

**DEPARTMENT OF BEHAVIORAL HEALTH AND
DEVELOPMENTAL DISABILITIES**

CHAPTER 82-8

Emergency Receiving, Evaluating and Treatment Facilities

SUBJECT 82-8-1

Emergency Receiving, Evaluating and Treatment Facilities

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The legal authority for this Chapter is Chapters 3 and 7 of Title 37 of the Official Code of Georgia, Annotated.

AUTHORITY: O.C.G.A. §§ 37-3-1, et seq., 37-7-1, et seq.

82-8-1-.02 Definitions

- (1) Unless a different meaning is required by the context, the following terms as used in this Rule shall have the meaning hereinafter ascribed to them:
 - (a) The term “private facility” means any hospital facility that is a proprietary hospital or a hospital operated by a nonprofit corporation or association approved for the purposes of Chapter 3 or Chapter 7 of Title 37 of the Official Code of Georgia Annotated, as provided herein, or any hospital facility operated by a hospital authority created pursuant to the “Hospital Authorities Law,” Article 4 of Chapter 7 of Title 31. DBHDD’s approval or designation of a private facility for such purposes does not make the facility a “state owned” or “state operated” facility within the meaning of Title 37 or of this Chapter of regulations.
 - (b) The term “Crisis Stabilization Unit” (CSU) means a short-term residential program operated for the purpose of providing psychiatric stabilization and detoxification services that complies with applicable department standards and that provides brief, intensive crisis services 24 hours a day, seven days a week (these standards also apply to Behavioral Health Crisis Centers (BHCCs)) which complies with applicable DBHDD Provider Manuals. CSUs are not “state owned” or “state operated” facilities by reason of Title 37 or of this Chapter of regulations.
 - (c) The term “department” means the Department of Behavioral Health and Developmental Disabilities of the State of Georgia.
 - (d) The term “emergency receiving facility” means a facility designated by the department to receive patients under emergency conditions as provided in Part 1 of Article 3 of Chapter 3, or Part 1 of Article 3 of Chapter 7, of Title 37.
 - (e) The term “evaluating facility” means a facility designated by the department to receive patients for evaluation as provided in Part 2 of Article 3 of Chapter 3, or Part 2 of Article 3 of Chapter 7, of Title 37.
 - (f) The term “treatment facility” means a facility designated by the department to receive patients for treatment as provided in Part 3 of Article 3 of Chapter 3, or Part 3 of Article 3 of Chapter 7, of Title 37.
 - (g) The term “Psychiatrist” means any physician certified as a Diplomat in Psychiatry by the American Board of Psychiatry and Neurology, or who has completed three years of approved residency training program in psychiatry and has had two years of full-time practice in this specialty.
 - (h) The term “VA” means the United States Department of Veterans Affairs.

AUTHORITY: O.C.G.A. §§ 37-3-1, 37-7-1.

82-8-1.03 Designation as Emergency Receiving, Evaluating and Treatment Facilities

The department may designate as an Emergency Receiving, Evaluating, and/or Treatment Facility any private facility or any such portion of a community mental health and substance abuse program which complies with the standards for a CSU within the State of Georgia at the request of or with the consent of the governing officers of such facility.

- (1) A VA hospital may lawfully act as an emergency receiving facility, evaluating facility, or treatment facility pursuant to O.C.G.A. § 37-3-102(a) without having been designated as such by the department.
- (2) Any private facility or any CSU requesting approval and designation as an Emergency Receiving, Evaluating, or Treatment Facility will make application on forms approved by the department.
- (3) Any Crisis Stabilization Unit (CSU), to be eligible for designation, shall be a part of a comprehensive community mental health and substance abuse program which comprehensive program has been certified by DBHDD, to be in compliance with applicable DBHDD Provider Manuals.
- (4) Any private facility seeking designation by the department must attest that it is compliant with, and must maintain compliance with, the requirements pertaining to emergency receiving, evaluation, and treatment facilities set forth in State of Georgia Rules and Regulations for Hospitals (Georgia Comp. R. & Regs § 111-8-40-.37) and Guidelines for the Design and Construction of Hospitals and Healthcare Facilities. The private facility must submit its attestation of compliance annually.
- (5) The facility designated will provide only those emergency receiving, evaluation and/or treatment services for which it has received prior approval from DBHDD.
- (6) If a facility already designated as an Emergency Receiving Facility, an Evaluating Facility, and/or a Treatment Facility wishes to add an additional designation, such additional designation requires approval from DBHDD. (For example, if a facility designated only as an Emergency Receiving Facility wishes also to be designated as an Evaluating Facility, DBHDD must approve and confer such designation.)
- (7) If a facility moves to a different location, the facility must submit a new application to DBHDD, which will follow its procedure in designating the new facility location as an Emergency Receiving, Evaluating, and/or Treatment Facility. A facility's designation is not transferrable to another location.
- (8) The facility must remain in compliance with the CMS regulations and accrediting body standards.
 - (a) When the Center for Medicare and Medicaid Services (CMS) or any accrediting body makes any findings related to a designated facility's Emergency Receiving, Evaluation,

