MARYLAND HEALTH CARE COMMISSION

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215
TELEPHONE: 410-764-3460 FAX: 410-358-1236

STATE HEALTH PLAN FOR FACILITIES AND SERVICES:

RESIDENTIAL TREATMENT CENTERS

Proposed Permanent Regulations

COMAR 10.24.07

Written Public Comments
Accepted Until June 7, 2021
Send To: Eileen Fleck
Chief, Acute Care Policy & Planning
Center for Health Care Facilities
Planning and Development
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215-2299
e-mail: Eileen.Fleck@maryland.gov

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.01 Incorporation by Reference.

This Chapter of the State Health Plan for Facilities and Services: Residential Treatment Centers is incorporated by reference in the Code of Maryland Regulations.

.02 Interim Residential Treatment Center Capacity.

(1) Core Principles.

(a) A seamless child and adolescent mental health system that offers a comprehensive continuum should be available in Maryland.

(b) In state resources should be developed to meet the mental health needs of children and adolescents.

(c) The Maryland child and adolescent mental health system should evaluate the efficacy of programs based upon outcome measures.

(2) Bed Need.

(a) The Commission will approve no more than three residential treatment center (RTC) units for adolescents ages 12-17. The Commission may approve only two 12-bed adolescent RTC units in CY 1997. The Commission may approve one additional 12-bed adolescent RTC unit in CY 1998 only if a review of RTC utilization deems it necessary that additional RTC capacity is required. The data for this analysis will be provided by the Mental Hygiene Administration and a final determination will be made by the Commission.

(b) The Commission will approve the above three RTC units only in special hospital psychiatric facilities with excess capacity located within the Central Maryland region. These units shall be dually licensed as special psychiatric hospital and RTC beds.

(c) The Commission will approve no less than 12 RTC beds in each unit.

(d) The Commission bases bed need on the following:

(i) There are approximately 80 adolescents in State or private psychiatric hospitals or in State custody that require intensive psychiatric treatment services.

(ii) Approximately 40 of these children require RTC care.

(iii) Three 12 bed RTCs will serve older adolescents ages 12-17.

(e) The Subcabinet will supply to the Commission revised data to update the bed need. The Commission must receive a quarterly report from the Subcabinet that addresses funding for community-based services, utilization of RTC beds, and the number of children and adolescents treated in RTCs that are awaiting placement and the impact of the 1115 waiver upon this waiting list.

(3) Commission will use the following standards to review applications to provide residential treatment center care.

(a) Need. Each applicant shall document the need for residential treatment center care in the community it intends to serve, consistent with (2)(a) (e) above.

(b) Sex Specific Programs. Each applicant shall document sex specific programs, and provide a separate therapeutic environment and, to the extent necessary, a separate physical environment consistent with the treatment needs of each group it proposes to serve.

(c) Special Clinical Needs. Each applicant shall document treatment programs for those youth with a coexisting mental health and a developmental disability.

(d) Minimum Services. Each applicant shall propose and document services which include, at a minimum: patient supervision, assessment, screening, evaluation including psychiatric evaluation, psychological testing and individual treatment plan; ward activities; individual, group and family treatment; patient and family education; medication management; treatment planning; case management; placement and aftercare/discharge planning.

(e) Treatment Planning and Family Involvement. Each applicant shall document that the required minimum services will be provided by a coordinated multi-interdisciplinary treatment team that addresses daily living skills within a group setting; family involvement in treatment to the greatest extent possible, restoration of family functioning; and any other specialized areas that the individualized diagnostic and treatment process reveals is necessary for the patient and family.

(f) Education. Each applicant shall document that it will:

(i) Provide a comprehensive educational program that includes general, special education, pre career and technology instruction consistent with COMAR 13A.05.01 and COMAR 13A.09.09 Educational Programs in Nonpublic Schools and Child Care and Treatment Facilities;

(ii) Provide educational services for Level V non-public and Level VI students on the same campus as the treatment facility;

(iii) Enter into agreements with local education agencies for the education of all other students; and

(iv) Provide a pre-vocational and vocational program that provides a variety of training programs for students who require job training.

(g) Medical Assistance. Each applicant shall meet Maryland Medical Assistance Program requirements to establish an Early and Periodic Screening, Diagnosis, and Treatment program, called in Maryland, "The Maryland Healthy Kids Program".

