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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

PH 20-2025
CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED
10/22/2025 9:41 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Demonstration of Need for Acute Inpatient Beds and Psychiatric Hospitals

EFFECTIVE DATE: 10/22/2025 THROUGH 04/19/2026

AGENCY APPROVED DATE: 10/20/2025

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Filed By:
Public Health Division
Rules Coordinator

NEED FOR THE RULE(S):

The Oregon Health Authority (OHA) is temporarily amending rules in OAR chapter 333, divisions 590 and 615, temporarily suspending OAR 333-615-0020, and temporarily adopting OARs 333-615-0025, 333-615-0035, 333-615-0060, and 333-615-0070 relating to the analysis of information an applicant must provide to OHA to demonstrate the need for psychiatric inpatient beds. These amendments are necessary to be able to adequately evaluate a Certificate of Need application using relevant data, methods, and timelines. There are currently outdated data references in the rules that direct an applicant to review data outside the window of time relevant to current applicants. Additionally, there are assumptions built into the current rules that direct an applicant to assume a declining use rate for hospitals, and prescribes methodology built on this now inaccurate trend for Oregon's hospital use rates. Current rules reference studies that are no longer published or relevant to the grant of a Certificate of Need. The Certificate of Need program anticipates that it will receive a letter of intent to apply for a Certificate of Need, and prior to the submission of the letter of intent, the updated rules need to be in place so current, relevant data, timelines, and methodology can be analyzed and used for purposes of reviewing the application.

JUSTIFICATION OF TEMPORARY FILING:

The Oregon Health Authority (OHA) finds that failure to act promptly will not serve the public interest, OHA, and Certificate of Need (CN) applicants. These rules need to be adopted promptly so that the rules reflect relevant methodology, data, trends, and timeframes, which will allow OHA to adequately review and assess an application consistent with their rules as written. Without these amendments, the CN program would be required to use existing rules, which cannot be applied as written and any decision will not accurately reflect the extent to which the proposal is needed and will be legally vulnerable to challenge. This creates the potential for delayed and inefficient consideration of whether the specific proposal is needed in Oregon.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS chapter 413: https://www.oregonlegislature.gov/bills_laws/ors/ors413.html
ORS chapter 430: https://www.oregonlegislature.gov/bills_laws/ors/ors430.html
ORS chapter 431: https://www.oregonlegislature.gov/bills_laws/ors/ors431.html

ORS chapter 441: https://www.oregonlegislature.gov/bills_laws/ors/ors441.html
ORS chapter 442: https://www.oregonlegislature.gov/bills_laws/ors/ors442.html
ORS chapter 743A: https://www.oregonlegislature.gov/bills_laws/ors/ors743A.html

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RULES:
333-590-0000, 333-615-0000, 333-615-0010, 333-615-0020, 333-615-0025, 333-615-0030, 333-615-0035, 333-615-0040, 333-615-0050, 333-615-0060, 333-615-0070

AMEND: 333-590-0000

RULE SUMMARY: Amend OAR 333-590-0000 – Excludes applications for a psychiatric hospital from evaluation using OAR chapter 333, division 590 rules.

CHANGES TO RULE:

333-590-0000
General ¶

(1) The applicant, in providing information to the Public Health Division to demonstrate need for a proposed new hospital, must satisfy the criteria specified in the Certificate of Need Application Instructions (OAR chapter 333, division 580). This response will include completing an analysis using the methodology of ~~the division (division 590)~~OAR chapter 333, division 590.¶
(2) Exclusion from OAR chapter 333, division 590. Evaluating need for a psychiatric hospital shall be subject to the methodology described in OAR chapter 333, division 615 and division 580. No methodology from OAR chapter 333, division 590 shall apply to psychiatric hospitals.
Statutory/Other Authority: ORS 431.120~~(6),~~, ORS 442.315
Statutes/Other Implemented: ORS 431.120~~(6),~~, ORS 442.315

AMEND: 333-615-0000

RULE SUMMARY: Amend OAR 333-615-0000 – Revises existing text by adding clear instructions to an applicant regarding the requirements needed for an application to be ruled complete.

CHANGES TO RULE:

