APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 410 Department or Agency State Health Planning and Development Agency
Rule No. 410-2-4-.10 (Statewide Health Coordinating Council)
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.

****

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 Services Agency.

Signature of certifying officer Alva M. Lambert

Date January 31, 2018

(DATE FILED)
(STAMP)

APA-2

(Agency Name)
(Agency Division, if applicable)

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 (Statewide Health Coordinating Council) proposes to amend the above styled section of the Alabama State Health Plan.

SUBSTANCE OF PROPOSED ACTION:

This proposed amendment provides a new need methodology for inpatient psychiatric beds on a regional basis among three bed categories: child/adolescent, adult, and geriatric.

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 Thursday, April 5, 2018.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

On April 26, 2018, at 10:00 a.m., the SHCC shall conduct a public hearing in the Old Archives Room, State Capitol, 600 Dexter Avenue, Montgomery, Alabama 36104, at which time it shall consider the Proposed Rule, along with all written and oral submissions with respect to the Proposed Rule. Only those interested persons who have made timely written requests will be afforded the opportunity speak.

CONTACT PERSON AT AGENCY:

Karen McGuire, Executive Secretary
100 North Union Street
RSA Union, Suite 870
Montgomery, AL 36104
(334) 242-4103

Alva M. Lambert

(Signature of officer authorized to promulgate and adopt rules or his or her deputy)

Copies of the proposed changes are available for review at 100 North Union Street, RSA Union Building, Suite 870, Montgomery, Alabama. Phone (334) 242-4103 or visit the office Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding State holidays. Proposed changes are also available on the Agency's website, www.shpda.alabama.gov / Announcements / SHP.

APA-7

TRANSMITTAL SHEET FOR BUSINESS ECONOMIC IMPACT STATEMENT (Section 41-22-5.1)

Control No. 410 Department/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

Attached is a Business Economic Impact Statement filed pursuant to Section 41-22-5.1, Code of Alabama 1975.

Signature of Filing Officer Alva M. Lambert

Date January 31, 2018

(DATE FILED)
(STAMP)

ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))

Control No. 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

__X__ This rule has no economic impact.

_____ This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

   N/A

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

   N/A

3. EFFECT OF THIS RULE ON COMPETITION:

   N/A

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

   N/A

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

N/A

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

N/A

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

N/A

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

N/A

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

N/A

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

N/A

****Additional pages may be used if needed.**

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.~~ In the early 1990s, the Alabama Department of Mental Health and Mental Retardation developed a psychiatric bed need methodology that provided for an inventory of 37.1 beds per 100,000 population. Originally, the methodology was calculated using regions; however, in 2003 it was changed to reflect a statewide need methodology. Although the statewide need methodology was helpful in the early years to ensure access to care, it resulted in an uneven distribution of psychiatric beds, with higher concentrations of beds in some regions and shortages of psychiatric beds in other regions of the state.

~~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.~~ Over time, the number of psychiatric beds, both private beds and state beds, has declined. States have transitioned funding for mental health services from institutional care to community-based services, as state budgets have been cut and as more is known about the benefits of providing care in a non-institutional, community setting. Alabama mirrors these national trends, as it has closed three state facilities and downsized from 4,000 beds in 2009 to approximately 1,600 beds in 2017. In some areas, community-based services include crisis stabilization and access to timely follow-up care. In other areas, community resources may be limited, and those with psychiatric emergencies often present to a general acute care hospital emergency room for care; some of the more severely mentally ill remain for extended periods of time in private psychiatric facilities, waiting on a state bed to become available.

(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.~~ Discussion.

Based on the increasing need for psych beds and a better distribution of those beds, a committee of the Statewide Health Coordinating Council (SHCC) developed a proposal for a new methodology. Approved by the full SHCC, the purpose of this inpatient psychiatric services need methodology is to identify, by region and by bed type, the number of inpatient psychiatric beds needed to ensure the continued availability, accessibility, and affordability of quality inpatient psychiatric care for residents of Alabama. Only the SHCC, with the Governor's approval, can make changes to this methodology. The State Health Planning and Development Agency (SHPDA) staff shall annually update statistical information to reflect more current utilization through the Hospital Annual Survey. Such updated information is available for a fee upon request.

(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.~~ Bed Need Determined by Region and by Category of Bed.

The new methodology is based upon the regional needs of the state as opposed to a statewide need methodology. It also addresses need based on the category of patients served in the beds being used; the bed categories include: 1. Child/Adolescent; 2. Adult; and 3. Geriatric. Calculation of beds needed will be based on utilization of those beds by category and by region as reported annually in the Hospital Annual Report. The Hospital Annual Report must be amended to accomplish the purposes of this new methodology. This new methodology will become effective after the certification by the Healthcare Information and Data Advisory Council of the first new Hospital Annual Report following the passage of this amendment. All providers will report their licensed beds, operating beds and patient days by inpatient psychiatric category each year via the new Hospital Annual Report. Operating beds may be the same as or fewer than the total number of licensed psychiatric beds. Providers with unrestricted psychiatric beds obtained prior to the effective date of this new methodology shall be allowed to change the categories of their beds during the first two reporting periods. The bed allocation by category reported on the third Hospital Annual Report following the passage of this amendment shall be considered final for operating beds. Thereafter, any permanent change to a different inpatient psychiatric bed category for an existing operating bed or beds will require the approval of a new CON. This requirement will not apply to licensed beds not currently in use; however once beds are put into use, the provider will have to declare the category(ies) of the beds.