(h) Staff Training. Each applicant shall document that it will:

(i) Provide a minimum of 40 hours of training to new employees prior to their assuming full job responsibilities;

(ii) For each category of direct service personnel provide the curriculum for this training and show how the training will help staff meet the clinical needs of this population; and

(iii) Provide a continuing education program for all categories of direct service personnel.

(i) Staffing.

(i) The applicant shall document that it will provide, either directly or by agreement, sufficient number of qualified professional, technical, and supportive staff to provide services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident as determined by a comprehensive assessment and individualized treatment and education plan.

(ii) The applicant shall document how the level of staffing will provide active treatment and fulfill the goals of its proposed treatment programs and meet the needs of the patients.

(j) State Regulations. Each applicant shall document its compliance, or state its intention to comply, with all mandated federal, State, and local health and safety regulations and applicable licensure and certification standards.

(k) Accreditation and Certification. Each applicant proposing a new facility shall agree in writing to apply for JCAHO accreditation and Medicaid certification as soon as permissible after opening and be jointly licensed as a Special Hospital Psychiatric Facility (COMAR 10.07.01) and as a Residential Treatment Centers (COMAR 10.07.04).

(l) Criminal Background Investigations. Each applicant shall document its procedure for:

(i) Complying with Family Law Article, §5 560 through §568, Annotated Code of Maryland, governing criminal background investigations for employees; and

(ii) Subjecting volunteers to criminal background investigations.

(m) Security. Each applicant shall document it can provide capacity to provide care in secure units, as necessary.

(4) Certificate of Need Preference Rules. In a comparative review, the Commission will give preference to applications for residential treatment centers that address one or more of the following criteria:

(a) Meeting Special Needs. The applicant proposes to treat individuals who are arsonists, assaultive or highly aggressive emotionally disturbed individuals, dually diagnosed (mentally ill, addicted or developmentally disabled) individuals, or physically disabled individuals.

(b) Community Based Services. The applicant proposes to provide aftercare services in community-based settings, such as shelters, short term residential care, therapeutic group homes, respite care, alternative living units, day treatment programs, outpatient, and other community based transitional settings.

(5) Certificate of Need Approval Rules.

(a) Minimum Unit Size. The Commission will approve a Certificate of Need application for residential treatment center beds only if each unit has no less than 12 beds.

(b) Multi Agency Review Team (MART) Admission Control. The Commission will approve a Certificate of Need application for residential treatment center beds only if the applicant agrees:

(i) To exclusively serve patients referred by the MART;

(ii) That the MART will have exclusive control over admissions to the units approved in accordance with COMAR 01.04.03 and with federal Certification of Need for Services standards found in 42 CFR 441.1152, which requires an independent team to certify the need for inpatient psychiatric treatment and, in this case, the medical need for RTC level of care;

(iii) Whenever the program has openings, to accept all referrals from the MART;

(iv) To conform to the MART priority for admissions, should a waiting list occur;

(v) To delicense approved RTC beds upon expiration or cancellation of an agreement signed with the MART; and

(vi) To sign a written agreement with the MART implementing (i)-(v).

(c) The Commission will approve the RTC on a time limited basis that will be reviewed for continued consistency with all applicable review standards and bed need two years after the opening date of these RTCs.

(d) If the Commission concludes that the RTC is no longer consistent with these standards or is no longer needed, and the applicant does not delicense the beds, the Commission may initiate proceedings to withdraw the CON.

(e) The applicant must dually license the unit as a residential treatment center and special hospital psychiatric facility and notify the Commission and the Licensing and Certification Administration of the facility's current use. Each applicant must agree that it will use these dually licensed units as a residential treatment center.

(f) Mixed use of a unit for both hospital and residential treatment is prohibited.

(6) Performance Requirements.

The Commission will use the following requirements to review compliance with this Chapter after a Certificate of Need is granted:

(a) Monthly Reporting. Each applicant granted a Certificate of Need shall commit to reporting revenue and cost data, changes in licensed capacity, utilization data, and patient specific data, including demographic data, admission and discharge data, and diagnostic and functional data to the Department of Health and Mental Hygiene or interagency data acquisition system acceptable to the Subcabinet for Children, Youth, and Families.

(b) Annual Report. The applicant granted a Certificate of Need shall prepare an annual report and send it to the Commission to address its compliance with this Chapter. The annual report shall describe the measures used by the facility to evaluate patient outcomes and analyze the extent to which expected outcomes were achieved

.03 Definitions.