333-615-0000
General ¶

~~The purpose of this division is to assure provision of accessible, quality care with the least incremental impact in overall community health care capital and operating costs. Treatment of the psychiatric patient requires special staff, facilities, programs and management policies. These may be accomplished either in a unit in a general hospital, or in a specialized hospital. In order for Oregon to have a complete mental health system, both general hospital units and multispecialty units are needed. However, because of Oregon's population size and distribution, the need for subspecialty services is limited, and the need for local access to quality general psychiatric inpatient care is great. Therefore, the number of large, multispecialty, freestanding units feasible in Oregon is limited. The applicant, in providing information to the Public Health Division to demonstrate need for psychiatric inpatient beds other than those directly operated by the federal Veterans' Administration or the state Addictions and Mental Health Division, must satisfy the criteria specified in the Certificate of Need Application Instructions (chapter 333, division 580). Where appropriate, responses to these instructions shall be based on the following:¶~~
~~(1) The methodology of this division (division 615), in order to estimate the appropriate number of psychiatric beds; and¶~~
~~(2) Comparison of estimates of costs and quality arising from conversion of certain of the identified existing licensed capacity, to estimates of costs and quality generated by creation of a new facility.¶~~
~~(3) Statements of preference or priority in this division are expressions of general policy based on Oregon statute and the current literature. Such statements do not necessarily preclude possible approval of an application embodying a less preferred or a lower priority characteristic. Rather, the applicant must bear the burden of demonstrating that any such features are compensated for by other aspects of a proposal, in order to best achieve the policy of ORS 442.025(1). For example, freestanding units under new licenses are not precluded, but the lack of feasible alternatives which better implement state policy must be demonstrated.¶~~
~~(4) In reviewing applications for psychiatric inpatient beds, the division, recognizing that treatment of the psychiatric patient requires special staff, facilities, programs and management policies, shall critically evaluate any proposal for a psychiatric unit which incorporates:~~Complete application. To be ruled complete, an application for a psychiatric hospital must:¶
(1) Include a narrative organized in accordance with each major section of this division of rules;¶
(a2) ~~Routine interchangeability of general psychiatric and general acute care in the same unit or on a "swing bed" basis;¶~~
~~(b) Conversion of existing licensed capacity to psychiatric use amounting to no more than minimal cosmetic changes to existing patient rooms without meeting state licensing standards in applicable Public Health Division rules, or Joint Commission on Accreditation of Healthcare Organization standards, as appropriate;¶~~
~~(c) Consideration of costs outweighing adequate quality;¶~~
~~(d) Evidence of insufficient opportunity for potentially affected clinicians to present their views and to obtain serious consid~~Satisfy the criteria specified in the Cerati~~on of these views by any applicant.¶~~
~~(5) To be ruled complete, an application for psychiatric beds must include a narrative organized in the following sequence of separate major sections:¶~~
~~(a) A complete response to each rule of division 615;¶~~
~~(b) If a new facility is proposed, analysis under division 590, the rules for acute hospital beds in general;~~ficate of Need Application Instructions (OAR chapter 333, division 580); and¶
(c3) ~~Based on the foregoing, and other information included directly or as appendix materials or exhibits, a complete response to the general application form narrative instructions regarding the general statutory criteria which apply to all health care facility requests, in the sequence given in the instructions~~Include the application fee as specified in OAR 333-565-0000, Table 4.
Statutory/Other Authority: ORS 431.120~~(6), 442.025,~~, ORS 442.310, ORS 442.315
Statutes/Other Implemented: ORS 431.120~~(6),~~, ORS 442.315

AMEND: 333-615-0010

RULE SUMMARY: Amend OAR 333-615-0010 – Amends definitions by adding definitions for Alternate Health Service Area, updating definition for alternative means options, updating definition for Subspecialty beds, and removes terms no longer used. This rule is being amended to remove vague, outdated rule language and add specificity to what the applicant is required to provide.

CHANGES TO RULE:

333-615-0010
Definitions ¶

~~The definitions of OAR 333-590-0010 shall apply, in addi~~(1) "Alternate Health Service Area" means a devia~~to~~tion ~~to~~from the ~~following:~~¶
~~(1) As used in this division,~~Traum System Area as the Health Service Area.¶
(2) "~~a~~Alternatives" ~~include~~means, but ~~need~~is not ~~be~~ limited to~~, the following:~~¶
~~(a) Nonhospital, 24-hour r~~;¶
(a) Residential ~~t~~Treatment~~;~~¶
~~(b) Hospital or nonhospital day or partial hospitalization programs~~ Facility (RTF);¶
(~~c~~b) ~~Outpatient treatment by a qualified mental health professional (a licensed psychiatrist or clinical psychologist, a psychiatric nurse practitioner within the legal scope of practice, or licensed or registered clinical social worker)~~Residential Treatment Home (RTH);¶
(c) Adult Foster Home (AFH); ¶
(d) Residential Substance Use Disorder Facility; and¶
(~~d~~e) ~~Out~~Inpatient ~~treatment through a mental health program approved by the Addictions and Mental Health Division.~~¶
~~(2) As used in this division, psychiatric "subspecialty beds" do not include general or adult beds, nor chemical dependency treatment beds (see division 600 of this chapter), but do include:~~¶
~~(a) Holding rooms and freestanding mental health emergency centers, created by a public or private agency under ORS 426.241, in response to legislative policy reductions in the operating capacity of Oregon State Hospital with respect to patients originating in the service area, when the general psychiatric inpatient unit or units in that service area, as defined in~~ Psychiatric unit or floor in a hospital.¶
(3) "Health Service Area for a psychiatric hospital" means the Trauma System Area in which the proposed hospital will be located. Trauma System Areas are defined by the Oregon Health Authority (OAR 333-~~615-0030(1)(b), do not offer appropriate programs to meet the needs of the anticipated utilizing population;~~¶
~~(b) Child;~~¶
~~(c) Adolescent;~~¶
~~(d) Geriatric;~~¶
~~(e) Drug;~~¶
~~(f) Secure;~~¶
~~(g) Long-term intensive treatment;~~¶
~~(h) Long-term maintenance care; and~~¶
~~(i) Dual diagnosis (person with both a mental health and a substance abuse diagnosis).~~200-0040). ¶
(4) "Subspecialty beds" means an inpatient setting designed specifically for an:¶
(a) Individual under the age of 15;¶
(~~3~~b) ~~Psychiatric inpatient service areas are defined in OAR 333-615-0030 according to the principles stated in OAR 333-615-0020.~~Individual between the ages of 15 to 21; or¶
(4c) ~~Quality of psychiatric inpatient care for purposes of this division is defined in OAR 333-615-0050~~Individual over the age of 65.
Statutory/Other Authority: ORS 431.120~~(6),~~, ORS 442.315
Statutes/Other Implemented: ORS 431.120~~(6),~~, ORS 442.315

SUSPEND: 333-615-0020

RULE SUMMARY: Suspend OAR 333-615-0020 – This rule is being suspended and replaced by adoption of OAR 333-615-0025.

