MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR PSYCHIATRIC BEDS AND SERVICES

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and Sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being Sections 333.22215, 24.207 and 24.208 of the Michigan Compiled Laws).

Section 1. Applicability

Sec. 1. These standards are requirements for the approval under Part 222 of the Code that involve (a) beginning operation of a new psychiatric service, (b) replacing licensed psychiatric beds or physically relocating licensed psychiatric beds from one licensed site to another geographic location, or (c) increasing licensed psychiatric beds within a psychiatric hospital or unit licensed under the Mental Health Code, 1974 PA 258, or (d) acquiring a psychiatric service pursuant to Part 222 of the Code. A psychiatric hospital or unit is a covered health facility. The Department shall use these standards in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws and Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

(2) An increase in licensed hospital beds is a change in bed capacity for purposes of Part 222 of the Code.

(3) The physical relocation of hospital beds from a licensed site to another geographic location is a change in bed capacity for purposes of Part 222 of the Code.

Section 2. Definitions

Sec. 2. (1) For purposes of these standards:

(a) "Acquisition of a psychiatric hospital or unit" means the issuance of a new license as the result of the acquisition (including purchase, lease, donation, or other comparable arrangement) of an existing licensed psychiatric hospital or unit and which does not involve a change in the number of licensed psychiatric beds at that health facility.

(b) “Adult” means any individual aged 18 years or older.

(c) “Average occupancy rate” is calculated as follows:

(i) Calculate the number of patient days during the most recent, consecutive 12-month period, as of the date of the application, for which verifiable data are available to the Department.

(ii) Calculate the total licensed bed days for the same 12-month period as in (i) above by multiplying the total licensed beds by the number of days they were licensed.

(iii) Divide the number of patient days calculated in (i) above by the total licensed bed days calculated in (ii) above, then multiply the result by 100.

(d) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(e) "Child/adolescent" means any individual less than 18 years of age.

(f) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan Compiled Laws.

(g) "Community mental health board" or "board" or "CMH" means the board of a county(s) community mental health board as referenced in the provisions of MCL 330.1200 to 330.1246.

(h) "Comparative group" means the applications which have been grouped for the same type of project in the same planning area or statewide special population group and are being reviewed comparatively in accordance with the CON rules.

(i) "Department" means the Michigan Department of Health and Human Services (MDHHS).

(j) "Department inventory of beds" means the current list maintained for each planning area on a continuing basis by the Department which includes:

(i) licensed adult and child/adolescent psychiatric beds; and

(ii) adult and child/adolescent psychiatric beds approved by a valid CON, which are not yet licensed. A separate inventory will be maintained for child/adolescent beds and adult beds.

(k) "Existing adult inpatient psychiatric beds" or "existing adult beds" means:

(i) all adult beds in psychiatric hospitals or units licensed by the Department pursuant to the Mental Health Code;

(ii) all adult beds approved by a valid CON, which are not yet licensed;

(iii) proposed adult beds under appeal from a final Department decision, or pending a hearing from a proposed decision; and

(iv) proposed adult beds that are part of a completed application (other than the application or applications in the comparative group under review) which are pending final Department decision.

(l) "Existing child/adolescent inpatient psychiatric beds" or "existing child/adolescent beds" means:

(i) all child/adolescent beds in psychiatric hospitals or units licensed by the Department pursuant to the Mental Health Code;

(ii) all child/adolescent beds approved by a valid CON, which are not yet licensed;

(iii) proposed child/adolescent beds under appeal from a final Department decision, or pending a hearing from a proposed decision; and

(iv) proposed child/adolescent beds that are part of a completed application (other than the application or applications in the comparative group under review) which are pending final Department decision.

(m) "Flex bed" means an existing adult psychiatric bed converted to a child/adolescent psychiatric bed in an existing child/adolescent psychiatric service to accommodate during peak periods and meet patient demand.

(n) "Initiation of service" means the establishment of an inpatient psychiatric unit with a specified number of beds at a site not currently providing psychiatric services.

(o) "Involuntary commitment status" means a hospital admission effected pursuant to the provisions of MCL 330.1423 to 330.1429.

(p) "Licensed site" means the location of the facility authorized by license and listed on that licensee's certificate of licensure.

(q) "Medicaid" means title XIX of the Social Security Act, chapter 531, 49 Stat. 620, 1396 to 1396g and 1396i to 1396u.

(r) "Mental Health Code" means Act 258 of the Public Acts of 1974, as amended, being Sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

(s) "Mental health professional" means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is any 1 of the following:

(i) a physician who is licensed to practice medicine or osteopathic medicine and surgery in Michigan and who has had substantial experience with mentally ill, mentally retarded, or developmentally disabled clients for 1 year immediately preceding his or her involvement with a client under administrative rules promulgated pursuant to the Mental Health Code;

(ii) a psychologist who is licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838;

(iii) a licensed master's social worker licensed in Michigan Pursuant to the provisions of MCL 333.16101 to 333.18838;

(iv) a registered nurse who is licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838;

(v) a licensed professional counsel or licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838;

(vi) a marriage and family therapist licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838;

(vii) a professional person, other than those defined in the administrative rules promulgated pursuant to the Mental Health Code, who is designated by the Director of the Department or a director of a facility operated by the Department in written policies and procedures. This mental health professional shall have a degree in his or her profession and shall be recognized by his or her respective professional association as being trained and experienced in the field of mental health. The term does not include non-clinical staff, such as clerical, fiscal or administrative personnel.

(t) "Mental health service" means the provision of mental health care in a protective environment with mental illness or mental retardation, including, but not limited to, chemotherapy and individual and group therapies pursuant to MCL 330.2001.

(u) "Non-renewal or revocation of license" means the Department did not renew or revoked the psychiatric hospital's or unit's license based on the hospital's or unit's failure to comply with state licensing standards.

(v) "Non-renewal or termination of certification" means the psychiatric hospital's or unit's Medicare and/or Medicaid certification was terminated or not renewed based on the hospital's or unit's failure to comply with Medicare and/or Medicaid participation requirements.

(w) "Offer" means to provide inpatient psychiatric services to patients.

(x) "Physician" means an individual licensed in Michigan to engage in the practice of medicine or osteopathic medicine and surgery pursuant to MCL 333.16101 to 333.18838.

(y) "Planning area" means the geographic boundaries of the groups of counties shown in Section 16.

(z) "Planning year" means a year in the future, at least 3 years but no more than 7 years, for which inpatient psychiatric bed needs are developed. The planning year shall be a year for which official population projections from the Department of Technology, Management and Budget or its designee are available.

(aa) "Psychiatric hospital" means an inpatient program operated by the Department for the treatment of individuals with serious mental illness or serious emotional disturbance or a psychiatric hospital or psychiatric unit licensed under pursuant to MCL 330.1137.

(bb) "Psychiatrist" means 1 or more of the following, pursuant to MCL 330.1100c:

(i) a physician who has completed a residency program in psychiatry approved by the Accreditation Council for Graduate Medical Education or The American Osteopathic Association, or who has completed 12 months of psychiatric rotation and is enrolled in an approved residency program;

(ii) a psychiatrist employed by or under contract with the Department or a community health services program on March 28, 1996;

(iii) a physician who devotes a substantial portion of his or her time to the practice of psychiatry and is approved by the Director.

(cc) "Psychiatric unit" means a unit of a general hospital that provides inpatient services for individuals with serious mental illness or serious emotional disturbances pursuant to MCL 330.1100c.

(dd) "Psychologist" means an individual licensed to engage in the practice of psychology, who devotes a substantial portion of his or her time to the diagnosis and treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability, pursuant to MCL 333.16101 to 333.18838.

(ee) "Public patient" means an individual approved for mental health services by a CMH or an individual who is admitted as a patient under the Mental Health Code, Act No. 258 of the Public Acts of 1974, being Sections 330.1423, 330.1429, and 330.1438 of the Michigan Compiled Laws.

(ff) "Qualifying project" means each application in a comparative group which has been reviewed individually and has been determined by the Department to have satisfied all of the requirements of Section 22225 of the Code, being Section 333.22225 of the Michigan Compiled Laws, and all other applicable requirements for approval in the Code and these standards.

(gg) "Registered professional nurse" or "R.N." means an individual licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838.

(hh) "Relocate existing licensed inpatient psychiatric beds" means a change in the location of existing inpatient psychiatric beds from the existing licensed psychiatric hospital site to a different existing

licensed psychiatric hospital site within the same planning area. This definition does not apply to projects involving replacement beds in a psychiatric hospital or unit governed by Section 6 of these standards.

(ii) "Replace beds" means a change in the location of the licensed psychiatric hospital or unit, or the replacement of a portion of the licensed beds at the same licensed site. The beds will be in new physical plant space being developed in new construction or in newly acquired space (purchase, lease, donation, etc.) within the replacement zone.

