

111-2-2-.26 Specific Review Considerations for Psychiatric and Substance Abuse Inpatient Programs.

(1) Applicability.

(a) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing acute care adult psychiatric and/or substance abuse inpatient program. An application for Certificate of Need for a new or expanded acute care adult psychiatric and/or substance abuse inpatient program shall be reviewed under the General Review Considerations of Rule 111-2-2-.09 and the service-specific review considerations of this Rule. For purposes of these rules, a service, facility, or program approved as an acute care adult psychiatric and/or substance abuse inpatient program may offer both acute care psychiatric and acute care substance abuse inpatient care, acute care substance abuse inpatient care alone, or acute care psychiatric inpatient care alone. A facility approved to offer acute care adult psychiatric and/or substance abuse inpatient services may not offer an acute care pediatric psychiatric and/or substance abuse inpatient program, nor any type of extended care psychiatric and/or substance abuse program without first obtaining a certificate of need.

(b) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing acute care pediatric psychiatric and/or substance abuse inpatient program. An application for Certificate of Need for a new or expanded acute care pediatric psychiatric and/or substance abuse inpatient program shall be reviewed under the General Review Considerations of Rule 111-2-2-.09 and the service-specific review considerations of this Rule. For purposes of these rules, a service, facility, or program approved as an acute care pediatric psychiatric and/or substance abuse inpatient program may offer both acute care psychiatric and acute care substance abuse inpatient care, acute care substance abuse inpatient care alone, or acute care psychiatric inpatient care alone. A facility approved to offer acute care pediatric psychiatric and/or substance abuse inpatient services may not offer an acute care adult psychiatric and/or substance abuse inpatient program, nor any type of extended care psychiatric and/or substance abuse program without first obtaining a certificate of need.

(c) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing extended care adult psychiatric and/or substance abuse inpatient program. An application for Certificate of Need for a new or expanded extended care adult psychiatric and/or substance abuse inpatient program shall be reviewed under the General Review Considerations of Rule 111-2-2-.09 and the service-specific review considerations of this Rule. For purposes of these rules, a service, facility, or program approved as an extended care adult psychiatric and/or substance abuse inpatient program may offer both extended care psychiatric and extended care substance abuse inpatient care, extended care substance abuse inpatient care alone, or extended care psychiatric inpatient care alone. A facility approved to offer extended care adult psychiatric and/or substance abuse inpatient services may not offer an extended care pediatric psychiatric and/or substance abuse inpatient program, nor any type of acute care psychiatric and/or substance abuse program without first obtaining a certificate of need.

(d) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing extended care pediatric psychiatric and/or substance abuse inpatient program. An application for Certificate of Need for a new or expanded extended care pediatric psychiatric and/or substance abuse inpatient program shall be reviewed under the General Review Considerations of Rule 111-2-2-.09 and the service-specific review considerations of this Rule. For purposes of these rules, a service, facility, or program approved as an extended care pediatric psychiatric and/or substance abuse inpatient program may offer both extended care psychiatric and extended care substance abuse inpatient care, extended care substance abuse inpatient care alone, or extended care psychiatric inpatient care alone. A facility approved to offer extended care pediatric psychiatric and/or substance abuse inpatient services may not offer an extended care adult psychiatric and/or substance abuse inpatient program, nor any type of acute care psychiatric and/or substance abuse program without first obtaining a certificate of need.

(2) **Definitions.**

(a) "Acute care psychiatric and/or substance abuse inpatient program," for purposes of these Rules, means a psychiatric or substance abuse program, as defined in 111-2-2-.26(1)(a), that provides acute and/or emergency stabilization and other treatment for acute episodes. An acute care program provides medically oriented evaluation, diagnosis, stabilization, and short-term treatment using individual and/or group therapies as well as other treatment activities. Two acute care programs are defined: adult psychiatric and/or substance abuse and pediatric psychiatric and/or substance abuse.

(b) "Adult," for purposes of these Rules, means a person 18 years of age and over or an emancipated person.

(c) 'Expansion' or 'Expanded' means the addition of beds to an existing CON-authorized or grandfathered psychiatric and/or substance abuse inpatient program. A CON-authorized or grandfathered freestanding psychiatric and/or substance abuse hospital may increase its bed capacity by the lesser of ten percent of existing capacity or 10 beds if it has maintained an average occupancy of 85 percent for the previous twelve calendar months provided that there has been no such increase in the prior two years and provided that the capital expenditures associated with the increase do not exceed the Capital Expenditure Threshold. If such an increase exceeds the Capital Expenditure Threshold, the increase will be considered an expansion for which a Certificate of Need shall be required under these Rules.

(d) "Extended care psychiatric and/or substance abuse inpatient program," for purposes of these Rules, means a psychiatric or substance abuse program, as defined in rule 111-2-2-.26(1)(a), that focuses on self-help and basic living skills to enhance the patient's abilities to perform successfully in society upon discharge by emphasizing psycho-social, vocational and/or prevocational, and educational components in its treatment plan. The program is designed to treat people who do not require acute care and who usually have already had at least one acute care admission. Due to this design, the staffing of extended care programs is different from that of acute care programs by having proportionately more therapeutic activities, educational, and social work staff and

proportionately fewer nurses and physicians. Two extended care programs are defined: adult psychiatric and/or substance abuse and pediatric psychiatric and/or substance abuse.