CHANGES TO RULE:

~~333-615-0020~~
~~Principles~~
~~Under ORS 442.025(1), state policy gives priority to the achievement of reasonable access to quality health care at a reasonable cost. It is legislative policy under ORS 430.610(3) that to the greatest extent possible, mental health services be delivered in the community where the person lives in order to achieve maximum coordination of services and minimum disruption in the life of the person. Under ORS 430.021(3), it is state policy to encourage and assist community general hospitals to establish psychiatric services. Consistent with legislative policy, priority is given in this division to establishment of access to local hospitalization in geographically distributed, quality psychiatric units, within community hospitals; and hospitalization is to be utilized only when an individual's needs cannot be safely and effectively met by less costly alternatives. The following principles, therefore, are applicable to this division:¶~~
~~(1) Service areas for general psychiatric beds other than those directly operated by the state Addictions and Mental Health Division or the federal Veterans' Administration, shall be delineated so as to encourage the greatest feasible utilization of community hospitals, and of alternatives to hospitalization, by both private and public patients. The division will use as a basis for general psychiatric inpatient service areas the state administrative districts. The districts are based on natural market areas defined by geographical barriers, transportation networks and historical patterns of general trade. In addition, community mental health services in Oregon are organized on a county or multicounty basis, compatible with these districts, thus facilitating planning and coordination with, and access to, local inpatient services in such districts.¶~~
~~(2) Service areas for psychiatric specialty beds, other than those directly operated by the state Addictions and Mental Health Division or the federal Veterans' Administration, as defined in OAR 333-615-0010(2), other than holding rooms, shall be delineated so as to assure availability of quality service at reasonable cost in economically viable subspecialty units:¶~~
~~(a) Factors to be considered in delineating such service areas shall include the sizes of the respective populations at risk in Oregon; the current rates of inpatient hospitalization in Oregon for those groups; and the availability, accessibility, quality and levels of utilization of existing inpatient services addressing the needs of those groups in Oregon. These factors will generally lead to delineation of subspecialty service areas according to health service area, multiple health service area or statewide boundaries;¶~~
~~(b) In order to assure viable, quality subspecialty units, economies of scale shall be given greater weight than geographical distribution;¶~~
~~(c) In estimating subspecialty need, the state will consider the population ratios proposed in "total system" models such as Nebraska (1981) and California (1981);¶~~
~~(d) For each subspecialty service, an applicant will be expected to indicate the anticipated percentage and origins of utilization from outside the general psychiatric service area, based on section (1) of this rule, in which the facility is, or will be located, and to provide the evidence and assumptions related to the analysis.¶~~
~~(3) Service areas for holding rooms shall be based on local considerations of access, demand and feasibility.¶~~
~~(4) The development of a number of psychiatric units, of economically and programmatically viable size, in general hospitals, rather than the development of a few large, multispecialty, freestanding facilities, shall be emphasized. The division recognizes that equivalent programs, in terms of quality, can be developed in either setting, to meet the needs of particular populations; that, in order to attract and retain staff, as well as for quality program design and economic efficiency, consideration must be given to minimum feasible unit size; but that, nonetheless, programs located within acute general hospitals have the advantage of close administrative relationships and proximity to acute medical and surgical consultation, diagnosis and treatment. Among the considerations leading to an emphasis on geographically decentralized psychiatric units in general hospitals, are the following:¶~~
~~(a) Improved geographic access in the various regions of the state, and therefore;¶~~
~~(b) Greater likelihood of reduced utilization of state and federal hospitals for short-stay intensive inpatient care;¶~~
~~(c) Reduced separation of psychiatric patients and staffs from specialty medical care for psychiatric patients at a reasonable cost, substantial numbers of whom have that need;¶~~
~~(d) Improved access to quality psychiatric staff for general medical patients;¶~~
~~(e) Greater access to diversity in medical and support staff, and extent of ancillary services available;¶~~
~~(f) Possibility of reduced construction and operating costs, through development of economically and programmatically viable sized units by conversion of small amounts of existing licensed capacity, where available, rather than new, large scale freestanding construction;¶~~

(g) Relative ease of reconversion of the unit at minimal cost, to other hospital associated use if psychiatric utilization is so low as to necessitate closing the unit;¶
(h) Smaller size of unit necessary to maintain quality at reasonable cost per treatment, because indirect costs are spread over a larger base; and reduced impact of smaller unit on ability of other, existing units, serving the same population, to maintain quality at reasonable cost per treatment.¶
(5) Demonstration of need for general psychiatric beds will be population based, rather than facility based. According to Office for Oregon Health Policy and Research studies of actual utilization in Oregon, taken together with legislative reduction of the number of inpatient days mandated for coverage under group health insurance policies in Oregon, the "range of need" criteria based on the then available literature and consultant advice, together with existing provisions in this chapter, provide adequate safeguards against overbedding, but the legislative policy requires more stringent standards for demonstration that any proposed beds are the appropriate response to need for psychiatric care. Therefore, there shall be a moderate standard of evidence of need if a project would result in up to .40 beds per 1,000 population in a service area in the third year after the date of the letter of intent; and a high standard, if the result would exceed .40. The bed-to-population ratio shall not be taken, by itself, as evidence justifying a certain number of beds in a service area. In determining need, the division shall take into account and the applicant shall supply, for each factor in subsections (a) to (f) of this section, a numerical, descriptive and analytic response sufficient for the division to take each factor into account:¶
(a) The historical utilization of psychiatric inpatient beds by persons in the service area involved;¶
(b) The historical utilization in other Oregon service areas of comparable size, population and characteristics; and¶
(c) Based on the level of placement criteria developed by the Office for Oregon Health Policy and Research or developed by insurers under ORS 743.556(16)(b), findings that, with limited exceptions based on clinical judgment in individual cases, inpatient beds are needed for immediate, short-range control of symptoms and protection of the patient when less intensive or supportive placement will not suffice; or for immediate, short-range protection of the community;¶
(d) The major portion of nonstate, nonfederal inpatient stays are expected to be 12 to 15 days. Approximately 10 percent of stays, at most, are expected to be longer term: Seriously disturbed, usually younger, patients for whom the benefits of 30 to 40 days of hospitalization exceed those of brief hospitalization followed by systematic, long-term residential or outpatient care; and a limited number of chronically mentally ill persons who cannot be maintained safely in the community;¶
(e) Inpatient beds are not considered the major resource for continued treatment of the typical schizophrenic patient, which, according to the literature, is usually most effective and economical when provided in other ways;¶
(f) Alternatives, as defined in OAR 333-615-0010(1), do not replace necessary inpatient utilization as described in subsections (c), (d) and (e) of this section, but are usually more effective and economical for meeting other needs for mental health treatment and care.
Statutory/Other Authority: ORS 430.021(3), 430.610(3), 431.120(6), 442.025, 442.315, 743.556(16)
Statutes/Other Implemented: ORS 431.120(6), 442.315