(jj) "Replacement zone" means a proposed licensed site that is:

(i) in the same planning area as the existing licensed site; and

(ii) on the same site, on a contiguous site, or on a site within 15 miles of the existing licensed site.

(kk) "Social worker" means an individual registered in Michigan to engage in social work under the provisions of MCL 333.18501.

(2) The terms defined in the Code have the same meanings when used in these standards.

Section 3. Determination of needed inpatient psychiatric bed supply

Sec. 3. (1) The number of child/adolescent inpatient psychiatric beds needed in a planning area shall be determined by the following formula:

(a) Tabulate the yearly number of child/adolescent patient days for the most recent five years of data from the CON Annual Survey.

(b) Construct a linear regression model with year as the independent variable and yearly patient days as the dependent variable. If the coefficient of determination (R^2) of the linear model is 0.5 or greater, use the regression parameters to predict the statewide patient days in the planning year. If the coefficient of determination of the linear model is less than 0.5, calculate the statewide patient days in the planning year by taking the mean of the most recent three years of data.

(c) Divide the total patient days obtained in subsection (b) by the statewide planning year population age 0-17. The result is the utilization rate for the population age 0-17 in the planning year.

(d) Multiply the utilization rate obtained in subsection (c) by the planning year population age 0-17 in each planning area. The result is the unadjusted number of child/adolescent patient days for each planning area in the planning year.

(e) Using the most recent data from the Department Inventory of Beds, calculate the average number of licensed child/adolescent beds per facility for each planning area.

(f) For planning areas with an average number of beds per facility less than 20, divide the unadjusted planning area patient days by 0.65. For planning areas with an average number of beds per facility of 20 or more, divide the unadjusted planning area patient days by 0.70. The result is the occupancy-adjusted number of child/adolescent patient days for each planning area in the planning year.

(g) For each planning area, divide the occupancy-adjusted number of child/adolescent patient days from (f) by 365 (or 366 for leap years). Round the values up to the nearest whole number. The result is child/adolescent bed need in the planning year.

(2) The number of adult inpatient psychiatric beds needed in a planning area shall be determined by the following formula:

(a) Tabulate the yearly number of adult patient days for the most recent five years of data from the CON Annual Survey.

(b) Construct a linear regression model with year as the independent variable and yearly patient days as the dependent variable. If the coefficient of determination (R^2) of the linear model is 0.5 or greater, use the regression parameters to predict the statewide patient days in the planning year. If the coefficient of determination of the linear model is less than 0.5, calculate the statewide patient days in the planning year by taking the mean of the most recent three years of data.

(c) Divide the total patient days obtained in subsection (b) by the statewide planning year population age 18+. The result is the utilization rate for the population age 18+ in the planning year.

(d) Multiply the utilization rate obtained in subsection (c) by the planning year population age 18+ in each planning area. The result is the unadjusted number of adult patient days for each planning area in the planning year.

(e) Using the most recent data from the Department Inventory of Beds, calculate the average number of licensed adult beds per facility for each planning area.

(f) For planning areas with an average number of beds per facility less than 20, divide the unadjusted planning area patient days by 0.65. For planning areas with an average number of beds per facility of 20 or more, divide the unadjusted planning area patient days by 0.70. The result is the occupancy-adjusted number of adult patient days for each planning area in the planning year.

(g) For each planning area, divide the occupancy-adjusted number of adult patient days from (f) by 365 (or 366 for leap years). Round the values up to the nearest whole number. The result is adult bed need in the planning year.

Section 4. Bed need for inpatient psychiatric beds

Sec. 4. (1) The bed need numbers determined pursuant to Section 3 shall apply to projects subject to review under these standards, except where a specific CON review standard states otherwise.

(2) The Department shall apply the bed need methodologies in Section 3 on a biennial basis.

(3) The effective date of the bed need numbers shall be established by the Commission.

(4) New bed need numbers shall supercede previous bed need numbers and shall be posted on the State of Michigan CON web site as part of the Psychiatric Bed Inventory.

(5) Modifications made by the Commission pursuant to this Section shall not require Standard Advisory Committee action, a public hearing, or submittal of the standard to the Legislature and the Governor in order to become effective.

Section 5. Requirements for approval to initiate service

Sec. 5. An applicant proposing the initiation of an adult or child/adolescent psychiatric service shall demonstrate or provide the following:

(1) The number of beds proposed in the CON application shall not result in the number of existing adult or child/adolescent psychiatric beds, as applicable, in the planning area exceeding the bed need. However, an applicant may request and be approved for up to a maximum of 10 beds if, when the total number of existing adult beds or existing child/adolescent beds is subtracted from the bed need for the planning area, the difference is equal to or more than 1 or less than 10.

(2) A written recommendation, from the Department or the CMH that serves the county in which the proposed beds or service will be located, shall include an agreement to enter into a contract to meet the needs of the public patient. At a minimum, the letter of agreement shall specify the number of beds to be allocated to the public patient and the applicant's intention to serve patients with an involuntary commitment status.

(3) The number of beds proposed in the CON application to be allocated for use by public patients shall not be less than 50% of the beds proposed in the CON application. Applications proposed in direct response to a Department plan pursuant to subsection (5) shall allocate not less than 80% of the beds proposed in the CON application.

(4) The minimum number of beds in a psychiatric unit shall be at least 10 beds. If a psychiatric unit has or proposes to operate both adult and child/adolescent beds, each unit shall have a minimum of 10 beds. The Department may approve an application for a unit of less than 10 beds, if the applicant demonstrates to the satisfaction of the Department, that travel time to existing units would significantly limit access to care.

(5) An applicant shall not be required to be in compliance with subsection (1) if the applicant demonstrates that the application meets both of the following:

(a) The Director of the Department determines that an exception to subsection (1) should be made and certifies in writing that the proposed project is a direct response to a Department plan for reducing the use of public institutions for acute mental health care through the closure of a state-owned psychiatric hospital; and

(b) The proposed beds will be located in the area currently served by the public institution that will be closed, as determined by the Department.

Section 6. Requirements for approval to replace beds

Sec. 6. An applicant proposing to replace beds shall not be required to be in compliance with the needed bed supply if the applicant demonstrates all of the following:

(1) The applicant shall specify whether the proposed project is to replace the existing licensed psychiatric hospital or unit to a new site or to replace a portion of the licensed psychiatric beds at the existing licensed site.

(2) The proposed licensed site is in the replacement zone.

(3) Not less than 50% of the beds proposed to be replaced shall be allocated for use by public patients.

(4) Previously made commitments, if any, to the Department or CMH to serve public patients have been fulfilled.

(5) Proof of current contract or documentation of contract renewal, if current contract is under negotiation, with the CMH or its designee that serves the planning area in which the proposed beds or service will be located.

(6) The applicant shall comply with the following requirements, as applicable:

(a) The existing psychiatric hospital or unit shall have an average occupancy rate of at least 60% for adult beds and 40% for child/adolescent beds.

(b) If the average occupancy rate for the existing psychiatric hospital or unit is below 60% for adult beds or 40% for child/adolescent beds, then the applicant psychiatric hospital or unit shall reduce the appropriate number of licensed beds to achieve an average annual occupancy rate of at least 60% for adult beds or 40% for child/adolescent beds. The applicant psychiatric hospital or unit shall not exceed the number of beds calculated as follows:

(i) For adult beds, as of the date of the application, calculate the number of patient days during the most recent, consecutive 36-month period where verifiable data is available to the Department, and divide by .60.

(ii) Divide the result of subsection (i) above by 1095 (or 1096 if the 36-month period includes a leap year) and round up to the next whole number or 10, whichever is larger. This is the maximum number of beds that can be licensed at the existing licensed psychiatric hospital or unit site after replacement.

(iii) For child/adolescent beds, as of the date of the application, calculate the number of patient days during the most recent, consecutive 36-month period where verifiable data is available to the Department, and divide by .40.

(iv) Divide the result of subsection (iii) above by 1095 (or 1096 if the 36-month period includes a leap year) and round up to the next whole number or 10, whichever is larger. This is the maximum number of beds that can be licensed at the existing licensed psychiatric hospital or unit site after replacement.

Section 7. Requirements for approval of an applicant proposing to relocate existing licensed inpatient psychiatric beds

Sec. 7. (1) The proposed project to relocate beds, under this section, shall constitute a change in bed capacity under Section 1(3) of these standards.

(2) Any existing licensed inpatient psychiatric hospital or unit may relocate all or a portion of its beds to another existing licensed inpatient psychiatric hospital or unit located within the same planning area.

(3) The inpatient psychiatric hospital or unit from which the beds are being relocated, and the inpatient psychiatric hospital or unit receiving the beds, shall not require any ownership relationship.

(4) The relocated beds shall be licensed to the receiving inpatient psychiatric hospital or unit and will be counted in the inventory for the applicable planning area.