and/or Treatment services, the facility must provide DBHDD with those findings within 30 days of the date on which the findings are communicated to the facility.

(b) Additionally, a copy of any corrective action plan (including any amended corrective action plan or in-process corrective action plan) developed by the facility in response to such findings must be forwarded to DBHDD by the facility within 30 days of the date on which the facility communicates the corrective action plan to CMS or the accrediting body.

(9) If a designated facility is notified that it will lose or has lost any license, or will incur or has incurred a restriction or suspension of any license, the designated facility must notify DBHDD within 24 hours of its receipt of such notice.

(10) If a designated facility wishes to remove one or more of its own designations, the facility shall give written notice to DBHDD at least 30 days in advance of the date on which it intends to cease operating under that designation.

(11) As the department is the best suited entity to determine which facility will be the nearest of its available facilities to which an individual needing admission may be admitted, and as O.C.G.A. §37-3-100(a) and O.C.G.A. § 37-7-100(a) provide the department with discretion to designate the state-owned or state-operated facility to which an individual will be admitted for emergency receiving, evaluation, and/or treatment, the department shall establish, maintain, and make publicly available procedures by which a determination is made to which state-owned or state-operated facility an individual will be admitted in the event that the individual is not admitted to a private facility. The department shall make every effort to encourage any person or entity responsible for transporting or for directing transport of an individual to a facility under the terms of Title 37, Chapter 3 and Chapter 7, to make use of these procedures.

(12) As O.C.G.A. § 37-3-100(a) and O.C.G.A. § 37-7-100(a) provide that the department may designate a private facility as the facility to which an individual is to be admitted for emergency receiving, evaluation, and/or treatment if the department has obtained prior agreement of the private facility, a private facility may decline admission to an individual or limit admission to a class of individuals where such declination is otherwise lawful. Private facilities are reminded that they may be required to comply with the Emergency Medical Treatment and Labor Act (EMTALA), the Americans with Disabilities Act (ADA), and other applicable federal laws.

(13) The department possesses the discretion, under O.C.G.A. §37-3-100(d) and O.C.G.A. §37-7-100(d), to transfer an individual from one state-owned or state-operated facility to another state-owned or state-operated facility.

(a) Such a transfer may be directed to accomplish efficient utilization of a facility as determined by the facility and the department.

(b) Individuals in voluntary legal status may only be transferred with their consent.

(c) Notice of any such transfer shall be provided to the individual and the individual's representatives, and the individual shall be informed in writing as to the reasons for the transfer.