ADOPT: 333-615-0025

RULE SUMMARY: Adopt OAR 333-615-0025 – New rule defines the criteria that must be met for a new psychiatric hospital, including specific demographic needs of the population that will be served by the project. Describes the total number of beds needed in a service area, requires the applicant to demonstrate how their proposal will improve patient access to care in the health service area, and specifies criteria that will be used to evaluate the proposal.

CHANGES TO RULE:

333-615-0025
Criteria for Approval for a New Psychiatric Hospital
A Certificate of Need for a psychiatric hospital may be granted if the Oregon Health Authority determines that an applicant has shown by a preponderance of the evidence that each of the below criteria are met:¶
(1) Within the proposal's Health Service Area, access to care is tailored to the specific demographical needs, including appropriate:¶
(a) Access to public transportation;¶
(b) Access for individuals with disabilities;¶
(c) Availability of adequate staffing; and ¶
(d) Accessibility to other care providers.¶
(2) The number of beds needed to provide an anticipated range of patient days in a given psychiatric hospital Health Service Area will not exceed 36 beds per 100,000 individuals in the Health Service Area. ¶
(3) Applicants must describe how the proposed project will improve access to care for all individuals in the Health Service Area, with particular attention to vulnerable populations, including those who are uninsured, underinsured, high-deductible plans, or enrolled in Medicaid. ¶
(4) All other criteria in OAR chapter 333, division 615 are met, including analyses of:¶
(a) Need;¶
(b) Quality;¶
(c) Cost; and¶
(d) Availability of Alternatives in the Health Service Area.
Statutory/Other Authority: ORS 430.021, ORS 430.610, ORS 431.120, ORS 442.310, ORS 442.315, ORS 743A.168
Statutes/Other Implemented: ORS 431.120, ORS 442.315

AMEND: 333-615-0030

RULE SUMMARY: Amend OAR 333-615-0030 – Updates the population data an applicant must reference in their application for a proposal. Outlines the criteria that should be used to determine the health service area of the proposal and clearly states the process that the applicant should use to calculate their statistical bed need for the proposal.

CHANGES TO RULE:

333-615-0030
Estimates of Need ¶

~~The following methods are applicable to the interpretation of OAR 333-580-0040(1):¶~~
~~(1) Based on OAR 333-615-0020(1), service areas for general psychiatric beds shall be identified as follows:¶~~
~~(a) Geographic service areas for general acute, nonsubspecialty psychiatric beds, other than those directly operated by the state Addictions and Mental Health Division or the federal Veterans' Administration, may be less than an entire health service are in order to maximize access provided there is sufficient projected population in the third year after the date of the letter of intent to make possible an economically feasible inpatient unit of acceptable quality, low capital cost and low operating costs. Thus, for example in health service area I, Clatsop-Columbia-Tillamook could be considered separately from Multnomah-Washington-Clackamas. Within a given health service area, all service areas shall be defined at one time, rather than proceeding application by application;¶~~
~~(b) The service areas described in subsection (a) of this section shall in general consist of single state administrative districts, or combinations of such areas. Available patient origin data may be interpreted by the division and taken into account in adding or deleting minor portions of such areas, or in combining districts. The division shall consider whether a lesser area, or a combination of areas, will better serve the policies and principles of this division; whether there are, or wi~~Bed need shall be evaluated using the below methodology:¶
(1)(a) Determine the estimated population for the Health Service Area identified in OAR 333-615-0010(3) for the prior 10 years in five-year increments, and five- and 10-year forecasts as a basis for estimating the population for previous years and forecasting future years. Applicants shall use Portland State University's Population Research Center (PRC) Intercensal Estimate reports, and when available, United States Census Data. If the applicant uses an alternate data source, the applicant must provide justification for the alternate data source.¶
(b) Age and sex specific forecasts and changes over time in the age and sex composition of the Health Service Area population shall be~~, enough clinicians in practice to staff the program;~~xamined, and ~~whether there will be sufficient diversity of staff to meet the needs of the service area. The geographical units on which general psychiatric inpatient s~~the implications for use-rates taken into consideration.¶
(2) Determine current year proposed Health Service a~~A~~rea~~s shall be based will be the 14 state administrative districts, which are as follows:¶~~
~~(A) In h~~ and historical Health ~~s~~Service a~~A~~rea ~~I: Clatsop-Columbia-Tillamook; Multnomah-Washington-Clackamas;¶~~
~~(B) In health service area II: Marion-Polk-Yamhill; Benton-Linn-Lincoln; Lane; Douglas; Coos-Curry; Jackson-Josephine;¶~~
~~(C) In health service area III: Hood River-Sherman-Wasco; Crook-Deschutes-Jefferson; Klamath-Lake; Gilliam-Grant-Morrow-Umatilla-Wheeler; Baker-Union-Wallowa; Harney-Malheur.¶~~
~~(c) The service areas identified in subsection (b) of this section shall be used for population-based review, as required by state and federal law. The methods of this division are intended to assure that population needs are met by the service or services within the service area. Different~~population-based discharge and patient day use-rates utilizing relevant and recent data. Future use-rate deviations must be explained.¶
(a) Determine current year and historical utilization by the Health Service Area population of existing facilities ~~within a given service area share the responsibility for meeting the needs of the population of that area;¶~~
~~(d) Based on OAR 333-615-0020(2), the geographic service areas for subspecialty psychiatric beds, other than those directly operated by the state Addictions and Mental Health Division or the federal Veterans' Administration, as defined in OAR 333-615-0010(2), other than holding rooms, shall be the state as a whole;¶~~
~~(e) The geographic service areas for holding rooms shall be determined by the division on a case-by-case basis;¶~~
~~(f) Clinicians in each part of the state are encouraged to work with prospective applicants to develop proposals which meet the general psychiatric inpatient needs of individual service areas and/or subspecialty service areas.¶~~
~~(2) Need for beds per 1,000 population in the service area shall be evaluated in relation to availability of alternatives according to the following criteria. A complete description of all alternatives under subsection (a) or (b) of this~~. For this step, the applicant shall use the Medicare Cost Reports and All Payer All Claims (APAC) data and may elect to use other relevant data. For the current year, and each of the prior 10 years, the applicant shall