(e) "Freestanding psychiatric and/or substance abuse hospital," for purposes of these Rules, means a self-contained hospital which provides only psychiatric and/or substance abuse treatment and is licensed as a separate hospital, either as a specialized hospital or specialized hospital/intensive residential treatment facility.

(f) "Inpatient" means services that are provided to patients admitted to a short-stay general hospital, specialized hospital, or specialized hospital/intensive residential treatment facility.

(g) 'New' means a psychiatric and/or substance abuse inpatient program that has not offered a similar program in the prior twelve months. Adult programs and pediatric programs and acute care programs and extended care programs shall each be considered independent programs such that a provider seeking to add a program not offered by that provider in the previous twelve months shall be considered to be offering a new program for which a Certificate of Need must be obtained. For purposes of these rules, an existing program which proposes to be relocated to a location more than three miles from its present location shall be considered "new".

(h) "Pediatric," for purposes of these Rules, means a person 17 years of age and under or persons age 21 or under as clinically indicated.

(i) 'Planning Region', means one of the twelve state service delivery regions established by O.C.G.A. § 50-4-7.

(j) "Psychiatric and/or substance abuse inpatient program," for purposes of these Rules, means an organized entity with a specific plan and intent to serve a special population via designated staff in designated beds in a licensed hospital. Such a program provides services on a 24-hour, seven days per week basis. The characteristics of a program shall include:

1. a clear, distinct plan which includes admission policies and criteria, treatment protocol, etc.; and
2. appropriately trained personnel for the age and disability group to be served by the program; and
3. all of the beds in a program are designated for patients in that specific program.

(k) "Psychiatric and/or substance abuse service," for purposes of these Rules, means any combination of organized psychiatric and substance abuse programs in a hospital.

(l) "Public sector bed," for purposes of these Rules, means a bed located in state owned and operated psychiatric and substance abuse regional hospitals which are maintained by the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse.

(m) "Similar existing and approved program," for purposes of these Rules, means an approved or existing organized program as defined in 111-2-2-.26(1)(a) that provides

services to the same age group (adults or pediatric), , and for the same treatment model (acute or extended).

(3) **Standards.**

(a) An application for a new or expanded psychiatric and/or substance abuse inpatient program(s) shall provide sufficient documentation of the need for such program(s) in the planning area. In the case of an application for an expanded psychiatric and/or substance abuse inpatient program, the applicant shall justify the need for the expansion by, at a minimum, documenting that the expansion program has achieved an occupancy rate of 80 percent for an adult program or an occupancy rate of 70 percent for a pediatric program for the most recent 12 months prior to submitting an application, except that a pediatric program which has obtained an occupancy rate of 65 percent may be permitted to expand if such program demonstrates clinical reasons why 70 percent occupancy is not attainable.

(b) An application for a new or expanded psychiatric and/or substance abuse inpatient program(s) in an existing hospital involving an increase in the maximum evaluated bed capacity of the hospital shall not be approved unless the applicant provides sufficient documentation that it is not appropriate to convert existing hospital beds to beds designated for the proposed program(s) or to close existing hospital beds.

(c) An application for a new acute psychiatric and/or substance abuse program(s) in a proposed or Certificate-of-Need approved new hospital shall not be approved unless the total number of beds in the hospital is determined as needed by application of the Department 's appropriate bed need methodology for new hospitals unless the hospital commits that the beds to be added in excess of the appropriate bed need as calculated by the short stay bed need methodology will be utilized solely for one of the types of programs identified in 111-2-2-.26(2)(a) and (2)(d). Such beds added in excess of the appropriate bed need shall not be used for any other service or program. Should a hospital cease to offer inpatient psychiatric and/or substance abuse program(s), any and all beds obtained by this provision shall be relinquished and deducted from the hospital's CON-authorized and licensed bed capacities.

(d) An applicant for a new or expanded psychiatric and/or substance abuse inpatient program(s) shall document that the establishment or expansion of its program(s) will not have an adverse impact on similar existing and approved programs in its planning region. State-owned and -operated psychiatric and substance abuse regional hospitals shall not be required to document this standard.

1. Accounting for market share and future population growth, an applicant for a new or expanded adult psychiatric and/or substance abuse inpatient program(s) shall have an adverse impact on similar existing and approved programs if it will:

(i) decrease annual utilization of a similar existing program, whose current utilization is at or above 85%, to a projected annual utilization of less than 75% within the first twenty-four months following the acceptance of the applicant's first patient; or

(ii) decrease annual utilization of a similar existing program, whose current utilization is below 85%, by 10 percent over the twenty-four months following the acceptance of the applicant's first patient.