"*Acute Psychiatric Services"* means mental health services provided in a hospital setting to patients with short lengths of stay of generally 30 days or less. The major functions of acute psychiatric care include: crisis intervention, acute treatment, correction of decompensation, prevention of chronicity and the promotion of patient maintenance in the community. The acute psychiatric services covered in this chapter are limited to patients with a mental disease or emotional disorder defined as Diagnosis Related Groups (DRGs) codes 424-428 and 430-432.

"*Child"* means an individual ages 0-12.

"Adolescent" means an individual ages 13-17.

"*Juvenile Sex Offenders"* are youth who, prior to their eighteenth birthday, have been charged and subsequently adjudicated for a sexual offense and remain under the jurisdiction of the court and the Department of Juvenile Justice until their twenty-first birthday.

"*RTC-Appropriate Violent Juvenile Sex Offenders"* are the most violent, predatory, hard-core and aggressive juvenile sex offenders. These individuals may have serious coexisting mental and behavioral problems and could be multiple offenders. These individuals include serial pedophiles, rapists, and others who are deemed to be of imminent risk to the public safety and therefore must be treated in DJJ admission-controlled facilities.

"*Child and Adolescent Acute Psychiatric Care"* treats acute disabling symptoms, including impaired reality testing, disordered or bizarre behavior, psychosis, depression, anxiety, hysteria, phobias, compulsion, insomnia, and eating disorders. This excludes primary diagnoses of alcohol and drug abuse, mental retardation and organic brain syndrome.

"*Residential Treatment Center (RTC)"* means a related institution as defined in Health-General Article, §19-301 et seq., Annotated Code of Maryland, and licensed under COMAR 10.07.04, that provides campus-based intensive and extensive evaluation and treatment of

children and adolescents with severe and chronic emotional disturbance or mental illness who require a self-contained therapeutic, educational, and recreational program in a residential setting whose average length of stay averages between 12 and 18 months. RTCs typically also offer outpatient day treatment services and schooling for children and adolescents who are able to live at home.

"*Graduate Medical Education National Advisory Committee (GMENAC) Study"* means a nationally recognized study updated in 1991 that estimates, for the year 2000 & 2010, the prevalence of mental disorders and appropriate norms of care for these disorders across diagnostic classifications and treatment settings.

"*Multi-agency review teams"* means a committee of senior officials from the Departments of Health and Mental Hygiene, Human Resources, Education, and Juvenile Justice that review the discharge plan and tracking forms of each State psychiatric hospitalized child who is ready for discharge or whose tracking form indicates possible difficulty in obtaining timely and appropriate discharge to assist in resolving problems that might require interagency action or planning.

"*Psychoeducational Care"* means care that increases the physical, intellectual and emotional functioning by extending the client's skills in a variety of areas including: personal hygiene, physical fitness, use of recreational facilities, use of job and educational tools, interpersonal skills, socialization skills, self-control, problem-solving and job-seeking skills.

"*Proxy Bed Inventories"* are estimated bed equivalent inventories of State and private psychiatric facilities based on the number of psychiatric patient days for patients whose length of stay is less than or equal to 30 days.

"*Total Bed Need*" is the gross bed need projection calculated by the methodology in this chapter.

"*Unadjusted Total Bed Need"* is the Total Bed Need not adjusted for the 13-17 age population.

"*Adjusted Total Bed Need"* is the Total Bed Need adjusted for the 13-17 age population.

"*Net Acute Psychiatric Bed Need"* is the Total Bed Need projection minus the inventory which does not include the conversion of State hospital bed need to community beds in acute general and private psychiatric hospitals.

"*Unadjusted Net Acute Psychiatric Bed Need"* is the Net Acute Psychiatric Bed Need unadjusted for the 13-17 population.

"*Adjusted Net Acute Psychiatric Bed Need"* is the Net Acute Psychiatric Bed Need adjusted for the 13-17 population.

"*State Hospital Conversion Beds"* are the Proxy Bed Inventories of the State psychiatric hospitals that are added to the Net Acute Psychiatric Bed Need to obtain a Total Adjusted Net Acute Psychiatric Bed Need.

"Total Adjusted Net Acute Psychiatric Bed Need" is the sum of the Net Adjusted Acute Psychiatric Bed Need plus the State Hospital Conversion Beds.