explain factors which may have affected identified trends. Factors to be addressed include, but are not limited to, changes in: population, public health needs (including any public health emergency), hospital location, service mix, age mix, reimbursement mix, transportation patterns, locations of physicians, spec~~tion means more than a list; it means at least, for each~~ialists, unmet need, and the intensity or types of ~~alternative listed in OAR 333-615-0010(1), an inventory with provider names, addresses, bed or slot capacity, and occupancy or~~services delivered;¶
(b) Estimate future utilization ~~averagtes for each of the past several years:¶~~
~~(a) If~~ by the Health Service Area ~~propo~~proposed project ~~would result in up to .40 beds, other than those directly operated by the state Addictions and Mental Health Division or the federal Veterans' Administration, per 1,000 population in the third year following the date of the letter of intent, a complete description of all alternatives, as defined in OAR 333-615-0010, available in the s~~ulation, based on population forecasts for age and sex breakdowns, including consideration of an explained range of age and sex adjusted use-rates specific to:¶
(A) The Health Service a~~A~~rea ~~shall be required; there shall be substantial evidence that appropriate existing alternatives in the service area will be fully utilized; there shall be substantial evidence that further development of alternatives by the applicant is not feasible;;~~¶
(B) The nearest facilities with service mixes most comparable to the proposed facility; and ¶
(C) The nearest facilities with comprehensive service mixes.¶
(3) Develop a consistent and ~~there shall be substantial evidence that further development of less costly or more effective alternatives by any other prospective provider is not feasible. In addition, with respect to the proposed project itself, there shall be substantial evidence~~reasonable set of well-documented assumptions regarding the appropriate use-rates reviewed in section (2) of this rule, including the extent to which utilization at th~~at~~e pro~~ject design and program alternatives have been considered and evaluated comparatively, with the least costly one selected that will meet identified need without substantial adverse impact on the quality of patient care;~~posed psychiatric hospital will be new and the extent to which it will replace existing utilization at hospitals.¶
(~~b~~4) ~~If the consequence of approval of a project would be in excess of .40 beds per 1,000 population in the third year following the date of the letter of intent, evidence submitted by the applicant shall:¶~~
~~(A) Demonstrate an average occupancy of applicant's~~Analyze the advantages and disadvantages of both new and replacement components of utilization, with respect to both the population to be served and to existing ~~capacity, if any, in excess of the appropriate criterion in Table 1, based on the method in section (3) of this rule, for the year ending September 30 prior to the formal application; and¶~~
~~(B) Be comprehensive with respect to the availability and feasibility of appropriate alternatives by meeting the requirements of subsection (a) of this section.¶~~
~~(c) The division may take into account evidence wi~~facilities. Address the legislative findings cited in ORS 442.310.¶
(5) Given all information from the preceding steps, and five and 10-year population forecasts, compute the r~~espect to problems of quality or cost in other units serving the area in evaluations under subsection (b) of this section;¶~~
~~(d) In future years, by amendment of this rule, the division may raise~~ange of possible future patient days in five years and in 10 years at the pro~~population-based limit at the same time as programmed decreases in~~posed psychiatric hospital, allowing appropriate adjustments for out-of-area utilization ~~of state and federal beds serving the service area take place. This, however, may not be necessary if alt~~and other identified and justified special factors or consider~~nati~~~~ves become more availabons re~~le·van~~dt~~ to the ~~scope of reimbursement is expanded. Because of the factors cited in OAR 333-615-0020(5), i~~proposal.¶
(6) Convert each computed value of forecasted patient ~~m~~days b~~e appropriate, in future years, to reduce the population-based limit.¶~~
~~(3) When expans~~ased on preceding sections of ~~an existing unit is under consideration, an allowance for peak-to-average utilization ratios may be made:~~this rule to an average daily census (ADC).¶
(a~~7~~) ~~An average bed utilization consistent with the principles and methods of this division shall be evaluated for peak bed need by applying to the anticipated average census, a formula taking into account the anticipated peak demand, allowing for greater peak-to-average ratios for smaller units;¶~~
~~(b) The average census entered into the formula shall be consistent with the principles and methods of this division and justified by the applicant on the basis of historical utilization from the service area and any reasonably anticipated growth in the population at risk;¶~~
~~(c) The method to be used should be analogous to that found in OAR 333-590-0050, except that the standard deviation is estimated by raising the anticipated average census to the 0.468 power rather than taking its square root (the 0.500 power). The standard deviation is then multiplied by a factor of 2.06 (7.30 days/year at or above 100 percent occupancy) for units in service areas with other, interacting units,~~Estimate the statistically expected peak daily census, the statistical variability, or standard deviation, of the daily census and provide the methodology used by the applicant and sufficient information to validate use of the applicant's statistical model.¶
(8) Using a 10-year projection from the anticipated opening date of the facility, the applicant shall identify supported mathematical estimates o~~f~~r a ~~factor of 2.33 (3.65 days/year at or above 100 percent occupancy) or a~~

