APA-1
11/96

# TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 410 Department or Agency State Health Planning and Development Agency (Statewide Health Coordinating Council)
Rule No. 410-2-4-.10
Rule Title: Psychiatric Care
____ New X Amend ____ Repeal ____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

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Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Alva M. Lambert

Date 8-14-13

DATE FILED
(STAMP)

# STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870
MONTGOMERY, ALABAMA 36104

## NOTICE OF INTENDED ACTION

AGENCY NAME: STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
(Statewide Health Coordinating Council)

RULE NO. & TITLE: 410-2-4-.10 Psychiatric Care

INTENDED ACTION:
The State Health Planning and Development Agency and the Statewide Health Coordinating Council (SHCC) propose to adopt an amendment to the above-styled section of the *Alabama State Health Plan.*

SUBSTANCE OF PROPOSED ACTION:
This amendment will assist existing psychiatric inpatient bed providers experiencing high census levels to add up to ten (10) psychiatric inpatient beds if they meet certain enumerated criteria. The amendment will also allow acute care hospitals in counties without CON authorized psychiatric inpatient beds to add up to ten (10) psychiatric inpatient beds, provided they can meet certain criteria.

TIME, PLACE, MANNER OF PRESENTING VIEWS:
In response to this Proposed Rule, all interested persons are invited to submit data, views, comments and/or arguments, orally or in writing. Any and all such data, comments, arguments and/or requests to orally address the SHCC shall be made in writing on or before October 7, 2013, and shall be made to:

Nicole Horn, Executive Secretary
State Health Planning and Development Agency
P. O. Box 303025
Montgomery, Alabama 36130-3025

On November 15, 2013 at 10:00 a.m., the SHCC shall conduct a public hearing in the Old Archives Room, Alabama State Capitol, at which time it shall consider the Proposed Rule, along with all written and oral submissions in respect to the Proposed Rule. Only those interested persons who have made timely written requests will be afforded the opportunity to speak.

Copies of the proposed changes are available for review at 100 North Union Street, RSA Union Building, Suite 870, Montgomery, Alabama. Call (334) 242-4103 or visit the office Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding State holidays.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
October 7, 2013

CONTACT PERSON AT AGENCY:
Nicole Horn
100 North Union Street
RSA Union, STE 870
Montgomery, AL 36104
(334) 242-4103

Alva M. Lambert, Executive Director

410-2-4-.10 **Psychiatric Care**

(1) Background

(a) Since 1970, the total number of inpatient psychiatric beds per capita in the United States has declined dramatically (62%). Over this same period, state and county psychiatric hospital beds per capita have decreased even more precipitously (89%). It is noteworthy that no national data are available as yet on non-traditional acute care settings such as crisis residential programs for adults or crisis family care or treatment foster care for children. What seems clear from the national data is that there has been a decline in the supply of most types of beds for short-term inpatient psychiatric care with the most severe drops in publicly operated services. It is widely known that the share of health care expenditures allocated to mental health and substance abuse treatment declined from 1987 to 1997. In addition, analysis by the same researchers on a sample of the employer-based private insurance market found a decrease in the mental health and substance abuse spending share that they attribute to a lower probability of admission to inpatient care and shorter lengths of inpatient stay.

While each community experiences differences in mental health resources, there are some common themes that appear to have contributed to the changes in patterns of care. Changes in payment mechanisms (such as prospective payment), the emergence of managed care, and newer utilization guidelines that limit lengths of inpatient stays are some of the factors that account for these changes. Some communities have also been successful at building and maintaining robust outpatient treatment systems and community based acute and longer-term services that may reduce the need for short-term inpatient care and the misuse of emergency rooms. (President's New Freedom Commission on Mental Health Report – 2003)

(b) In looking at psychiatric acute care beds in Alabama, the numbers have also declined significantly. In 1969, the state of Alabama operated a total of 7,699 psychiatric beds, which has since been reduced to 1,232 by the year 2003. While much of the downsizing of beds was related to a court settlement, the actions are reflective of the national trend to decrease acute care beds.

(2) Methodology

(a) In the early 90s, the Alabama Department of Mental Health and Mental Retardation developed a psychiatric bed need methodology based on research of other methodologies used across the country. This methodology was also revisited by the state, along with private providers, in 2003 and found to be still relevant when compared to other states and current practice.

