

Ms. Emily T. Marsal
100 NORTH UNION STREET
RSA UNION BUILDING, STE. 870
MONTGOMERY, ALABAMA, 36130-3025

August 16, 2023

(SUBMITTED VIA ELECTRONIC FILING TO: shpda.online@shpda.alabama.gov)

Re: IOP Behavioral Health, LLC, Letter of Non-Reviewability Request

Dear Ms. Marsal:

Pursuant to the Physician's Office Exemption ("POE") to Alabama's Certificate of Need Program. IOP Behavioral Health Services, LLC respectfully request a Letter of Nonreviewability ("LNR") for proposed Intensive Outpatient Services ("IOP") at 1800 Beverly Ave Muscle Shoals, AL 35661.

This request is submitted pursuant to Ala. Code § 22-21-260(6), which provides that "[t]he term health care facility shall not include the offices of private physicians or dentists, whether individual or group practices and regardless of ownership." Additionally, the Alabama Administrative Code §410-1-2-.05 defines the term health care facility.

Subsection 2 of that regulation states that the term "health care facility" shall not include any of the following:

- a) The private office of any duly licensed physician, dentist, chiropractor, or podiatrist whether for individual or group practice and regardless of ownership.

In our research and interpretation, it is clear to IOP Behavioral Services, LLC physicians' offices used on an outpatient basis for physicians' practices, regardless of ownership, are intended to be excluded from Certificate of Need review. Therefore, the proposed IOP, a part of the medical practice of Dr Sanjay Malhotra, a psychiatrist properly licensed in the State of Alabama, qualifies for the physician's office exemption regardless of the business entity he chooses. In addition, we are aware of a number of IOPs located in Alabama and to the best of our knowledge, none of these have been required to obtain a CON.

Further information for review:

- The service area will be Colbert County, Muscle Shoals, Alabama
- Medications will not be prescribed in the IOP services provided by IOP Behavioral Health, LLC. Should these services be necessary, appropriate referrals will be made to providers with prescriptive authority
- Sanjay Malhotra, MD will be practicing the specialty of psychiatric medicine from this office.
- All other physicians involved will be owners or employees of the practice. Psychiatrists will all be available to perform psychiatric assessments of patients in the IOP program. They will also be available to provide ongoing treatment to those individuals who do not have an existing relationship with a psychiatrist.
- Persons other than Dr. Malhotra with an ownership interest in IOP are Tanuj Malhotra, Sahil Malhotra, and Jeffery T. Jennings.
- Dr Malhotra will employ a number of licensed mental health providers to conduct an initial clinical assessment of patients and their suitability to receive treatment in the IOP program.
- IOP services will be prescribed by and directed by Dr Malhotra based on the results of the initial clinical assessment by the licensed mental health providers. The licensed mental health providers will also serve as group therapists in the IOP program.
- IOP delivers intensive outpatient services to patients that need a more structured environment than traditional outpatient mental health care.
- IOP is designed for individuals with a variety of mental or emotional disturbances that currently interfere with their ability to function effectively in work, family life, or self-care.
- The primary population to be served consists of adults with common mood, anxiety, and adjustment disorders not responding adequately to traditional outpatient care.
- IOP services are delivered three times per week for 3 hours per day.
- IOP is a viable treatment option that bridges the gap between traditional outpatient care and mental health inpatient admissions.
- The IOP service will improve access to intensive mental health treatment at a time of unprecedented increased need.
- The practice will not be treating individuals diagnosed with severe mental illness.
- The practice intends to seek Joint Commission accreditation as a mental

health IOP.

- The equipment costs for the project will be \$20,000 for furniture and equipment.
- The first annual operating costs will be approximately \$250,000.
- The capital costs are to lease office space at \$1500 per month.
- There will be no land costs or costs for improvements to occupy the office space.
- There are no direct construction costs.
- There will be no financial interests with other groups or healthcare facilities.
- The proposed services are to be provided, and related equipment used, exclusively by the physicians identified as owners or employees of the physician's practice for the care of their patients.
- The equipment may not be used for inpatient care, nor by, through or on behalf of a healthcare facility.
- All patient billings will be on behalf of the practice.
- S9480 is the billing code for IOP treatment.
- IOP Behavioral Health, LLC has its own billing number, and all providers will be billing under that number.

We are confident that upon your evaluation of this request for LNR based on the POE, in conjunction with the representations above, the proposed IOP services will be confirmed (1) permissible without further filings or requests to SHPDA; and (2) not subject to CON review.

In addition, we have submitted a payment of \$1,000 through the Agency's Payment Portal and a receipt evidencing payment is included in this filing.

If you have any questions, please do not hesitate to reach out to me at 229-589-1426 or via email at fowl6991@gmail.com.

Respectfully submitted,



Carla Bird



3. Please address if IOP Behavioral Health, LLC will be prescribing medication to patients.
 - *Medications will not be prescribed in the IOP services provided by IOP Behavioral Health, LLC. Should these services be necessary, appropriate referrals will be made to providers with prescriptive authority.*

The undersigned, being first duly sworn, hereby make oath or affirm that he/she is Vice President IOP Services, has knowledge of the facts in this request, and to the best of his/her/their information, knowledge and belief, such facts are true and correct.

Affiant Sadie Magera (SEAL)

SUBSCRIBED AND SWORN to before me this 16 day of August, 2023

My commission expires 02/17/27