~~unit which is the only one in its service area, or which can be shown not to interact with others in its service area;¶~~
~~(d) The results of calculations according to this method, for a range of values are shown in Table 1;¶~~
~~(e) The calculation in subsection (c) of this section does not take into account the extent to which elective admissions could be postponed, so as to smooth out the variations and reduce the peak-to-average ratio. This calc~~ppropriate utilization levels and patient days generated because of changes identified in prior steps. Applicant shall explain the degree to which the utilization will be "new" days for the health service area population, ~~only sets an upper limit of peak bed need for a given average bed need;¶~~
~~(f) The division will not automatically approve an application requesting the peak needs indicated by the formula without examining the schedulability of the proposed case load and the commitment to scheduling~~r will shift present health service area utilization patterns for the services. Applicant shall address whether this analysis supports the need for the proposed hospital.¶
(9) If the result o~~n~~f the ~~part of the applicant.¶~~
~~(4) General considerations applicable to review of need for~~above analysis indicates that psychiatric inpatient beds ~~include the following:¶~~
~~(a) As with hospital inpatient beds in general and in other specialties, new psychiatric beds, whether general or subspecialty, except under unusual circumstances with respect to non~~s needed in the proposed Health Service Area, an applicant for a new facility shall weigh it against the availability~~, access and less costly alterna~~ of beds at other facili~~t~~ives~~, shall not be approved if the net effect of the project would be additional licensed short-term acute inpatient capacity (other than state Addictions and Mental Health Division operated or federal hospital beds) in the psychiatric s~~ within the Health Service Area. Applicants shall use inpatient psychiatric bed capacity for all facilities in the Health S~~S~~ervice a~~A~~rea~~, unless additional acute hospital beds are justified in that area by the criteria for acute inpatient beds in division 590 of this chapter. The principles and methods in division 590 shall apply in reviewing applications for psychiatric beds to the extent that the issues involved are not add~~ provided by the Oregon Health Authority. Conversion of existing beds to psychiatric inpatient beds will be pressumed in ~~this division;¶~~
~~(b) Unusual circumstances shall be determined in relation to an evaluation of the feasibility of meeting s~~feasible where a general hospital in the proposed Health S~~S~~ervice a~~A~~rea ~~needs by the higher priority methods indicated in OAR 333-615-0040;¶~~
~~(c) Review of subspecialty beds o~~has not increased their ~~than chemical dependency inpatient beds, holding rooms, and freestanding mental health emergency centers shall take into account historical service area utilization and substantiated projections, rather than according to the population-based criteria for general psychiatric beds in this rule. The service areas for subspecialty beds are defined in subsections (1)(d) and (e) of this rule. Need for subspecialty units shall be evaluated with respect to population-based need; availability of existing capacity in the service area; effect on viability of existing quality providers; and proposed size of the unit in relation to economies of scale;¶~~
~~(d) Chemical dependency inpatient beds shall be reviewed according to the principles and methods of division 600 of this chapter;¶~~
~~(e) Need for holding rooms and freestanding mental health emergency centers shall be evaluated in relation to local considerations of access, demand and feasibility.¶~~
~~[ED. NOTE: Tables referenced are available from the agency.]~~psychiatric inpatient bed capacity by 20 percent or greater over the prior three-year interval from the date the applicant submitted their letter of intent.¶
(10) Applicants must document how the project will avoid adverse financial impact to existing psychiatric service providers, particularly those serving high-acuity or underserved populations. The analysis shall address whether the proposed project with contribute to continuity or conversely, fragmentation of psychiatric care in the Health Service Area.
Statutory/Other Authority: ORS 431.120~~(6),~~, ORS 442.315
Statutes/Other Implemented: ORS 431.120~~(6),~~, ORS 442.315

ADOPT: 333-615-0035

RULE SUMMARY: Adopt OAR 333-615-0035 – New rule provides guidance to applicants on how to demonstrate the need to use an alternative service area in a proposal.

CHANGES TO RULE:

333-615-0035
Alternatives to Health Service Areas
If an application for a psychiatric hospital proposes a deviation from the Health Service Area based on the Area Trauma Advisory Board (ATAB), the applicant must provide justification for any changes. The Oregon Health Authority (Authority) will consider factors including, but not limited to, deviation requests based on demonstrated referral patterns, formal changes made by the Authority to the ATAB regions, anticipated changes to historical use patterns, demographic shifts, or out-of-state use (or other relevant migration patterns). The applicant must provide the Authority with the evidence justifying the proposed deviation. The Authority will have full discretion in electing to permit a Health Service Area that deviates from the trauma system planning unit defined by OAR 333-200-0040 or similar successor service area model defined in rule used by the Authority for healthcare planning.
Statutory/Other Authority: ORS 431.120, ORS 442.315
Statutes/Other Implemented: ORS 431.120, ORS 442.315

AMEND: 333-615-0040

RULE SUMMARY: Amend OAR 333-615-0040 – Removes references to quality unit and references to existing OAR chapter 333, division 590 references and replaces with language regarding the requirement for the applicant to provide a complete description of the alternatives considered in their application.