(b) Basically, the methodology adds the number of beds for private psychiatric hospitals (17.3/100,000) population and for non-federal general hospitals (19.8/100,000) population with separate inpatient psychiatric services to determine a total number of 37.1 beds per 100,000 population for private psychiatric inpatient care.

(c) The number of beds per 100,000 population is then multiplied by the population (ages 5 and over) for the state to arrive at a total number of beds needed.

(d) The number of existing beds, as documented by the official inventory ofpsychiatric beds authorized, is subtracted from the total number of beds calculated in (c) above. This gives a final number as to the net need which is interpreted as either a need for additional beds or an excess of beds in the state.

PSYCHIATRIC BED NEED FOR ALABAMA

| Population 2005 (5 years & over) | Total beds needed (37.1/100,000 population) | Existing Beds | Net Need/Excess |
|---|---|---|---|
| 4,338,379 | 1,610 | 1,232 | 378 |

(3) Planning Policies

(a) Planning Policy

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

(b) Planning Policy

In certificate of need decisions concerning psychiatric services, the extent to which an applicant proposes to serve all patients in an area should be considered. The problem of indigent care should be addressed by certificate of need applicants.

(4) Plan Adjustments

The psychiatric bed need, as determined by the methodology, is subject to adjustments by the SHCC. The psychiatric bed need may be adjusted by the SHCC if an applicant can prove that the identified needs of a target population are not being met by the current bed need methodology.

(5) Existing Psychiatric Inpatient Bed Providers

(a) Notwithstanding any other provision of this Section 410-2-4-.10, in order to assist those existing psychiatric inpatient bed providers that are experiencing high census levels, which may cause the providers to close or restrict emergency services ("diversions") or refuse transfers from other providers, which results in negative impacts on patients and their families, existing psychiatric inpatient bed providers may qualify to add psychiatric inpatient beds if they meet one of the following criteria:

(i) Demonstrates an average occupancy percentage of at least 80 percent for total psychiatric inpatient beds, based on occupancy for seven days a week, for one separate and distinct period of ninety (90) consecutive calendar days of the facility's most recent fiscal year; or

(ii) Demonstrates an average occupancy percentage of at least 80 percent within one of the following categories of psychiatric inpatient beds (child/adolescent, adult, gero-psychiatric), based on that unit's occupancy for seven days a week, for one separate and distinct period of ninety (90) consecutive calendar days of the facility's most recent fiscal year and all other category(s) of inpatient psychiatric beds (child/adolescent, adult or gero-psychiatric) used by the inpatient psychiatric bed provider can demonstrate an average occupancy of at least 70 percent for seven days a week, for one separate and distinct period of ninety (90) consecutive calendar days of the facility's most recent fiscal year.

(iii) In addition, in order to qualify to add psychiatric beds under this subsection, the provider must not have been granted an increase of psychiatric beds under this section or another section of the State Health Plan within the preceding twelve (12) month period, which time begins to run upon the issuance of a certificate of occupancy issued by the Alabama Department of Public Health, or have a prior approved CON Authorization for psychiatric inpatient beds, which have not been placed into service.

(b) Existing Psychiatric Inpatient Bed Providers meeting the criteria described in paragraph 5.a. above may seek a CON to add up to ten (10) beds. Such additional beds will be considered an exception to the psychiatric inpatient bed need methodology set forth elsewhere in the Section, provided, however, that any additional beds authorized by the CON Review Board pursuant to this provision shall be considered for purposes of other bed need methodology purposes. In addition to such additional information that may be required by SHPDA, an applicant seeking a CON for additional beds under this section must provide and achieve, as part of its CON application, each of the following:

(i) Demonstration of compliance with the occupancy rate in paragraph 5.a.(i) and (ii);

(ii) The application for additional psychiatric inpatient beds does not exceed ten (10) psychiatric inpatient beds;

(iii) The existing provider has not been granted an increase of psychiatric beds under this section or another section of the State Health Plan within the preceding twelve (12) month period, which time begins to run upon the issuance of a certificate of occupancy issued by the Alabama Department of Public Health ("ADPH"), or have a prior approved CON Authorization for psychiatric inpatient beds, which have not been place into service;

(iv) The provider must have been licensed by ADPH or Certified by Medicare for at least twelve (12) months as a psychiatric inpatient bed provider;

(v) Any psychiatric inpatient beds granted under this section can only be added at or/upon the existing main campus of the applicant; and

(vi) The provider has not converted psychiatric inpatient beds to acute care beds within the last twenty-four (24) month period.

