

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

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

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on the 9th day of June, 2020, and filed with the agency secretary on the 9th day of June, 2020.

AGENCY NAME: State Health Planning and Development Agency (Statewide Health Coordinating Council)

Amendment New Repeal (Mark appropriate space)

Rule No. 410-2-4-.08, 2020-2023 Alabama State Health Plan

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

Rule Title: Inpatient Physical Rehabilitation

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

No public comments were received and no changes to the proposed rule as originally published in the Alabama Administrative Monthly were made.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XXXVIII,
ISSUE NO. 6, AAM, DATED March 31, 2020.

Statutory Rulemaking Authority: Code of Alabama, 1975 §§ 22-21-260(4).

(Date Filed)
(For LRS Use Only)

REC'D & FILED
JUN 17 2020
LEGISLATIVE SVC AGENCY

Emily T. Marsaf
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.

410-2-4-.08 Inpatient Physical Rehabilitation

(1) **Definition.** Inpatient physical rehabilitation services are those designed to be provided on an integrated basis by a multidisciplinary rehabilitation team to restore the disabled individual to the highest physical usefulness of which he is capable. These services may be provided in a distinct part unit of a hospital, as defined in the Medicare and Medicaid Guidelines, or in a free-standing rehabilitation hospital.

(2) **General.** Rehabilitation can be viewed as the third phase of the medical care continuum, with the first being the prevention of illness, the second, the actual treatment of disease, and the third, rehabilitation or a constructive system of treatment designed to enable individuals to attain their highest degree of functioning. In many cases, all three phases can occur simultaneously. For the purposes of this section of the State Health Plan, only the need for and inventory of inpatient rehabilitation beds will be addressed.

(3) **Need Determination.** The Statewide Health Coordinating Council (SHCC) has determined that there is a need for 12 rehabilitation beds per 100,000 population for each region.

(4) **Planning Policies**

(a) **Planning Policy**

Regional occupancy for the most recent reporting year should be at least seventy-five percent (75%) before the SHCC considers any requests for plan adjustments for additional bed capacity.

(b) **Planning Policy**

Conversion of existing hospital beds to rehabilitation beds should be given priority consideration over new construction when the conversion is significantly less costly, and the existing structure can meet licensure and certification requirements.

(5) **Bed Availability Assurance**

(a) It is the determination of SHPDA that accurate data related to provision of and need for inpatient rehabilitation services does not currently exist. The SHCC is also aware, however, that the elder-care population (those aged 65 and over) in Alabama is growing at an increasing rate, and that more citizens may need these services moving forward. Therefore, to allow time for more data to be collected by SHPDA for review of rehabilitation services, the SHCC approves the following one-time mechanism for the expansion of existing inpatient rehabilitation providers, with the understanding that additional data shall be submitted by both inpatient rehabilitation providers and nursing homes based on the conditions laid out herein.

(b) If the occupancy rate for a single region, including all inpatient rehabilitation facilities ("IRF") and inpatient rehabilitation units of existing acute care hospitals, is greater than eighty percent (80%) utilizing the census data reported on the most recent full year Annual Report

for Hospitals and Related Facilities (Form BHD-134A) published by or filed with SHPDA, up to five (5) additional beds may be approved for the expansion of a facility in that region. This expansion may be used by any qualifying IRF or hospital operating an inpatient rehabilitation unit only one (1) time during the initial four (4) year period for which this Plan is effective and only one (1) time per region during that same period. The expansion, however, may not be applied for by any rehabilitation provider until the earlier of (i) the data to be collected pursuant to this section, as defined in paragraph (6) below, has been determined and voted upon by the Health Care Information and Data Advisory Council ("Data Council"), or (ii) October 1, 2020 (the "trigger date"). Upon the earlier of the approval of the data to be collected by the Data Council or the trigger date, SHPDA shall inform the Chair of the SHCC and the Chair of the Certificate of Need Review Board that this one-time expansion provision is available to be applied for by providers meeting the conditions defined in this paragraph.

(c) Any inpatient physical rehabilitation beds granted under this section shall only be added at or upon the existing campus of the applicant facility and cannot be sold or transferred to another provider or location. The only exception to this rule is in the case of an IRF or acute care hospital with an inpatient rehabilitation unit applying for a Certificate of Need to relocate or otherwise create a replacement facility that is consistent with all other parts of this Plan.