CHANGES TO RULE:

333-615-0040
The Availability of Alternative ~~Uses for Resource~~ s in the Health Service Area ¶

~~The following principles shall be applicable to the interpretation of OAR 333-580-0050(1) and (2). The term "quality unit" is explained in OAR 333-615-0050:~~(1) The applicant shall provide a complete description of all alternatives to inpatient treatment at a psychiatric hospital available in the Health Service Area. This includes an inventory with provider name, type of mental health services provided, address, and if relevant: bed capacity, occupancy and utilization averages for each of the past five years in the Health Service Area.¶
(~~1~~2) The methods of meeting acute inpatient psychiatric bed need, in order of preference, shall be (preceded by a demonstration that alternatives have been evaluated and found infeasible based on cost, capacity, or access barriers):¶
(a) Conversion of existing licensed hospital space to purposes of psychiatric treatment where such conversion is feasible to provide an adequate inpatient program at less cost than building new licensed space~~, especially when the average daily census for the facility as a whole for the most recent year ending September 30, converted to expected peak occupancy under the methods of OAR 333-590-0050(8) and (9), does not exceed the current licensed number of beds at the facility;~~.¶
(b) A project resulting in the smallest feasible net increase in acute licensed capacity within an existing ~~general~~ hospital or special~~ty hospital license, especially when the average daily census to the facility as a whole, for the most recent year ending September 30, converted to expected peak occupancy under the methods of OAR 333-590-0050(8) and (9), equals or exceeds the current licensed number of beds at th~~ inpatient care facility;.¶
(c) A separately licensed new psychiatric hospital, not part of a ~~general~~ hospital, ~~that~~which will provide ~~adequate~~ psychiatric inpatient care at the most reasonable charges per day and per ~~spell of treatm~~inpatient stay event, for care that must be rendered on an inpatient basis~~, taking into consideration the factors in OAR 333-615-0000(2).~~ Evaluation of reasonableness of charges are qualities that tend to show charges are fair, competitive, and consistent with quality care. These factors include, but are not limited to, consideration of:¶
(A) Market rates for similar services by similarly situated entities;¶
(B) Patient outcomes and satisfaction;¶
(C) Regulatory compliance;¶
(D) Accreditation and certification; and¶
(E) Qualification of staff.¶
(~~2~~3) A proposed psychiatric ~~inpatient bed project shall be related to alternatives, as defined in OAR 333-615-0010(1),~~hospital shall be evaluated by comparison to alternatives with preference given in the following order:¶
(a) Projects which include development of alternative care resources as part of the project, if an unmet need for such resources in the ~~s~~Health Service ~~a~~Area is demonstrated;¶
(b) Projects for which formal arrangements, together with triage criteria and mechanisms, are documented in the application with respect to all levels of low-~~-~~cost alternative care ~~resources listed in OAR 333-615-0010(1). Documentation of triage criteria and mechanisms should include discussion of the relation of such criteria to the level of placement criteria developed by the Office of Health Policy and insurers under ORS 743.556(16)(b). Applicants should show that their triage criteria and mechanisms will be consistent with such level of care screening criteria.¶~~
~~(3) If, in the service area defined in OAR 333-615-0030(1), there does not exist a quality unit of minimum economically viable size, sections (1) and (2) of this rule apply.¶~~
~~(4) If, in the service area defined in OAR 333-615-0030(1), there does exist one quality unit, and its occupancy (from the designated service area) is above the appropriate criterion in Table 1 for the year ending September 30 preceding the formal application, and available private acute beds do not exceed the interim population-based limit indicated in OAR 333-615-0030(2), a minimum economically viable increment may be needed. In addition to sections (1) and (2) of this rule, the following options will be considered, in order of preference:¶~~
~~(a) The existing quality unit may be expanded;¶~~
~~(b) An additional unit in the service area may be developed,~~provided by the applicant. ¶
(c) Documentation of triage criteria and mechanisms consistent with the level of care evaluation provided ~~th~~at ~~considerations of cost, access and quality outweigh the estimated economic advantages, if any, of expansion of the~~

~~existing unit.¶~~
~~(5) If, in the service area defined in OAR 333-615-0030(1), there exist two or more units, sections (1), (2) and (4) of this rule apply, preference being given to expansion of the highest quality existing unit unless consideration of the factors in subsection (4)(b) of this rule leads to preference for an additional unit.¶~~
~~(6~~ORS 743A.168(2). ¶
(4) In evaluating the relationship of ~~any~~the proposed project to the existing health care system of the ~~s~~Health Service ~~a~~Area, the ~~division~~applicant shall address possible compromising of quality of care. The ~~division~~Oregon Health Authority shall consider the conformity to state safety and program standards of both the proposed project and existing providers, related health services now provided to the population of the ~~s~~Health Service ~~a~~Area; the impact of the project, once completed and operational, upon the financial ability of providers of related services to maintain present quality; and the feasibility that the proposed project will be sufficiently efficient to maintain quality standards at reasonable cost. ~~Impact on total community health care costs, not merely charges per day or charges per stay, shall be considered.¶~~
~~[ED. NOTE: Tables referenced are available from the agency.]~~
Statutory/Other Authority: ORS 431.120~~(6),~~, ORS 442.315, ~~743.556~~(ORS 743A.16~~)~~8
Statutes/Other Implemented: ORS 431.120~~(6),~~, ORS 442.315

AMEND: 333-615-0050

RULE SUMMARY: Amend OAR 333-615-0050 – Modifies rule, with criteria regarding the analysis of a project, and specifies the criteria an applicant must follow to demonstrate they have analyzed this section. Directs the applicant to provide the policy they have for providing charity care. Directs the applicant to state whether or not the applicant or any of the owners have been criminally convicted of a crime related to the operation of a healthcare facility.