(5) The relocation of beds under this section shall not be subject to a mileage limitation.

(6) The relocation of beds under this section shall not result in initiation of a new adult or child/adolescent service except for an existing adult inpatient psychiatric service requesting to initiate a child/adolescent inpatient psychiatric service in an overbedded child/adolescent planning area pursuant to Section 8(11).

(7) The applicant shall comply with the following requirements, as applicable:

(a) The source psychiatric hospital or unit shall have an average occupancy rate of at least 60% for adult beds and 40% for child/adolescent beds.

(b) If the source psychiatric hospital or unit does not have an average occupancy rate of at least 60% for adult beds and 40% for child/adolescent beds, then the source psychiatric hospital or unit shall reduce the appropriate number of licensed beds to achieve an average occupancy rate of at least 60% for adult beds and 40% for child/adolescent beds upon completion of the relocation(s). The source psychiatric hospital or unit shall not exceed the number of beds calculated as follows:

(i) For adult beds, as of the date of the application, calculate the number of patient days during the most recent, consecutive 36-month period where verifiable data is available to the Department, and divide by .60.

(ii) Divide the result of subsection (i) above by 1095 (or 1096 if the 36-month period includes a leap year) and round up to the next whole number or 10, whichever is larger. This is the maximum number of beds that can be licensed at the source psychiatric hospital or unit site after the relocation.

(iii) For child/adolescent beds, as of the date of the application, calculate the number of patient days during the most recent, consecutive 36-month period where verifiable data is available to the Department, and divide by .40.

(iv) Divide the result of subsection (iii) above by 1095 (or 1096 if the 36-month period includes a leap year) and round up to the next whole number or 10, whichever is larger. This is the maximum number of beds that can be licensed at the source psychiatric hospital or unit site after the relocation.

(8) A source hospital shall apply for multiple relocations on the same application date, and the applications can be combined to meet the criteria of (7)(b) above. A separate application shall be submitted for each proposed relocation.

Section 8. Requirements for approval to increase beds

Sec. 8. An applicant proposing an increase in the number of adult or child/adolescent beds shall demonstrate or provide the following:

(1) An applicant proposing new beds in a psychiatric hospital or unit, except an applicant meeting the requirements of subsection (3), (9), or (10) shall demonstrate that the number of beds proposed in the CON application will not result in the number of existing adult or child/adolescent psychiatric beds, as applicable, in the planning area exceeding the bed need. However, an applicant may request and be approved for up to a maximum of 10 beds if, when the total number of existing adult beds or existing child/adolescent beds is subtracted from the bed need for the planning area, the difference is equal to or more than 1 or less than 10.

(2) An applicant proposing new beds in a psychiatric hospital or unit, except an applicant meeting the requirements of subsection (3), (9), or (10) shall demonstrate that the average occupancy rate for the applicant's facility, where the proposed beds are to be located, was at least 70% for adult or child/adolescent beds, as applicable, during the most recent, consecutive 12-month period, as of the date of the submission of the application, for which verifiable data are available to the Department. This subsection shall not apply if adding beds from a special population group contained in the addendum to these standards. For purposes of this section, average occupancy rate shall be calculated as follows:
(a) Divide the number of patient days of care provided by the total number of patient days, then multiply the result by 100.

(3) An applicant may apply for the addition of new beds if all of the following subsections are met. Further, an applicant proposing new beds at an existing licensed psychiatric hospital or unit site shall not be required to be in compliance with the needed psychiatric hospital bed supply if the application meets all other applicable CON review standards and agrees and assures to comply with all applicable project delivery requirements.
(a) The number of existing adult or child/adolescent psychiatric beds in the planning area is equal to or exceeds the bed need.
(b) The beds are being added at the existing licensed site.
(c) The average occupancy rate for the applicant's facility was at least 75% for facilities with 19 beds or less and 80% for facilities with 20 beds or more, as applicable, during the most recent, consecutive 12-month period, as of the date of the submission of the application, for which verifiable data are available to the Department.
(i) For a facility with flex beds,
(A) calculate the average occupancy rate as follows:
(1) For adult beds:
(a) Adult bed days are the number of licensed adult beds multiplied by the number of days they were licensed during the most recent consecutive 12-month period.
(b) Flex bed days are the number of licensed flex beds multiplied by the number of days the beds were used to serve a child/ adolescent patient.
(c) Subtract the flex bed days from the adult bed days and divide the adult patient days of care by this number, then multiply the result by 100.

(2) For child/adolescent beds:
(a) Child/adolescent bed days are the number of licensed child/adolescent beds multiplied by the number of days they were licensed during the most recent 12-month period.

(b) Flex bed days are the number of licensed flex beds multiplied by the number of days the beds were used to serve a child/ adolescent patient.

(c) Add the flex bed days to the child/adolescent bed days and divide the child/adolescent patient days of care by this number, then multiply the result by 100.

(d) The number of beds to be added shall not exceed the results of the following formula:

(ii) Multiply the facility's average daily census for the most recent, consecutive 12-month period, as of the date of the submission of the application, for which verifiable data are available to the Department by 1.5 for adult beds and 1.7 for child/adolescent beds.

(iii) Subtract the number of currently licensed beds from the number calculated in (ii) above. This is the maximum number of beds that may be approved pursuant to this subsection.

(4) Proof of current contract or documentation of contract renewal, if current contract is under negotiation, with at least one CMH or its designee that serves the planning area in which the proposed beds or service will be located.

(5) Previously made commitments, if any, to the Department or CMH to serve public patients have been fulfilled.

(6) The number of beds proposed in the CON application to be allocated for use by public patients shall not be less than 50% of the beds proposed in the CON application. Applications proposed in direct response to a Department plan pursuant to subsection (9) shall allocate not less than 80% of the beds proposed in the CON application.

(7) The minimum number of beds in a psychiatric unit shall be at least 10 beds. If a psychiatric unit has or proposes to operate both adult and child/adolescent beds, then each unit shall have a minimum of 10 beds. The Department may approve an application for a unit of less than 10 beds, if the applicant demonstrates, to the satisfaction of the Department, that travel time to existing units would significantly impair access to care. This subsection shall not apply if adding beds from a special population group contained in the addendum to these standards.

(8) Subsection (2) shall not apply if the Director of the Department has certified in writing that the proposed project is a direct response to a Department plan for reducing the use of public institutions for acute mental health care through the closure of a state-owned psychiatric hospital.

(9) An applicant shall not be required to be in compliance with subsection (1) if the applicant demonstrates that the application meets both of the following:

(a) The Director of the Department determines that an exception to subsection (1) should be made and certifies in writing that the proposed project is a direct response to a Department plan for reducing the use of public institutions for acute mental health care through the closure of a state-owned psychiatric hospital; and

(b) The proposed beds will be located in the area currently served by the public institution that will be closed as determined by the Department.

(10) An applicant proposing to add new adult and/or child/adolescent psychiatric beds, as the receiving licensed inpatient psychiatric hospital or unit under Section 7, shall demonstrate that it meets all of the requirements of this subsection and shall not be required to be in compliance with the bed need if the application meets all other applicable CON review standards and agrees and assures to comply with all applicable project delivery requirements.

(a) The approval of the proposed new inpatient psychiatric beds shall not result in an increase in the number of licensed inpatient psychiatric beds in the planning area.

(b) The applicant meets the requirements of subsections (4), (5), (6), and (7) above.

(c) The proposed project to add new adult and/or child adolescent psychiatric beds, under this subsection, shall constitute a change in bed capacity under Section 1(2) of these standards.

(d) Applicants proposing to add new adult and/or child/adolescent psychiatric beds under this subsection shall not be subject to comparative review.

(11) An applicant proposing to initiate a new child/adolescent psychiatric service, as the receiving licensed inpatient psychiatric hospital or unit under Section 7(6), shall demonstrate that it meets all of the requirements of this subsection and shall not be required to be in compliance with the bed need if the application meets all other applicable CON review standards and agrees and assures to comply with all applicable project delivery requirements.

(a) The approval of the proposed new inpatient psychiatric beds shall not result in an increase in the number of licensed inpatient psychiatric beds in the planning area.

(b) The applicant meets the requirements of subsections (4), (5), and (6) above.

(c) The applicant is requesting a minimum of 10 child/adolescent psychiatric beds to a maximum of 20 beds.

(d) The applicant:

(i) is related through common ownership, in whole or in part, or through common control, with an acute-care hospital that has an emergency department that provides 24-hour emergency care services and where child/adolescent patients with a psychiatric and/or developmental disability diagnosis present at an average of at least 100 visits per year for each of the three most recent years in which there is data verifiable by the Department; and

(ii) has an agreement with the acute-care hospital to give primary consideration for admission of child/adolescent patients from the acute-care hospital's emergency department in need of an inpatient psychiatric hospital admission.

