44.

**SYNOPSIS**

*Rule 274-1-.10*

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

The purpose of this proposed amendment is to modify an existing regulation to identify the correct address for the Health Planning Review Board.

**DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES**

The existing regulation, 274-1-.10, is modified to change the address of the Health Planning Review Board at the Department of Community Health.

**274-1-.10 Decision of Hearing Officer.**

(1) Within 30 days after the conclusion of the hearing, the hearing officer shall make written findings of fact and conclusions of law as to each consideration as set forth in O.C.G.A. § 31-6-42 and the Department's Rules, including a detailed statement of the reasons for the decision of the hearing officer; provided, however, the hearing officer may, by order, extend the period in which the decision must be made upon a determination that the complexity of the issues and/or the length of a record requires such extension of the period, but in no event may such extension exceed an additional 15 days.

(2) If any party has alleged that an appeal lacks substantial justification and was undertaken solely for the purpose of delay or harassment, the decision of the hearing officer shall make findings of fact addressing the merits of the allegation pursuant to O.C.G.A. § 31-6-44(l).

(3) The conclusion of the hearing is deemed to be the last date for submission of written evidence, proposed findings and conclusions, written arguments, or other materials, as fixed by the hearing officer.

(4) In the event of a consolidated hearing on applications which were joined pursuant to subsection (d) of O.C.G.A. § 31-6-43, the hearing officer shall have the same powers specified for the Department in subsection (d) of O.C.G.A. § 31-6-43 to issue no Certificate of Need or one or more Certificates of Need.

(5) Notice of the decision is deemed to be issued on the day that it is signed by the hearing officer.

(6) Immediately upon rendering a decision, the hearing officer shall file such decision with the Board, serve such decision upon all parties by regular mail, and transmit the administrative record to the Chairperson of the Board. The hearing officer shall file the decision with the Board at the Division of Health Planning, Department of Community Health, 2 Peachtree Street, N.W., 5<sup>th</sup> Floor, Atlanta, Georgia 30303 and shall also mail copies of the decision to the Chairperson and Vice Chairperson at their respective addresses. The Board shall have been deemed in receipt of the hearing officer's decision on the date that the decision actually arrives at the required address.

(7) The hearing officer may remand the matter to the Department for further review and consideration prior to the decision of the hearing officer, and the Department shall complete the action required on remand by such date as the hearing officer may specify. The hearing officer may hold the record open as necessary to permit the hearing officer to consider the action taken by the Department.

(8) Notice of the decision shall include, in addition to findings of fact and conclusions of law, instructions to the Department as to granting or denying a Certificate of Need.

Authority O.C.G.A. § 31-6-44.

**SYNOPSIS**

*Rule 274-1-.11*

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

The purpose of this proposed amendment is to modify an existing regulation to identify the correct address for the Health Planning Review Board.

**DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES**

The existing regulation, 274-1-.11, is modified to change the address of the Health Planning Review Board at the Department of Community Health.

**274-1-.11 Finality of Hearing Officer's Decision; Optional Review of Hearing Officer's Decision by Board.**

(1) The decision of the hearing officer shall become the final decision of the Department upon the sixty-first day following the receipt of the hearing officer's decision by the Board unless an objection thereto is filed within the time limit established in subsection 2 of this Rule and within 60 days of the receipt of the hearing officer's decision by the Board:

(a) at least a quorum of the Board meets to review such decision and, by a majority vote of those members present at the meeting, the Board decides to affirm, reverse, or modify the hearing officer's decision or to remand the case to the hearing officer for further consideration; or

(b) at the request of any party which participated in the initial administrative appeal hearing before the hearing officer, or upon its own initiative, the Chairperson or the Vice Chairperson extends the time period for review of such decision. However, the Board may not extend the time period for review of the hearing officer's decision for longer than 45 days.

(2) Any party, including the Department, which disputes any finding of fact or conclusion of law rendered by the hearing officer in such hearing officer's decision and which wishes to appeal that decision to the Board shall file such party's specific objections thereto with the Board within 30 days of such party's receipt of the hearing officer's decision. Any party that submits such party's specific objections to the Board shall be entitled to present oral argument to the Board so long as that party notifies the Board of such intent in its submission of specific objections.

(3) Any objections filed with the Board shall specify in detail the errors allegedly committed by the hearing officer in the hearing officer's decision. Failure to specify such alleged errors in detail shall constitute a waiver of all available objections. Further, the party submitting such objections must specify the date upon which it received the hearing officer's decision.

(4) All objections shall be in writing and an original copy must be received by the Board at the Division of Health Planning, Department of Community Health, 2 Peachtree Street, N.W., 5<sup>th</sup> Floor, Atlanta, Georgia 30303, within the applicable 30-day period. If the 30<sup>th</sup> day falls on a weekend or a federal or state holiday, the time for submitting such objections 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 receives 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 pm shall be deemed in receipt the following business day; and

(c) The only acceptable methods of delivery of any such objections shall be certified mail, registered mail, regular first class mail, and hand delivery.

Further, additional copies of such objections shall be mailed to all members of the Board at their respective addresses and to the Department, each attorney of record, or directly to any party not represented by an attorney.

(5) On behalf of the Board, the Chairperson or the Vice Chairperson shall determine whether a party complied with the provisions of this Rule. In the event that the Chairperson or the Vice Chairperson determines that the party failed to comply with the provisions of this Rule, such person shall have the authority to render written decisions on behalf of the Board in respect to such determinations. A decision adverse to a party shall specify in detail the extent to which a party failed to comply.

Authority O.C.G.A. § 31-6-44.

**SYNOPSIS**

*Rule 274-1-.19*

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

The purpose of this proposed amendment is to modify an existing regulation to identify the correct address for the Health Planning Review Board.

**DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES**

The existing regulation, 274-1-.19, is modified to change the address of the Health Planning Review Board at the Department of Community Health.

**274-1-.19 Record of Proceedings.** The record of proceedings shall be maintained at Division of Health Planning, Department of Community Health, 2 Peachtree Street, NW, 5th Floor, Atlanta, Georgia 30303, and copies of such records as well as copies of all documents received in evidence shall be available to the public for inspection and copying. All parties to an initial administrative hearing shall share equally in the costs of preparing the record for both the initial administrative hearing and any subsequent Board meetings involving the case, including the cost of any transcript. An initial party to a contested case before the Board who withdraws as a party, prior to the administrative hearing before the hearing officer but after the Master File(s) of the project(s) at issue have been delivered for copying by the Department, shall share in the pro-rata costs of such copying.

Authority O.C.G.A. § 31-6-44.