(6) The SHCC requires that the Data Council make any changes to the Annual Reports filed by hospitals necessary to capture the data used by Medicare Administrative Contractors to determine presumptive compliance with the inpatient rehabilitation facility compliance threshold requirement, also known as the "60% Rule", including the diagnosis, comorbidities and impairment for each patient. The SHCC requires that the Data Council make any changes to the Annual Reports filed by nursing homes to include comparable patient origin level data to allow for comparison between hospital and nursing home providers. The data supplied should allow for an analysis of current utilization in such a manner as to reflect all inpatient rehabilitative services being offered, regardless of location or facility type, and should therefore be collected from both hospitals and nursing homes. The data collected should not only provide information related to occupancy rate but should also provide information related to the acuity of patients treated at each facility and should, as closely as possible, collect data that is similar in both type and format to allow for as accurate a comparison as possible, while representing as many patients receiving inpatient rehabilitation services as possible.

(a) Any IRF or acute care hospital that does not substantially comply with any data request made on behalf of SHPDA related to this section shall not be allowed to apply for additional beds under the provisions set forth in paragraph (5) above. Any such application shall be deemed to be inconsistent with this Plan. Furthermore, any nursing home that does not substantially comply with any data request on behalf of SHPDA related to this section shall not be allowed to oppose any application filed on behalf of an IRF or an acute care hospital for additional beds under the provisions set forth in paragraph (5) above. Such barriers to an application for a Certificate of Need, or inability to intervene or oppose an application for a Certificate of Need, shall be applied in a manner consistent with the provisions set forth in Ala. Admin r. 410-1-3-.11.

(b) The provisions set forth in paragraph (5) may only be utilized one (1) time per region during the initial four (4) years following the effective date of this Section, which should

allow for a minimum of three (3) years' worth of data to have been collected and analyzed by SHPDA. Once three (3) years' worth of data have been collected by SHPDA according to the provisions set forth in this section, SHPDA shall present to the SHCC an analysis of utilization of all inpatient rehabilitation resources in the state, including those at IRFs, acute care hospitals with inpatient rehabilitation units, and nursing homes. This analysis should also include a proposed replacement for the provisions set forth in paragraph (5) above to provide a mechanism for those hospitals providing inpatient rehabilitation services to expand should such a mechanism be proven to be necessary.

(c) If SHPDA fails to present such an analysis and proposed replacement for the provisions set forth in paragraph (5) within the four (4) year period following the date this Plan becomes effective, the provisions set forth in paragraph (5) shall be renewed and any region meeting the criteria shall qualify for one (1) additional five (5) bed expansion during the subsequent four (4) year period.

For a listing of inpatient rehabilitation facilities or the most current statistical need projections in Alabama you may contact the Data Division as follows:

MAILING ADDRESS
(U.S. Postal Service)

PO BOX 303025
MONTGOMERY, AL 36130-3025

TELEPHONE:
(334) 242-4103

EMAIL:
data.submit@shpda.alabama.gov

STREET ADDRESS
(Commercial Carrier)

100 N. UNION STREET SUITE 870
MONTGOMERY, AL 36104

FAX:
(334) 242-4113

WEBSITE:
<http://www.shpda.alabama.gov>

Author: Statewide Health Coordinating Council (SHCC).

Statutory Authority: § 22-21-260(4), Code of Alabama, 1975.

History: Filed October 18, 2004; Effective November 22, 2004; Filed June 30, 2006; Effective August 4, 2006. Amended (SHP Year Only): Filed December 2, 2014; Effective January 6, 2015.

Amended: Filed June 30, 2020; Effective August 14, 2020.

INPATIENT REHABILITATION BED REGIONS

REGION I

Lauderdale
Limestone
Madison
Jackson
Colbert
Franklin
Lawrence
Morgan
Marshall

REGION IV

DeKalb
Etowah
Cherokee
Calhoun
Cleburne
Clay
Randolph

REGION VI

Choctaw
Washington
Mobile
Baldwin
Escambia
Conecuh
Monroe
Clarke

REGION II

Lamar
Fayette
Pickens
Tuscaloosa
Sumter
Greene
Hale
Bibb

REGION V

Perry
Marengo
Wilcox
Dallas
Autauga
Lowndes
Butler
Crenshaw
Pike
Montgomery
Elmore
Macon
Bullock
Lee
Russell
Tallapoosa
Chambers

REGION VII

Covington
Coffee
Dale
Geneva
Houston
Barbour
Henry

REGION III

Marion
Winston
Cullman
Blount
Walker
Jefferson
Shelby
Chilton
Coosa
Talladega
St. Clair