(iii) has a collaborative agreement with an existing child/adolescent psychiatric hospital or unit for consultation and supportive services with a proposed term of not less than twelve months after implementation.

(e) The proposed site for the new child/adolescent beds has not previously been approved for beds under this sub-section.

(f) The proposed project to add new child adolescent psychiatric beds, under this subsection, shall constitute a change in bed capacity under Section 1(2) of these standards.

(g) Applicants proposing to add new child/adolescent psychiatric beds under this subsection shall not be subject to comparative review.

Section 9. Requirements for approval for flex beds

Sec. 9. An applicant proposing flex beds shall demonstrate the following as applicable to the proposed project:

(1) The applicant has existing adult psychiatric beds and existing child/adolescent psychiatric beds.

(2) The number of flex beds proposed in the CON application shall not result in the existing adult psychiatric unit to become non-compliant with the minimum size requirements within Section 5(4).

(3) The applicant shall meet all applicable sections of the standards.

(4) The facility shall be in compliance and meet all design standards of the most recent Minimum Design Standards for Health Care Facilities in Michigan.

(5) The applicant shall convert the beds back to adult inpatient psychiatric beds if the bed has not been used as a flex bed serving a child/adolescent patient for a continuous 12-month period or if the CON application is withdrawn.

Section 10. Requirements for approval for acquisition of a psychiatric hospital or unit

Sec. 10. An applicant proposing to acquire a psychiatric hospital or unit shall not be required to be in compliance with the needed bed supply, for the planning area in which the psychiatric hospital or unit subject to the proposed acquisition is located, if the applicant demonstrates that all of the following are met:

(1) The acquisition will not result in a change in the number of licensed beds or beds designated for a child/adolescent specialized psychiatric program.

(2) The licensed site does not change as a result of the acquisition.

(3) The applicant shall comply with the following requirements, as applicable:

(a) The existing psychiatric hospital or unit shall have an average occupancy rate of at least 60% for adult beds and 40% for child/adolescent beds.

(b) If the average occupancy rate for the existing psychiatric hospital or unit is below 60% for adult beds or 40% for child/adolescent beds, the applicant shall agree to all of the following:

(i) The psychiatric hospital or unit to be acquired will achieve an average occupancy rate of at least 60% average annual occupancy for adult beds or 40% annual average occupancy for child/adolescent beds for the revised licensed bed complement during any consecutive 12-month period by the end of the second year of operation after completion of the acquisition.

(A) Calculate average occupancy rate for adult beds as follows:

(1) Add the number of adult patient days of care to the number of child/adolescent patient days of care provided in the flex beds; divide this number by the adult bed days, then multiply the result by 100.

(B) Calculate average occupancy rate for child/adolescent beds as follows:

(1) Subtract the number of child/adolescent patient days of care provided in the flex beds from the number of child adolescent patient days of care; divide this number by the child/adolescent bed days, then multiply the result by 100.

(C) Flex beds approved under Section 9 shall be counted as existing adult inpatient psychiatric beds.

(c) If the psychiatric hospital or unit to be acquired does not achieve an average annual occupancy rate of at least 60% for adult beds or 40% for child/adolescent beds, as calculated above, during any consecutive 12-month period by the end of the second year of operation after completion of the acquisition, the applicant shall relinquish sufficient beds at the existing psychiatric hospital or unit to raise its average occupancy to 60% for adult beds or 40% for child/adolescent beds. The revised number of licensed beds at the psychiatric hospital or unit shall be calculated as follows. However, the psychiatric hospital or unit shall not be reduced to less than 10 beds.

(i) For adult beds, as of the date of the application, calculate the number of patient days during the most recent, consecutive 12-month period where verifiable data is available to the Department, and divide by .60.

(ii) Divide the result of subsection (i) above by 365 (or 366 if the 12-month period includes a leap year) and round up to the next whole number or 10, whichever is larger. This is the maximum number of beds that can be licensed at the existing licensed psychiatric hospital or unit site after acquisition.

(iii) For child/adolescent beds, as of the date of the application, calculate the number of patient days during the most recent, consecutive 12-month period where verifiable data is available to the Department, and divide by .40.

(iv) Divide the result of subsection (iii) above by 365 (or 366 if the 12-month period includes a leap year) and round up to the next whole number or 10, whichever is larger. This is the maximum number of beds that can be licensed at the existing licensed psychiatric hospital or unit site after acquisition.

Section 11. Additional requirements for applications included in comparative review

Sec. 11. (1) Any application subject to comparative review under Section 22229 of the Code, being Section 333.22229 of the Michigan Compiled Laws, or under these standards, shall be grouped and reviewed comparatively with other applications in accordance with the CON rules.

(2) Each application in a comparative group shall be individually reviewed to determine whether the application has satisfied all the requirements of Section 22225 of the Code being Section 333.22225 of the Michigan Compiled Laws and all other applicable requirements for approval in the Code and these standards. If the Department determines that two or more competing applications satisfy all of the requirements for approval, these projects shall be considered qualifying projects. The Department shall approve those qualifying projects which, when taken together, do not exceed the need, as defined in Section 22225(1) of the Code, and which have the highest number of points when the results of subsection (3) are totaled. If two or more qualifying projects are determined to have an identical number of points, then the Department shall approve those qualifying projects which, when taken together, do not exceed the need, in the order in which the applications were received by the Department, based on the date and time stamp placed on the applications by the Department in accordance with rule 325.9123.

(3)(a) A qualifying project application will be awarded 5 points if, within six months of beginning operation and annually thereafter, 100% of the licensed psychiatric beds (both existing and proposed) at the facility will be Medicaid certified.

(b) A qualifying project will be awarded 3 points if the applicant currently provides a partial hospitalization psychiatric program, outpatient psychiatric services, or psychiatric aftercare services, or transportation assistance to patients who require these services. An applicant proposing a new facility will be awarded 3 points if it submits site plans or service contracts to demonstrate it will include any of these services as part of its proposed project.

(c) A qualifying project will have 4 points deducted if the Department has issued, within three years prior to the date on which the CON application was deemed submitted, a provisional license FOR any psychiatric hospital or unit owned or operated by the applicant in this state.

(d) A qualifying project will have points awarded based on the ranking of the applicant's Medicaid days as measured as a percentage of total days as set forth in the following table. For purposes of scoring, the applicant's Medicaid percentage will be the cumulative of all Title XIX and Healthy Michigan inpatient psychiatric days divided by the cumulative of all inpatient psychiatric days at all currently licensed Michigan hospitals under common ownership or control with the applicant. For purposes of evaluating this criterion, an applicant shall submit the most recent reviewed and accepted Medicaid cost report for each currently licensed hospital under common ownership or control in Michigan.

MEDICAID DAYS	POINTS AWARDED
Applicant with highest percent of Medicaid days	10 points
All other applicants	Applicant's percent of Medicaid days divided by the highest applicant's percent of Medicaid days, then multiplied by 10
EXAMPLE BELOW	
The highest applicant has 58.3% Medicaid days	10 points
Applicant with 55.3% Medicaid days	(.553 / .583) X 10 = 9 points
Applicant with 51.3% Medicaid days	(.513 / .583) X 10 = 9 points

Percentages of days shall be rounded to the nearest 1/1000 and points awarded shall be rounded to the nearest whole number, i.e. numbers ending in .5 or higher, round up, and numbers ending in .4 or lower, round down.

(e) A qualifying project will have points deducted based on the applicant's record of compliance with applicable safety and operating standards for any psychiatric hospital or unit owned and/or operated by the applicant in this state. Points shall be deducted in accordance with the following schedule if, on or after November 26, 1995, the Department records document any non-renewal or revocation of license for cause or non-renewal or termination of certification for cause of any psychiatric hospital or unit owned or operated by the applicant in this state.

Psychiatric Hospital/Unit Compliance Action	Points Deducted
Non-renewal or revocation of license	4
Non-renewal or termination of:	
Certification - Medicare	4
Certification - Medicaid	4

(f) A qualifying project will be awarded points based on the applicant's total project costs per bed. For purposes of this criterion, total project costs shall be defined as the total costs for construction and renovation, site work, architectural/engineering and consulting fees, contingencies, fixed equipment, construction management and permits. Points shall be awarded in accordance with the table below:

COST PER BED	POINTS AWARDED
Applicant with the lowest cost per bed	7 POINTS
All other applicants	Lowest applicant's cost per bed divided by the applicant's cost per bed, then multiplied by 7
Example below	
The lowest cost applicant is $698,000 per bed	7 points
Applicant with $710,000 per bed	($698,000 / $710,000) X 7 = 7 points
Applicant with $975,000 per bed	($698,000 / $975,000) X 7 = 5 points

Points shall not be awarded under this section for any project that proposes to add beds at a leased facility. Costs shall be rounded to the nearest whole dollar and points awarded shall be rounded to the nearest whole number, i.e. numbers ending in .5 or higher, round up, and numbers ending in .4 or lower, round down.