CHANGES TO RULE:

333-615-0050
Quality ~~and Costs~~ ¶

~~All proposed psychiatric beds must meet the licensure, certification and accreditation criteria of the Public Health Division, Medicare and the Joint Commission on on Accreditation of Health-care Organizations, as appropriate. "Quality" for purposes of review of certificate of need proposals is a descrip~~n application for a new psychiatric hospital shall include evidence showing:¶
(1) Triage criteria and mechanisms, including documentation that such criteria and mechanisms will be consistent with the level of placement criteria developed by the Office of Health Policy and insurers under ORS 743A.168(2);¶
(2) A sufficient supply of qualified personnel, including clinical, administrative, operational, and technical staff, are available or can be timely recruited to ensure the hospital operates safely, efficiently, and in compliance with applicable standards. ¶
(3) There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of ~~threshold factors to be considered, not a presumption of clinical judgment, nor a substitute for the licensing or accreditation functions. A proposal for a quality psychiatric unit shall include explicit policies, and specific examples and detail regarding each factor below:~~participation related to those programs.¶
(4) The proposed project will promote continuity in the provision of health care, not result in an unwarranted fragmentation of services, and have an appropriate relationship to the Health Service Area's existing health care system. ¶
(5) The ability to provide appropriate access to quality general and multispecialty medical inpatient care.¶
(6) The applicant will accept and provide access to individuals enrolled in Medicaid, Medicare, or uninsured.¶
(~~1~~7) T~~riage criteria and mechanisms, including documentation that such criteria and mechanisms will be consistent~~he applicant will facilitate coordination with alternatives and other appropriate community resources. ¶
(8) The applicant has treatment goal-setting protocols that focus on achieving sustained improvements in patient health and functioning.¶
(9) The applicant will maintain a readmission rate lower than or comparable to available regional or national benchmarks.¶
(10) The applicant will offer charity care, as defined in ORS 442.601(1), commensurate with othe ~~level of placement criteria developed by the Office of Health Policy and insurers under ORS 743.556(16)(b);¶~~
~~(2) Data and record systems;¶~~
~~(3) Length of stay related to treatment goals, and averaging no more than 15 days for treatment of adults;~~r facilities with a comparable payor mix. Applicant must provide their policy for charity care and demonstrate compliance with federal and state law. The Oregon Health Authority may consider the applicant's history of offering charity care in evaluating these criteria.¶
(11) The project's proposed services will be delivered safely and adequately, in compliance with all relevant federal and state laws, rules, and regulations. The evaluation of this criterion will consider whether the applicant has, in this state or elsewhere:¶
(~~4~~a) ~~Nonmaintenance, high-level treatment goals beyond mere restoration to the level just permitting releas~~Been criminally convicted related to operating a healthcare facility where the applicant held a direct or indirect ownership interest of five percent or more;¶
(~~5~~b) ~~Low recidivism; compar~~History of the denial or revocation of a license to ~~d~~operat~~ae~~ a~~vailable;~~¶
~~(6) Rates which reflect low capital and operating costs and a justifiable rate of return; and~~ healthcare facility where the applicant had a direct or indirect ownership interest of five percent or more;¶
(c) Had a license to practice a health profession revoked; or¶
(~~7~~d) ~~Rapid access to quality general and multispecialty medical inpatient ca~~Been decertified as a provider in the Medicare or Medicaid program due to non-compliance with federal participation conditions where the applicant held a direct or indirect ownership interest of five percent or more.

Statutory/Other Authority: ORS 431.120~~(6),~~, ORS 442.315, ~~743.556~~(ORS 743A.16~~)~~8
Statutes/Other Implemented: ORS 431.120~~(6),~~, ORS 442.315

ADOPT: 333-615-0060

RULE SUMMARY: Adopt OAR 333-615-0060 – Moves language from OAR 333-615-0050 into newly adopted rule. Updates the existing language to provide the applicant with specific criteria that will be used to evaluate the applicant's proposal related to cost.

CHANGES TO RULE:

333-615-0060
Cost
A determination that a proposed project will foster cost-efficient services without compromising quality, shall be based on the following criteria:¶
(1) Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or feasible.¶
(2) In the case of a project involving construction:¶
(a) The costs, scope, and methods of construction and energy conservation are consistent with current construction standards for health care facilities; and¶
(b) The project's potential impact on the social and financial costs to the public of providing health services is consistent with ORS 442.310.¶
(3) The project will involve appropriate improvements or innovations in the financing and delivery of health services which foster cost-containment, and promote quality assurance and cost effectiveness.¶
(4) Rates which reflect low capital and operating costs and a justifiable rate of return.
Statutory/Other Authority: ORS 431.120, ORS 442.315, ORS 743A.168
Statutes/Other Implemented: ORS 431.120, ORS 442.315

ADOPT: 333-615-0070

RULE SUMMARY: Adopt OAR 333-615-0070 – New rule that specifies additional information that the Oregon Health Authority may consider if there is a lack of detail to make a required determination.

CHANGES TO RULE:

333-615-0070
Use of Other Sources for Evaluating Applications
(1) In the event the Certificate of Need rules applicable to a psychiatric hospital do not contain standards in sufficient detail to make the required determinations, the Oregon Health Authority may consider:¶
(a) Nationally recognized standards from professional organizations; ¶
(b) Standards developed by professional organizations in the State of Oregon; ¶
(c) Federal Medicare and Medicaid certification requirements; ¶
(d) State licensing requirements;¶
(e) Applicable standards developed by other individuals, groups, or organizations with recognized expertise related to inpatient psychiatric care and treatment. ¶
(2) Any external standards or guidelines considered must not conflict with Health Services Area or the methodology described in this division.
Statutory/Other Authority: ORS 431.120, ORS 442.315, ORS 743A.168
Statutes/Other Implemented: ORS 431.120, ORS 442.315