(6) Psychiatric Inpatient Bed Availability Assurance in Counties Without CON Authorized Psychiatric Inpatient Beds

(a) In those Alabama counties without CON Authorized Psychiatric Inpatient Beds, an existing acute care hospital within the county meeting the requirements of this subsection can apply to add up to ten (10) psychiatric inpatient beds.

(b) Such additional beds will be considered an exception to the psychiatric inpatient bed need methodology set forth elsewhere in the Section, provided, however, that any additional beds authorized by the CON Review Board pursuant to this provision shall be considered for purposes of other bed need methodology purposes. In addition to such additional information that may be required by SHPDA, an applicant seeking a CON for additional beds under this section must provide and achieve, as part of its CON application, each of the following:

(i) The addition does not exceed ten (10) psychiatric inpatient beds;

(ii) The provider must be licensed by ADPH for at least twelve (12) months as a general acute care hospital;

(iii) Any psychiatric inpatient beds granted under this section can only be added at or/upon the existing main campus of the applicant; and

(iv) The provider must not have added any psychiatric inpatient beds within the preceding twelve (12) month period, which time beings to run upon the issuance of a certificate of occupancy issued by the Alabama Department Public Health, or have a prior approved CON Authorization for psychiatric inpatient beds, which have not been placed into service.

Author: Statewide Health Coordinating Council (SHCC).
Statutory Authority: § 22-21-260(4), Code of Alabama, 1975.
History: Effective November 22, 2004; Amended: Filed _____; effective _____.

# PSYCHIATRIC BEDS AUTHORIZED

| COUNTY | FACILITY | BEDS |
|---|---|---|
| Baldwin | Thomas Hospital | 19 |
| Bullock | Bullock County Hospital | 11 |
| Butler | L V Stabler Memorial Hospital | 13 |
| Calhoun | Northeast AL Regional Medical Center | 37 |
| Clarke | Grove Hill Memorial Hospital | 9 |
| Colbert | Helen Keller Memorial Hospital | 15 |
| Conecuh | Evergreen Medical Center | 14 |
| Crenshaw | Crenshaw Baptist Hospital | 15 |
| Cullman | Woodland Medical Center | 20 |
| Dale | Dale Medical Center | 10 |
| Dallas | Vaughan Regional Medical Center – Pkwy Campus | 26 |
| Elmore | Community Hospital | 10 |
| Etowah | Gadsden Regional Medical Center | 25 |
| | Mountain View Hospital | 68 |
| Houston | Laurel Oaks Behavioral Health Center | 24 |
| | Southeast Alabama Medical Center | 19 |
| Jefferson | UAB Medical Center West | 15 |
| | Baptist Medical Center – Princeton | 25 |
| | Baptist Medical Center Montclair | 64 |
| | Carraway Methodist Medical Center | 90 |
| | The Children's Hospital of Alabama | 36 |
| | Brookwood Medical Center | 71 |
| | Hill Crest Behavioral Health Services | 80 |
| | University of Alabama Hospital | 78 |
| | HealthSouth Metro West Hospital | 24 |
| Lauderdale | Eliza Coffee Memorial Hospital | 21 |
| Lee | East Alabama Medical Center | 38 |
| Madison | The Huntsville Hospital | 35 |
| | Crestwood Medical Center | 12 |
| Marion | Carraway Northwest Medical Center | 10 |
| Mobile | Mobile Infirmary | 49 |
| Montgomery | Baptist Medical Center South | 32 |
| Morgan | Decatur General West | 64 |
| | Hartselle Medical Center | 20 |
| Pickens | Pickens County Medical Center | 10 |
| Shelby | Shelby Baptist Medical Center and Shelby Ridge | 24 |
| Tuscaloosa | Northport Medical Center | 54 |
| Walker | Walker Baptist Medical Center | 40 |
| | | 1,232 |

(03/04)

PSYCHIATRIC BED NEED FOR ALABAMA

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(03/04)