(g) A qualifying project will be awarded 1 point for each design feature in this subsection (maximum of 3 points) that applicant proposes to include in the proposed project to reduce stress, foster diminished aggression, and reduce patient risk:

(i) Design features as shown on the floor plan submitted with the CON application to allow the applicant to create one or more subunits within a larger unit for clinical or programmatic purposes, including door or wall systems permitted under the Minimum Design Standards for Healthcare Facilities in Michigan to subdivide inpatient psychiatric space on a temporary or flexible basis;

(ii) gardens or other outdoor areas to allow inpatients direct daily access to outdoor space and daylight; and

(iii) a floor plan designed to help reduce patient risk by optimizing observation of patients in the facility in communal areas, hallways, and patient rooms. For purposes of this criteria, applicants shall submit proposed floor plans that show unobstructed sight lines from nurse stations or the equivalent to all patient room corridors and all common areas utilized for patient care.

(h) A qualifying project will be awarded 3 points if the applicant has or proposes to develop, with credible documentation acceptable to the Department, a telehealth and/or telemedicine program to

facilitate inpatient admission of psychiatric patients or to assist in the diagnosis, treatment or provision of other inpatient support and services necessary and appropriate for the admission or retention of a psychiatric hospital inpatient with the following features:

(i) The existing or proposed telehealth and/or telemedicine program complies or will comply with Michigan Compiled Laws Section 333.16283 to 333.16288;

(ii) the proposed project includes infrastructure necessary or appropriate for the psychiatric telehealth and/or telemedicine services including high-speed internet connections, integration of the telehealth and/or telemedicine services with the electronic health record of the psychiatric inpatient, and physical plant design elements necessary or appropriate for compliance with applicable state and federal privacy laws; and

(iii) the applicant has or proposes a plan to facilitate workforce training and technical assistance to support operation of the telehealth and/or telemedicine program.

(i) A qualifying project will be awarded 3 points if the applicant already has, or the proposed project will have comprehensive psychiatric crisis services for the purpose of diverting patients to a lower acuity setting including any of the following: 24-hour patient/family crisis telephone lines, walk-in crisis services, or a crisis stabilization unit. An applicant shall submit site plans or contracts to demonstrate it currently has or will include any of these services as part of its proposed project.

(j) A qualifying project will be awarded points based on the geographic location of the project in accordance with the following table. For purposes of evaluation, this criteria will consider the proximity of the proposed project to existing beds of the same type as those proposed in the application, including both operating and CON-approved but not yet operational beds on the date of application.

PROXIMITY TO EXISTING BEDS OF THE SAME TYPE	POINTS AWARDED
Less than 30 miles	0
Between 30 and 60 miles	1
Between 60 and 90 miles	2
Greater than 90 miles	3

For purposes of scoring this criteria, the applicant shall submit data using the Michigan State University Geocoder located on the Department's website and the Department's Inventory of Beds at the time the application is deemed submitted.

(k) A qualifying project that proposes beds under the addendum for special population groups, Section 7 for high acuity psychiatric patients, will be awarded based on the percentage of beds located in private rooms proposed as part of the project, supported by the floor plans provided in the application, in accordance with the table below.

PERCENTAGE OF HIGH ACUITY BEDS LOCATED IN PRIVATE ROOMS	POINTS AWARDED
Applicant with highest percentage of high acuity beds located in private rooms	7 points
All other applicants	Applicant's percent of beds located in private rooms divided by the highest applicant's percent of beds located in private rooms, then multiplied by 7
Example below	
The applicant with the highest percentage of beds in private rooms is 90.0%	7 points
Applicant with 80.0% of beds in private rooms	(.800 / .900) x 7 = 6 points

Applicant with 70.5% beds in private rooms	(.750 / .900) x 7 = 5 points

Percentages of beds in private rooms shall be rounded to the nearest 1/1000 and points awarded shall be rounded to the nearest whole number, i.e. numbers ending in .5 or higher, round up, and numbers ending in .4 or lower, round down.

(4) Submission of conflicting information in this section may result in a lower point award. If an application contains conflicting information which could result in a different point value being awarded in this section, the Department will award points based on the lower point value that could be awarded from the conflicting information. For example, if submitted information would result in 6 points being awarded, but other conflicting information would result in 12 points being awarded, then 6 points will be awarded. If the conflicting information does not affect the point value, the Department will award points accordingly. For example, if submitted information would result in 12 points being awarded and other conflicting information would also result in 12 points being awarded, then 12 points will be awarded.

Section 12. Requirements for approval -- all applicants

Sec. 12. (1) An applicant shall provide verification of Medicaid participation. An applicant that is a new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation will be provided to the Department within six (6) months from the offering of services if a CON is approved.

(2) The applicant certifies all outstanding debt obligations owed to the State of Michigan for Quality Assurance Assessment Program (QAAP) or Civil Monetary Penalties (CMP) have been paid in full.

(3) The applicant certifies that the health facility for the proposed project has not been cited for a state or federal code deficiency within the 12 months prior to the submission of the application. If a code deficiency has been issued, then the applicant shall certify that a plan of correction for cited state or federal code deficiencies at the health facility has been submitted and approved by the Bureau of Health Systems within the Department or, as applicable, the Centers for Medicare and Medicaid Services. If code deficiencies include any unresolved deficiencies still outstanding with the Department or the Centers for Medicare and Medicaid Services that are the basis for the denial, suspension, or revocation of an applicant's health facility license, poses an immediate jeopardy to the health and safety of patients, or meets a federal conditional deficiency level, the proposed project cannot be approved without approval from the Bureau of Health Systems.

Section 13. Project delivery requirements - terms of approval for all applicants

Sec. 13. An applicant shall agree that, if approved, the project shall be delivered in compliance with the following terms of CON approval:

(1) Compliance with these standards.

(2) Compliance with the following applicable quality assurance standards:

(a) The proposed licensed psychiatric beds shall be operated in a manner that is appropriate for a population with the ethnic, socioeconomic, and demographic characteristics including the developmental stage of the population to be served.

(b) The applicant shall establish procedures to care for patients who are disruptive, combative, or suicidal and for those awaiting commitment hearings, and the applicant shall establish a procedure for obtaining physician certification necessary to seek an order for involuntary treatment for those persons that, in the judgment of the professional staff, meet the Mental Health Code criteria for involuntary treatment.

(c) The applicant shall develop a standard procedure for determining, at the time the patient first presents himself or herself for admission or within 24 hours after admission, whether an alternative to inpatient psychiatric treatment is appropriate.

(d) The inpatient psychiatric hospital or unit shall provide clinical, administrative, and support services that will be at a level sufficient to accommodate patient needs and volume and will be provided seven days a week to assure continuity of services and the capacity to deal with emergency admissions.

(3) Compliance with the following access to care requirements:

(a) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years of operation and continue to participate annually thereafter.

(b) The applicant, to assure appropriate utilization by all segments of the Michigan population, shall:

(i) not deny acute inpatient mental health services to any individual based on ability to pay, source of payment, age, race, handicap, national origin, religion, gender, sexual orientation or commitment status;

(ii) provide acute inpatient mental health services to any individual based on clinical indications of need for the services; and

(iii) maintain information by payor and non-paying sources to indicate the volume of care from each source provided annually. Compliance with selective contracting requirements shall not be construed as a violation of this term.

(iv) Adopt and maintain a policy that includes a plan for providing inpatient psychiatric services to existing or potential psychiatric inpatients whose length of stay at applicant's psychiatric hospital exceeds, or may exceed, 45 consecutive inpatient days in accordance with applicable Medicare, Medicaid, CMH, or other third-party payor medical necessity criteria for inpatient psychiatric admissions and an appropriate care plan.

(4) Compliance with the following monitoring and reporting requirements:

(a) The average occupancy rate for all licensed beds at the psychiatric hospital or unit shall be at least 60 percent (%) for adult beds and 40 percent (%) for child/adolescent beds for the second 12 months of operation, and annually thereafter.

(i) Calculate average occupancy rate for adult beds as follows:

(A) Add the number of adult patient days of care to the number of child/adolescent patient days of care provided in the flex beds; divide this number by the adult bed days, then multiply the result by 100.

(ii) Calculate average occupancy rate for child/adolescent beds as follows:

(A) Subtract the number of child/adolescent patient days of care provided in the flex beds from the number of child adolescent patient days of care; divide this number by the child/adolescent bed days, then multiply the result by 100.

(b) Flex beds approved under section 9 shall be counted as existing adult inpatient psychiatric beds.

(c) After the second 12 months of operation, if the average occupancy rate is below 60% for adult beds or 40% for child/adolescent beds, the number of beds shall be reduced to achieve a minimum of 60% average annual occupancy for adult beds or 40% annual average occupancy for child/adolescent beds for the revised licensed bed complement. However, the psychiatric hospital or unit shall not be reduced to less than 10 beds.