2. Accounting for market share and future population growth, an applicant for a new or expanded pediatric psychiatric and/or substance abuse inpatient program(s) shall have an adverse impact on similar existing and approved programs if it will:

(i) decrease annual utilization of a similar existing program, whose current utilization is at or above 85%, to a projected annual utilization of less than 80% within the first twenty-four months following the acceptance of the applicant's first patient; or

(ii) decrease annual utilization of a similar existing program, whose current utilization is below 85%, by 5 percent over the twenty-four months following the acceptance of the applicant's first patient.

(e) A new psychiatric and/or substance abuse inpatient program(s) shall have the following minimum bed sizes based on type of program offered:

1. The minimum bed size of a new acute psychiatric and/or substance abuse program is eight beds.

2. The minimum bed size of a new extended care psychiatric and substance abuse inpatient program is eight beds.

3. The minimum bed size of a new freestanding psychiatric and/or substance abuse hospital primarily providing acute care and licensed as a specialized hospital is 50 beds.

4. The minimum bed size of a new freestanding psychiatric and/or substance abuse hospital primarily providing extended care and licensed as a specialized hospital or a specialized hospital/intensive residential treatment facility is 50 beds.

5. The minimum number of designated beds in the aggregate of any and all acute psychiatric and/or substance abuse programs in a general hospital is ten beds.

6. The minimum number of designated beds in the aggregate of any and all extended care psychiatric and substance abuse inpatient programs in a general hospital is ten beds.

(f) An applicant for a new psychiatric and/or substance abuse inpatient program(s) shall demonstrate the intent to meet the standards of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) applicable to the type of program to be offered within 12 months of offering the new program. Extended care programs may demonstrate their intent to meet the standards of the Council on the Accreditation of Rehabilitation Facilities (CARF) or the Council on Accreditation (COA) in lieu of JCAHO.

(g) An applicant for an expanded psychiatric and/or substance abuse inpatient program(s) shall be accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for the type of program which the applicant seeks to expand prior to application. The applicant must provide proof of such accreditation. Extended

care programs may be accredited by the Council on the Accreditation of Rehabilitation Facilities (CARF) or the Council on Accreditation (COA) in lieu of JCAHO.

(h) An applicant for a new freestanding psychiatric hospital or intensive residential treatment facility shall demonstrate the intent to meet the licensure Rules of the Georgia Department of Human Resources for such facilities.

(i) An applicant for an expanded freestanding psychiatric hospital or intensive residential treatment facility shall demonstrate a lack of uncorrected deficiencies as documented by letter from the Georgia Department of Human Resources.

(j) An applicant for a new or expanded psychiatric and/or substance abuse inpatient program(s) shall provide documentation that the applicant has no uncorrected history of conditional level Medicare and Medicaid certification deficiencies in the past three years.

(k) An applicant for a new or expanded psychiatric and/or substance abuse inpatient program(s) shall provide sufficient documentation that the proposal is consistent with the following quality standards:

1. The program(s) shall maintain standards for the review and improvement of quality. To document such standards, the program(s) must submit quality improvement policies.

2. The program(s) shall maintain standards to ensure the continuity of patient care. To document such standards, the program(s) must submit policies governing admissions and availability of adequate discharge planning.

(l) An applicant for a new or expanded freestanding psychiatric and/or substance abuse inpatient program(s) shall document the existence of referral arrangements, including transfer agreements, with an acute-care hospital(s) within the planning region to provide emergency medical treatment to any patient who requires such care. If the nearest acute-care hospital is in an adjacent planning region, the applicant may document the existence of transfer agreements with that hospital in lieu of such agreements with a hospital located within the planning region.

(m) An applicant for a new or expanded acute or extended care psychiatric and/or substance abuse program(s) shall document that the program(s) will be financially accessible by:

1. providing sufficient documentation that unreimbursed services for indigent and charity patients in a new or expanded program(s) will be offered at a standard which meets or exceeds three percent of annual gross revenues for the program after provisions have been made for bad debt, and Medicaid and Medicare contractual adjustments have been deducted. If an applicant, or any facility in Georgia owned or operated by the applicant's parent organization, received a Certificate-of-Need for a hospital program(s) or service(s) or a total facility and the CON included an expectation that a certain level of unreimbursed indigent and/or charity care would be provided in the program(s), service(s), or hospital(s), the applicant shall provide sufficient documentation of the facility's(ies') provision of such care. An applicant's history, or the history of any facility in Georgia owned or operated by the applicant's parent organization, of not following

through with a specific CON expectation of providing indigent and/or charity care at or above the expected level will constitute sufficient justification to deny an application; and

2. agreeing to participate in the Medicare and Medicaid programs, whenever these programs are available to the facility.

(n) **Reserved.**

(o) An applicant for a new or expanded psychiatric and/or substance abuse inpatient program(s) shall agree to provide the Department with requested information and statistical data related to the operation of such a program(s) on a yearly basis, or as needed, and in a format requested by the Department.

Authority O.C.G.A. Secs. 31-5A et seq., 31-6 et seq. **History.** Original Rule entitled “Specific Review Considerations for Psychiatric and Substance Abuse Inpatient Programs” adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005. **Amended:** F. Nov. 22, 2006; eff. Dec. 12, 2006.