- (14) If a private facility or an individual requests a transfer of an individual who has been admitted to a private facility under Title 37, Chapter 3 or Chapter 7, from the private facility to a state-owned or state-operated facility, and the individual meets criteria for admission to the department's facility, the department is required to accept admission of the individual to the state-owned or state-operated facility that the department determines is the most appropriate.
- (15) If an individual hospitalized in a state-owned or state-operated facility under Title 37, Chapter 3 or Chapter 7, requests transfer to a private facility, the department shall transfer the individual to the facility if (i) the individual can pay for the individual's treatment at the private facility and (ii) the private facility agrees to accept the individual.
- (16) As set forth in O.C.G.A. § 37-3-101 and O.C.G.A. § 37-7-101, the governing body of the county of residence of the individual involved is required, subject to Court direction, to arrange for emergency transport to an emergency receiving facility. The governing body of the county of residence of the individual involved further bears responsibility for all required transportation for mental health purposes subsequent to the initial transport.
- (a) When an individual is in the care of a facility, the facility may determine the manner of non-emergency transport required for purposes of treatment of an individual. It may request the appropriate county governing body to provide such transportation. If the facility arranges on its own for such transportation to be accomplished by a party other than the Sheriff of the appropriate county, the county shall not be billed, and the facility may bill the individual.
 - (b) In non-emergency situations, no female shall be transported without another female being in attendance unless the person transporting the female is the female's husband, father, adult brother, or adult son, as required by O.C.G.A. § 37-3-101 and O.C.G.A. § 37-7-101.
- (17) The department shall by December 31, 2021, develop and maintain policies that set forth the manner and frequency in which de-identified, aggregated data is reported to the department pursuant to O.C.G.A. § 37-3-40 and O.C.G.A. § 37-7-40.
- (18) Failure to submit the information required by O.C.G.A. § 37-3-40 and O.C.G.A. § 37-7-40 shall result in the suspension of a facility's designation as an emergency receiving facility until the required reports are submitted to the department.

AUTHORITY: O.C.G.A. Secs. 40, 60, 80 of Chaps. 3 and 7 of Title 37; O.C.G.A. §§ 37-3-6, 37-7-7.

82-8-1-.04 Emergency Receiving Facility

- (1) A private facility which has been designated as an emergency receiving facility shall comply with the regulations for hospitals set forth in Georgia Comp. R. & Regs. Chapter 111-8-40, as they now exist or as may be amended.
- (2) The private facility shall arrange for the availability of a physician who will examine the patient as soon as possible, but in any event within 48 hours of admission.

- (3) The private facility shall provide at least one seclusion room that conforms with the requirements of Georgia Comp. R. & Regs § 111-8-40-.37(5). Every seclusion area shall be equipped with shatterproof windows and a locked door that can be opened from the outside, to accommodate individuals with reasonable safety, even if such equipment is not otherwise required by § 111-8-40-.37(5). The facility must maintain the privacy of any individual in the seclusion room by minimizing that individual's visibility to other individuals being served.
- (4) Every Crisis Stabilization Unit (CSU) shall follow the applicable DBHDD policies and applicable DBHDD Provider Manuals.
- (5) Every private facility designated as an emergency receiving, evaluating, and/or treatment facility, and every CSU, shall follow generally accepted standards and consider best practices related to discharge planning.

AUTHORITY: O.C.G.A. §§ 37-3-40, 37-7-40.

82-8-1-.05 Evaluating Facility

- (1) A private facility which has been designated as an evaluating facility shall comply with the regulations for hospitals set forth in Georgia Comp. R. & Regs. Chapter 111-8-40, as they now exist or as may be amended.
- (2) The active medical staff of the private facility or the CSU shall include a physician who has completed at least one year of approved psychiatric residency. Additionally, the facility shall make available consultation by a psychiatrist as defined in Rule -.02 of this Chapter.
- (3) The private facility or the CSU shall provide at least one seclusion room that conforms with the requirements of Georgia Comp. R. & Regs § 111-8-40-.37(5). Every seclusion area shall be equipped with shatterproof windows and a locked door that can be opened from the outside, to accommodate individuals with reasonable safety, even if such equipment is not otherwise required by § 111-8-40-.37(5). The facility must maintain the privacy of any individual in the seclusion room by minimizing that individual's visibility to other individuals being served.
- (4) The private facility or the CSU shall utilize available resources in the community to provide psychological tests and social work services if such services are needed for the patients and do not exist within the facility. In utilizing such resources, the private facility or the CSU shall comply with the requirements of Georgia Comp. R. & Regs § 111-8-40-.37; and, if that regulation or any other applicable law or regulation does not permit the utilization of such resource, then this paragraph shall not be construed as authorizing its utilization.
- (5) Every Crisis Stabilization Unit (CSU) shall follow the applicable DBHDD policies and applicable DBHDD Provider Manuals.
- (6) The private facility or the CSU shall follow generally accepted standards and consider best practices related to discharge planning.