(d) The applicant shall participate in a data collection network established and administered by the Department or its designee. The data may include, but is not limited to: annual budget and cost information, operating schedules, and demographic, diagnostic, morbidity and mortality information, as well as the volume of care provided to patients from all payor sources. The applicant shall provide the required data on a separate basis for each licensed site; in a format established by the Department; and in a mutually agreed upon media. The Department may elect to verify the data through on-site review of appropriate records.

(e) The applicant shall provide the Department with a notice stating the date the beds or services are placed in operation and such notice shall be submitted to the Department consistent with applicable statute and promulgated rules.

(f) An applicant required to enter into a contract with a CMH(s) or the Department pursuant to these standards shall have in place, at the time the approved beds or services become operational, a signed contract to serve the public patient. The contract must address a single entry and exit system including discharge planning for each public patient. The contract shall specify that at least 50% or 80% of the approved beds, as required by the applicable sections of these standards, shall be allocated to the public patient, and shall specify the hospital's or unit's willingness to admit patients with an involuntary commitment status. The contract need not be funded.

(5) Compliance with this Section shall be determined by the Department based on a report submitted by the applicant and/or other information available to the Department.

(6) Nothing in this section prohibits the Department from taking compliance action under MCL 333.22247.

(7) The agreements and assurances required by this Section shall be in the form of a certification agreed to by the applicant or its authorized agent.

Section 14. Project delivery requirements - additional terms of approval for child/adolescent service

Sec. 14. (1) In addition to the provisions of Section 13, an applicant for a child/adolescent service shall agree to operate the program in compliance with the following terms of CON approval, as applicable:

(a) There shall be at least the following child and adolescent mental health professionals employed, either directly or by contract, by the hospital or unit, each of whom must have been involved in the delivery of child/adolescent mental health services for at least 2 years within the most recent 5 years:

(i) a child/adolescent psychiatrist;

(ii) a child psychologist;

(iii) a psychiatric nurse;

(iv) a psychiatric social worker;

(v) an occupational therapist or recreational therapist; and

(b) There shall be a recipient rights officer employed by the hospital or the program.

(c) The applicant shall identify a staff member(s) whose assigned responsibilities include discharge planning and liaison activities with the home school district(s).

(d) There shall be the following minimum staff employed either on a full time basis or access to on a consulting basis as needed:

(i) a pediatrician;

(ii) a child neurologist;

(iii) a neuropsychologist;

(iv) a speech and language therapist;

(v) an audiologist; and

(vi) a dietician.

(e) A child/adolescent service shall have the capability to determine that each inpatient admission is the appropriate treatment alternative consistent with Section 498e of the Mental Health Code, being Section 330.1498e of the Michigan Compiled Laws.

(f) The child/adolescent service shall develop and maintain a coordinated relationship with the home school district of any patient to ensure that all public education requirements are met.

(g) The applicant shall demonstrate that the child/adolescent service is integrated within the continuum of mental health services available in its planning area by establishing a formal agreement with the CMH(s) serving the planning area in which the child/adolescent specialized psychiatric program is located. The agreement shall address admission and discharge planning issues which include, at a minimum, specific procedures for referrals for appropriate community services and for the exchange of

information with the CMH(s), the probate court(s), the home school district, the Michigan Department of Human Services, the parent(s) or legal guardian(s) and/or the patient's attending physician.

(2) Compliance with this Section shall be determined by the Department based on a report submitted by the program and/or other information available to the Department.

(3) The agreements and assurances required by this Section shall be in the form of a certification agreed to by the applicant or its authorized agent.

Section 15. Department inventory of beds

Sec. 15. The Department shall maintain, and provide on request, a listing of the Department Inventory of Beds for each adult and child/adolescent planning area.

Section 16. Planning areas

Sec. 16. The planning areas for inpatient psychiatric beds are the geographic boundaries of the groups of counties as follows.

Planning Areas	**Counties**
1	Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, Wayne
2	Clinton, Eaton, Hillsdale, Ingham, Jackson, Lenawee
3	Barry, Berrien, Branch, Calhoun, Cass, Kalamazoo, St. Joseph, Van Buren
4	Allegan, Ionia, Kent, Lake, Mason, Montcalm, Muskegon, Newaygo, Oceana, Ottawa
5	Genesee, Lapeer, Shiawassee
6	Arenac, Bay, Clare, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland, Mecosta, Ogemaw, Osceola, Oscoda, Saginaw, Sanilac, Tuscola
7	Alcona, Alpena, Antrim, Benzie, Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Leelanau, Manistee, Missaukee, Montmorency, Otsego, Presque Isle, Roscommon, Wexford
8	Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, Schoolcraft

Section 17. Effect on prior CON review standards; comparative reviews

Sec. 17. (1) These CON review standards supercede and replace the CON Review Standards for Psychiatric Beds and Services, approved by the CON Commission on ~~March~~ SEPTEMBER ~~21~~19, 2019 and effective on ~~May~~ NOVEMBER ~~24~~12, 2019.

(2) Projects involving replacement beds, relocation of beds, flex beds under Section 9, or an increase in beds, approved pursuant to Section 6(3), are reviewed under these standards and shall not be subject to comparative review.

(3) Projects involving initiation of services or an increase in beds, approved pursuant to Section 5(1), are reviewed under these standards and shall be subject to comparative review.

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

CON REVIEW STANDARDS
FOR PSYCHIATRIC BEDS AND SERVICES
--ADDENDUM FOR SPECIAL POPULATION GROUPS

(By authority conferred on the CON commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207 and 24.208 of the Michigan Compiled Laws.)

Section 1. Applicability; definitions

Sec. 1. (1) This addendum supplements the CON review standards for psychiatric beds and services and shall be used for determining the need for projects established to better meet the needs of special population groups within the mental health populations.

(2) Except as provided in sections 2, 3, 4, 5, 6, 7 and 8 of this addendum, these standards supplement, and do not supersede, the requirements and terms of approval required by the CON Review Standards for Psychiatric Beds and Services.

(3) The definitions which apply to the CON Review Standards for Psychiatric Beds and Services shall apply to these standards.

(4) For purposes of this addendum, the following terms are defined:
(a) "Developmental disability unit" means a unit designed for psychiatric patients (adult or child/adolescent as applicable) who have been diagnosed with a severe, chronic disability as outlined in Section 102, 42 USC 15002, of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act) and its update or future guideline changes.
(b) "Geriatric psychiatric unit" means a unit designed for psychiatric patients aged 65 and over.
(c) "High acuity psychiatric unit" means a distinct psychiatric unit for individuals who are currently exhibiting three or more to a moderate degree or two or more to a severe degree of the following: confusion, irritability, boisterousness, poor impulse control, uncooperativeness, hostility, verbal threats, physical threats, or attacking objects. This term also includes patients who are unwilling or unable to stop attempts at self-harm or suicide or patients who have a history of violence to self or others on an inpatient psychiatric unit.
(d) "Medical psychiatric unit" means a unit designed for psychiatric patients (adult or child/adolescent as applicable) who have also been diagnosed with a medical illness requiring hospitalization, e.g., patients who may be on dialysis, require wound care or need intravenous or tube feeding.

Section 2. Requirements for approval -- applicants proposing to increase psychiatric beds -- special use exceptions

Sec. 2. A project to increase psychiatric beds in a planning area which, if approved, would otherwise cause the total number of psychiatric beds in that planning area to exceed the needed psychiatric bed supply or cause an increase in an existing excess as determined under the applicable CON review standards for psychiatric beds and services, may nevertheless be approved pursuant to this addendum.

Section 3. Statewide pool for the needs of special population groups within the mental health populations

Sec. 3. (1) A statewide pool of additional psychiatric beds consists of ~~850~~ 1,210 beds needed in the state is established to better meet the needs of special population groups within the mental health

populations. The number of beds in the developmental disability, geriatric and medical psychiatric pools are based on ~~seven~~ TEN and a half percent of the statewide bed need for psychiatric inpatient beds rounded up to the next ten with a minimum of 50 child/adolescent beds in each special pool, as applicable. The number of beds in the high acuity pool is based on ~~ten~~ THIRTEEN percent of the statewide bed need for psychiatric inpatient beds rounded up to the next ten with a minimum of 50 child/adolescent beds. Beds in the pool shall be distributed as follows and shall be reduced in accordance with subsection (~~2~~4):

(a) Developmental disability beds will be allocated ~~160~~ ~~180~~250 adult beds and 50 child/adolescent beds.

(b) Geriatric psychiatric beds will be allocated ~~160~~ ~~180~~250 adult beds.

(c) Medical psychiatric beds will be allocated ~~160~~ ~~180~~250 adult beds and 50 child/adolescent beds.

(d) High acuity psychiatric beds will be allocated ~~220~~ ~~240~~310 adult beds and 50 child/adolescent beds.