After this methodology becomes effective, applicants for new inpatient psychiatric beds will be required to select a category (Child/Adolescent, Adult, Geriatric) for which they are seeking

inpatient psychiatric beds. Applicants may apply for more than one inpatient psychiatric category if a need is shown. See Section (3)(c), below regarding new beds.

Note: This new methodology is intended for planning purposes. The declaration of beds by category on the Hospital Annual Report is not intended to preclude providers from using their psychiatric beds as necessary to address seasonal needs and surge situations. If a hospital determines that it needs to permanently change its bed allocation, a new CON will be required.

~~(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 of psychiatric 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~~ Planning on a Regional Basis

~~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.~~ Planning will be on a regional basis. Please see attached listing for the counties in each region as designated by the SHCC.*

(b) ~~Planning Policy~~ Planning Policies for applicants.

~~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.~~

1. An applicant for an inpatient psychiatric bed must be either: 1) an established and licensed hospital provider that has been operational for at least twelve (12) months; or, 2) a new inpatient psychiatric hospital seeking a minimum of at least twenty (20) inpatient psychiatric beds. (Specialty, Free-Standing Psychiatric Hospitals must have at least twenty (20) inpatient beds pursuant to Rule 420-5-7-

.03 Classification of Hospitals; found in Chapter 420-5-7 of the Alabama Department of Public Health Administrative Code.)

2. An applicant for inpatient psychiatric beds in a particular category must demonstrate the ability to comply with state law.

3. 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.

(c) Applying for Additional beds.

Applicants may apply for new psychiatric beds using one of the following occupancy need determinations:

1. Regional occupancy calculation.

Any region that shows an occupancy rate of 75 percent (75%) or greater in any one of the three (3) bed categories would be eligible for additional beds in that category. The number of additional beds needed would be calculated by dividing the average daily census for the region by the desired occupancy rate of 70 percent (70%) and then subtracting from this number the current beds in operation. Information for this calculation will be obtained from the most recent Hospital Annual Report as compiled by SHPDA. Beds granted under the regional methodology shall be deemed part of the official regional bed inventory at time of issuance. See formula below:

To calculate regional occupancy:

Total patient days/(Beds operating x days in Reporting Period)

To calculate beds needed to get the region to 70 percent (70%) occupancy:

a. (Total patient days/days in Reporting Period)/.70 = total beds needed for the region to have a 70 percent (70%) occupancy rate.

b. To calculate additional beds needed for the region:

Total beds needed to reach 70 percent (70%) occupancy rate minus current beds in operation.

The total patient days and the beds in operation used for the calculations would come from the information reported to SHPDA through the most recent Hospital Annual Report.

The following is an example of how the regional methodology would be calculated if a single region had 25,000 adult patient days and 90 adult beds:

To calculate the regional occupancy:

25,000 adult days/(90 beds operating x days in Reporting Period) = 76 percent regional occupancy

To calculate beds needed to have a 70-percent occupancy:

(25,000 adult days/ days in Reporting Period)/.70 = 98 total beds needed for that occupancy level

Beds needed (98) minus current beds (90) = 8 additional adult beds needed for the region.

2. Individual Provider Occupancy Calculation.

If the average occupancy rate for a single facility within a region is 80 percent (80%) or greater for a continuous period of twelve (12) months in any of the three (3) bed categories, as calculated by the SHPDA using data reported on the most recent Hospital Annual Report, that facility may apply for up to 10 percent (10%) additional beds or six (6) beds, whichever is greater. An individual facility may demonstrate a need based on occupancy irrespective of the total occupancy for the region in that bed category. Information for this calculation will be obtained from the most recent Hospital Annual Report as compiled by SHPDA.

Any beds obtained through the Individual Provider Occupancy Calculation will not be included in the regional bed calculation for a period of three years after the beds are brought into service. After this three-year period the beds would be included in the regional count. Any provider obtaining beds through this provision will not be eligible to use the 10 percent rule for 24 months from the date the CON is granted.

(4) Plan Adjustments

The psychiatric bed need, for each region 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.

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

***REGIONS:**

North Central Region
Blount
Calhoun
Cherokee
Chilton
Clay
Cleburne
Coosa
DeKalb
Etowah
Jefferson
Randolph
Shelby
St. Clair
Talladega
Tallapoosa
Walker

Southeast Region
Autauga
Barbour
Bullock
Butler
Chambers
Coffee
Covington
Crenshaw
Dale
Dallas
Elmore
Geneva
Henry
Houston
Lee
Lowndes
Macon
Montgomery
Pike
Russell
Wilcox

North Region
Colbert
Cullman
Franklin
Jackson
Lauderdale
Lawrence
Limestone
Madison
Marshall
Morgan

Southwest Region
Baldwin
Clarke
Conecuh
Escambia
Mobile
Monroe
Washington

West Region
Bibb
Choctaw
Fayette
Greene
Hale
Lamar
Marengo
Marion
Perry
Pickens
Sumter
Tuscaloosa
Winston