AUTHORITY: O.C.G.A. §§37-3-60, 37-7-60.

82-8-1-.06 Treatment Facility

- (1) A private facility which has been designated as a treatment facility shall comply with the regulations for hospitals set forth in Georgia Comp. R. & Regs. Chapter 111-8-40, as they now exist or as may be amended.
- (2) The private facility shall have an identifiable program specifically designed for individuals with behavioral health challenges.
- (3) The program described at (2) immediately above shall be directed by a psychiatrist employed or contracted by the private facility.
- (4) The services provided by a private facility shall include, at a minimum, psychological services, social services, activity therapies, and rehabilitation services.
- (5) The private facility shall follow generally accepted standards and consider best practices related to discharge planning.

AUTHORITY: O.C.G.A. §§ 37-3-80, 37-7-80.

82-8-1-.07 Enforcement

- (1) The administration and enforcement of these rules and regulations shall be as prescribed in Chapter 1, Chapter 3, and Chapter 7 of Title 37 of the Official Code of Georgia Annotated.
- (2) If DBHDD determines that a facility has violated one or more of the regulations in this Chapter, or has failed to comply with one or more DBHDD standards applicable to the facility, or has failed to comply with the terms of any contract or agreement the facility has with DBHDD, then, in addition to any other remedies available by law, DBHDD may enforce the regulations, standards, or contract or agreement by actions which may include:
 - (a) issuing a time-limited designation or designations to the facility;
 - (b) temporarily suspending a designation or designations of the facility;
 - (c) removing a designation or designations of the facility.
- (3) DBHDD shall give written notice of any of the actions specified at paragraph (B) above to the facility. Such notice shall clearly state the action being taken, the reason for the action, the duration of the action (provided, however, that the removal of a designation shall be understood to be permanent unless otherwise expressly stated in the notice). Such notice shall also contain information sufficient to allow a facility to exercise its rights under this Rule.
- (4) If DBHDD gives written notice as described in paragraph (C) of this Rule, and if the facility has not consented to the action described in the notice, then such action shall be subject to the provisions of Chapter 13 of Title 50 of the Official Code of Georgia Annotated, the Georgia

Administrative Procedure Act. Any request for a hearing in response to such action shall be in writing and must be submitted to DBHDD no later than 10 calendar days from the date of receipt of the written notice from DBHDD. If DBHDD transmits the written notice via electronic mail (e-mail), the written notice shall be deemed received by its addressee on the date on which it was sent. The written notice from DBHDD to impose an enforcement action upon any Emergency Receiving, Evaluating, or Treatment Facility shall include the address to which a request for a hearing must be directed.

- (5) Any request for a hearing submitted pursuant to paragraph D shall comply with the following:
- (a) If DBHDD's written notice states that the revocation or suspension is based on one or more specific findings that the facility violated a state or federal law, these regulations, and/or DBHDD policies and standards, then the request for hearing shall state each finding that the facility wishes to contest at the hearing; and shall also state whether the facility disputes (i) the factual basis of the finding; (ii) DBHDD's determination that the facility violated the law, regulation, or policy or standard; or (iii) both.
 - (b) If, pursuant to subparagraph (a) immediately above, the facility disputes the factual basis of a finding, then the hearing request shall include a statement explaining why the facility believes the factual basis is untrue.
 - (c) The hearing request must be sent to DBHDD at the address listed in the written notice to impose an enforcement action.
 - (d) When DBHDD receives a hearing request in accordance with this regulation, DBHDD shall transmit the hearing request to the Office of State Administrative Hearings in accordance with the Georgia Administrative Procedures Act and shall otherwise comply with that Act.

AUTHORITY: O.C.G.A. Title 50, Chapter 13.

82-8-1-.08 Severability

In the event that any rule, sentence, clause or phrase of any of the rules and regulations in this Chapter may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect as if such rule or portions thereof so determined, declared or adjudicated invalid or unconstitutional were not originally part of these rules.

AUTHORITY: O.C.G.A. §§37-1-23, 37-1-40, 37-1-41, 37-3-2, 37-4-3, 37-7-2.