(2) By setting aside these beds from the total statewide pool, the Commission's action applies only to applicants seeking approval of psychiatric beds pursuant to sections 4, 5, 6 and 7. It does not preclude the care of these patients in units of hospitals, psychiatric hospitals, or other health care settings in compliance with applicable statutory or certification requirements.

(3) Increases in psychiatric beds approved under this addendum for special population groups shall not cause planning areas currently showing an unmet bed need to have that need reduced or planning areas showing a current surplus of beds to have that surplus increased.

(4) The Commission may adjust the number of beds available in the statewide pool for the needs of special population groups within the mental health populations concurrent with the biennial recalculation of the statewide psychiatric inpatient bed need. Modifying the number of beds available in the statewide pool for the needs of special population groups within the mental health populations pursuant to this section shall not require a public hearing or submittal of the standard to the Legislature and the Governor in order to become effective.

(5) Beds approved under subsections 4, 5, 6, and 7 shall not be converted to or utilized as general psychiatric beds.

Section 4. Requirements for approval for beds from the statewide pool for special population groups allocated to developmental disability patients

Sec. 4. The CON commission determines there is a need for beds for applications designed to determine the efficiency and effectiveness of specialized programs for the care and treatment of developmental disability patients as compared to serving these needs in general psychiatric unit(s).

(1) An applicant proposing to begin operation of a new adult or child/adolescent psychiatric service or add beds to an existing adult or child/adolescent psychiatric service under this section shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

(a) The applicant shall submit evidence of accreditation as follows:

(i) Documentation of its existing developmental disability program by the National Association for the Dually Diagnosed (NADD) or another nationally-recognized accreditation organization for developmental disability care and services; or

(ii) within 24-months of accepting its first patient, the applicant shall obtain NADD or another nationally-recognized accreditation organization for the developmental disability beds proposed under this subsection.

(b) The applicant proposes programs to promote a culture within the facility that is appropriate for developmental disability patients.

(c) Staff will be specially trained in treatment of developmental disability patients.

(d) The proposed beds will serve only developmental disability patients.

(2) All beds approved pursuant to this subsection shall be certified for Medicaid.

Section 5. Requirements for approval for beds from the statewide pool for special population groups allocated to geriatric psychiatric patients

Sec. 5. The CON commission determines there is a need for beds for applications designed to determine the efficiency and effectiveness of specialized programs for the care and treatment of geriatric psychiatric patients as compared to serving these needs in general psychiatric unit(s).

(1) An applicant proposing to begin operation of a new adult psychiatric service or add beds to an existing adult psychiatric service under this section shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

(a) The applicant shall submit evidence of accreditation as follows:

(i) Documentation of its existing geriatric psychiatric program by the Commission on Accreditation of Rehabilitation Facilities (CARF) or another nationally-recognized accreditation organization for geriatric psychiatric care and services; or

(ii) within 24-months of accepting its first patient, the applicant shall obtain CARF or another nationally-recognized accreditation organization for the geriatric psychiatric beds proposed under this subsection.

(b) The applicant proposes programs to promote a culture within the facility that is appropriate for geriatric psychiatric patients.

(c) Staff will be specially trained in treatment of geriatric psychiatric patients.

(d) The proposed beds will serve only geriatric psychiatric patients.

(2) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

Section 6. Requirements for approval for beds from the statewide pool for special population groups allocated to medical psychiatric patients

Sec. 6. The CON commission determines there is a need for beds for applications designed to determine the efficiency and effectiveness of specialized programs for the care and treatment of medical psychiatric patients as compared to serving these needs in general psychiatric unit(s).

(1) An applicant proposing to begin operation of a new adult or child/adolescent psychiatric service or add beds to an existing adult or child/adolescent psychiatric service under this section shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

(a) The beds will be operated as part of a specialized program exclusively for adult or child/adolescent medical psychiatric patients, as applicable, within one of the following settings:

(i) a licensed hospital licensed under part 215 of the code, or

(ii) an adult or child/adolescent psychiatric service or unit with a written collaborative agreement with a licensed hospital licensed under part 215 of the code that is provided as part of the application and includes all of the following:

(A) Procedures for joint credentialing criteria and recommendations for physicians approved to treat medical psychiatric patients.

(B) Provisions for regularly held joint psychiatric and medical conferences to include review of all medical psychiatric cases.

(C) A mechanism to provide for appropriate transfers between facilities and an agreed upon plan for prompt care.

(D) Consultation on facilities, equipment, staffing, ancillary services, and policies and procedures for the provision of medical psychiatric treatment.

(b) The applicant shall submit evidence of accreditation as follows:

(i) Documentation of its existing medical psychiatric program by CARF or another nationally-recognized accreditation organization for medical psychiatric care and services; or

(ii) within 24-months of accepting its first patient, the applicant shall obtain CARF or another nationally-recognized accreditation organization for the medical psychiatric beds proposed under this subsection.

(c) The applicant proposes programs to promote a culture within the facility that is appropriate for medical psychiatric patients.

(d) Staff, including contracted staff, will be specially trained in treatment of medical psychiatric patients.

(e) The proposed beds will serve only medical psychiatric patients.

(2) All beds approved pursuant to this subsection shall be certified for Medicaid.

Section 7. Requirements for approval for beds from the statewide pool for special population groups allocated to high acuity psychiatric patients

Sec 7. The CON commission determines there is a need for beds for applications designed to determine the efficiency and effectiveness of specialized programs for the care and treatment of high acuity psychiatric patients as compared to serving these needs in a general psychiatric unit(s).

(1) An applicant proposing to begin operations of a new adult or child/adolescent psychiatric services or add beds to an existing adult or child/adolescent psychiatric service under this section shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

(a) The beds shall be operated as part of a specialized program exclusively for adult or child/adolescent patients classified as high acuity.

(b) The applicant shall submit evidence with credible documentation acceptable to the Department of the following:

(i) The proposed unit shall consist of a majority of private rooms and shall include environmental safety measures that meet standards from the Joint Commission and the Centers for Medicare and Medicaid Services throughout the entire unit.

(ii) The proposed unit shall have a physical environment designed to minimize noise and light reflections to promote visual and spatial orientation.

(iii) The proposed unit's staff shall be specially trained in the treatment of high acuity patients with non-violent intervention modalities such as non-abusive psychological and physical intervention, crisis intervention institute training or similar programs.

(iv) The proposed unit shall demonstrate a plan for the safe management of agitated or aggressive patients.

(c) The proposed beds will serve only high acuity psychiatric patients.

(2) All beds approved pursuant to this subsection shall be certified for Medicaid.

Section 8. Acquisition of psychiatric beds approved pursuant to this addendum

Sec. 8. (1) An applicant proposing to acquire psychiatric beds from the statewide pool for special population groups allocated to developmental disability shall meet the following:

(a) The applicant shall submit evidence of accreditation of the existing developmental disability program by the National Association for the Dually Diagnosed (NADD) or another nationally-recognized accreditation organization for developmental disability care and services.

(b) Within 24-months of accepting its first patient, the applicant shall obtain NADD or another nationally-recognized accreditation organization for the developmental disability beds proposed under this subsection.

(c) The applicant proposes programs to promote a culture within the facility that is appropriate for developmental disability patients.

(d) Staff will be specially trained in treatment of developmental disability patients.

(e) The proposed beds will serve only developmental disability patients.
(f) All beds approved pursuant to this subsection shall be certified for Medicaid.

(2) An applicant proposing to acquire psychiatric beds from the statewide pool for special population groups allocated to geriatric psychiatric shall meet the following:
(a) The applicant shall submit evidence of accreditation of the existing geriatric psychiatric program by CARF or another nationally-recognized accreditation organization for geriatric psychiatric care and services.
(b) Within 24-months of accepting its first patient, the applicant shall obtain CARF or another nationally-recognized accreditation organization for the geriatric psychiatric beds proposed under this subsection.
(c) The applicant proposes programs to promote a culture within the facility that is appropriate for geriatric psychiatric patients.
(d) Staff will be specially trained in treatment of geriatric psychiatric patients.
(e) The proposed beds will serve only geriatric psychiatric patients.
(f) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

(3) An applicant proposing to acquire psychiatric beds from the statewide pool for special population groups allocated to medical psychiatric shall meet the following:
(a) The applicant shall submit evidence of accreditation of the existing medical psychiatric program by CARF or another nationally-recognized accreditation organization for medical psychiatric care and services.
(b) Within 24-months of accepting its first patient, the applicant shall obtain CARF or another nationally-recognized accreditation organization for the medical psychiatric beds proposed under this subsection.
(c) The applicant proposes programs to promote a culture within the facility that is appropriate for medical psychiatric patients.
(d) Staff will be specially trained in treatment of medical psychiatric patients.
(e) The proposed beds will serve only medical psychiatric patients.
(f) All beds approved pursuant to this subsection shall be certified for Medicaid.

(4) An applicant proposing to acquire psychiatric beds from the statewide pool for special populations allocated to high acuity psychiatry shall meet the following:
(a) The proposed unit shall consist of a majority of private rooms and shall include environmental safety measures that meet standards from the Joint Commission and the Centers for Medicare and Medicaid Services throughout the entire unit.
(b) The proposed unit shall have a physical environment designed to minimize noise and light reflections to promote spatial orientation.
(c) The proposed unit's staff shall be specially trained in the treatment of high acuity patients with non-violent intervention modalities such as non-abusive psychological and physical intervention, crisis intervention institute training or similar programs.
(d) The proposed unit shall demonstrate a plan for the safe management of agitated or aggressive patients.
(e) The proposed beds will serve only high acuity psychiatric patients.
(f) All beds approved pursuant to this subsection shall be certified for Medicaid.

Section 9. Project delivery requirements -- terms of approval for all applicants seeking approval under section 3(1) of this addendum

Sec. 9. (1) An applicant shall agree that if approved, the services shall be delivered in compliance with the terms of approval required by the CON Review Standards for Psychiatric Beds and Services.

(2) An applicant for beds from the statewide pool for special population groups allocated to developmental disability patients shall agree that, if approved, all beds approved pursuant to that subsection shall be operated in accordance with the following terms of CON approval:

(a) The applicant shall document, at the end of the third year following initiation of beds approved an annual average occupancy rate of 80 percent or more. If this occupancy rate has not been met, the applicant shall reduce beds to a number of beds necessary to result in an 80 percent average annual occupancy for the third full year of operation and annually thereafter. The number of beds reduced shall revert to the total statewide pool established for developmental disability beds.

(b) An applicant shall staff the proposed unit for developmental disability patients with employees that have been trained in the care and treatment of such individuals.

(c) An applicant shall maintain NADD certification or another nationally-recognized accreditation organization for developmental disability care and services.

(d) An applicant shall establish and maintain written policies and procedures for each of the following:

(i) Patient admission criteria that describe minimum and maximum characteristics for patients appropriate for admission to the developmental disability unit.

(ii) The transfer of patients requiring care at other health care facilities.

(iii) Upon admission and periodically thereafter, a comprehensive needs assessment, a treatment plan, and a discharge plan that at a minimum addresses the care needs of a patient following discharge.

(e) If the specialized program is being added to an existing adult or child/adolescent psychiatric service, then the existing licensed adult or child/adolescent psychiatric service, as applicable, shall maintain the volume requirements outlined in Section 13 of the CON Review Standards for Psychiatric Beds and Services.

(f) The developmental disability unit shall have a day/dining area within, or immediately adjacent to, the unit(s), which is solely for the use of developmental disability patients.

(g) The developmental disability unit shall have direct access to a secure outdoor or indoor area at the facility appropriate for supervised activity.

(h) The applicant shall maintain programs to promote a culture within the facility that is appropriate for developmental disability patients.

(3) An applicant for beds from the statewide pool for special population groups allocated to geriatric psychiatric patients shall agree that if approved, all beds approved pursuant to that subsection shall be operated in accordance with the following terms of CON approval:

(a) The applicant shall document, at the end of the third year following initiation of beds approved an annual average occupancy rate of 80 percent or more. If this occupancy rate has not been met, the applicant shall reduce beds to a number of beds necessary to result in an 80 percent average annual occupancy for the third full year of operation and annually thereafter. The number of beds reduced shall revert to the total statewide pool established for geriatric psychiatric beds.

(b) An applicant shall staff the proposed unit for geriatric psychiatric patients with employees that have been trained in the care and treatment of such individuals.

(c) An applicant shall maintain CARF certification or another nationally-recognized accreditation organization for geriatric psychiatric care and services.

(d) An applicant shall establish and maintain written policies and procedures for each of the following:

(i) Patient admission criteria that describe minimum and maximum characteristics for patients appropriate for admission to the geriatric psychiatric unit.

(ii) The transfer of patients requiring care at other health care facilities.

(iii) Upon admission and periodically thereafter, a comprehensive needs assessment, a treatment plan, and a discharge plan that at a minimum addresses the care needs of a patient following discharge.

(e) If the specialized program is being added to an existing adult licensed psychiatric service, then the existing licensed psychiatric service shall maintain the volume requirements outlined in Section 13 of the CON Review Standards for Psychiatric Beds and Services.

(f) The geriatric psychiatric unit shall have a day/dining area within, or immediately adjacent to, the unit(s), which is solely for the use of geriatric psychiatric patients.

(g) The geriatric psychiatric unit shall have direct access to a secure outdoor or indoor area at the facility appropriate for supervised activity.

(h) The applicant shall maintain programs to promote a culture within the facility that is appropriate for geriatric psychiatric patients.

(4) An applicant for beds from the statewide pool for special population groups allocated to medical psychiatric patients shall agree that, if approved, all beds approved pursuant to that subsection shall be operated in accordance with the following CON terms of approval.

(a) The applicant shall document, at the end of the third year following initiation of beds approved an annual average occupancy rate of 80 percent or more. If this occupancy rate has not been met, the applicant shall reduce beds to a number of beds necessary to result in an 80 percent average annual occupancy for the third full year of operation and annually thereafter. The number of beds reduced shall revert to the total statewide pool established for medical psychiatric beds.

(b) An applicant shall staff the proposed unit for medical psychiatric patients with employees that have been trained in the care and treatment of such individuals.

(c) An applicant shall maintain CARF certification or another nationally-recognized accreditation organization for medical psychiatric care and services.

(d) An applicant shall establish and maintain written policies and procedures for each of the following:

(i) Patient admission criteria that describe minimum and maximum characteristics for patients appropriate for admission to the medical psychiatric unit.

(ii) The transfer of patients requiring care at other health care facilities.

(iii) Upon admission and periodically thereafter, a comprehensive needs assessment, a treatment plan, and a discharge plan that at a minimum addresses the care needs of a patient following discharge.

(e) If the specialized program is being added to an existing licensed adult or child/adolescent psychiatric service, then the existing adult or child/adolescent psychiatric service, as applicable, shall maintain the volume requirements outlined in Section 13 of the CON Review Standards for Psychiatric Beds and Services.

(f) The medical psychiatric unit shall have a day/dining area within, or immediately adjacent to, the unit(s), which is solely for the use of medical psychiatric patients.

(g) The medical psychiatric unit shall have direct access to a secure outdoor or indoor area at the facility appropriate for supervised activity.

(h) The applicant shall maintain programs to promote a culture within the facility that is appropriate for medical psychiatric patients.

(5) An applicant for beds from the statewide pool for special population groups allocated to high acuity psychiatric patients shall agree that, if approved, all beds approved pursuant to that subsection shall be operated in accordance with the following terms of CON approval:

(a) The applicant shall document, at the end of the third year following initiation of beds approved, and thereafter, an annual average occupancy rate of 80 percent or more. If this occupancy rate has not been met, the applicant shall reduce beds to a number of beds necessary to result in an 80 percent average annual occupancy for the third full year of operation and annually thereafter. The number of beds reduced shall revert to the total statewide pool established for high acuity psychiatric patients.

(b) The high acuity unit shall consist of a majority of private rooms and shall include environmental safety measures that meet standards from the Joint commission and the Centers for Medicare and Medicaid Services throughout the entire unit.

(c) The high acuity unit shall have a physical environment designed to minimize noise and light reflections to promote visual and spatial orientation.

(d) The proposed unit's staff shall be specially trained in the treatment of high acuity patients with non-violent intervention modalities such as non-abusive psychological and physical intervention, crisis intervention institute training or similar programs.

(e) The proposed unit shall demonstrate a plan for the safe management of agitated or aggressive patients.

(f) The high acuity unit shall establish and maintain written policies and procedures for each of the following:

(i) Patient admission criteria that describe minimum and maximum characteristics for patients appropriate for admission to the unit for high acuity patients.

(ii) Quality assurance and assessment program to assure that services furnished to high acuity patients meet professionally recognized standards of health care for providers of such services and that such services were reasonable and medically appropriate to the clinical condition of the high acuity patient receiving such services.

(iii) Orientation and annual education/competencies for all staff, which shall include care guidelines, specialized communication and patient safety.

(g) If the specialized program is being added to an existing licensed adult or child/adolescent psychiatric service, then the existing adult or child/adolescent psychiatric service, as applicable, shall maintain the volume requirements outlined in Section 13 of the CON review standards for psychiatric beds and services.

Section 10. Comparative reviews, effect on prior CON review standards

Sec. 10. (1) Projects proposed under Section 4 shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(2) Projects proposed under Section 5 shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(3) Projects proposed under Section 6 shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(4) Projects proposed under Section 7 shall be considered a distinct category and shall be subject to comparative review on a statewide basis.