

**135H.6 Inspection — conditions for issuance.**

1. The department shall issue a license to an applicant under [this chapter](#) if all the following conditions exist:

a. The department has ascertained that the applicant's medical facilities and staff are adequate to provide the care and services required of a psychiatric institution.

b. The proposed psychiatric institution is accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the council on accreditation of services for families and children, or by any other recognized accrediting organization with comparable standards acceptable under federal regulation.

c. The applicant complies with applicable state rules and standards for a psychiatric institution adopted by the department in accordance with federal requirements under [42 C.F.R. §441.150 – 441.156](#).

d. The applicant has been awarded a certificate of need pursuant to [chapter 135](#), unless exempt as provided in [this section](#).

e. The department of health and human services has submitted written approval of the application based on the department of health and human services' determination of need. The department of health and human services shall identify the location and number of children in the state who require the services of a psychiatric medical institution for children. Approval of an application shall be based upon the location of the proposed psychiatric institution relative to the need for services identified by the department of health and human services and an analysis of the applicant's ability to provide services and support consistent with requirements under [chapter 232](#), particularly regarding community-based treatment. If the proposed psychiatric institution is not freestanding from a facility licensed under [chapter 135B](#) or [135C](#), approval under this paragraph shall not be given unless the department of health and human services certifies that the proposed psychiatric institution is capable of providing a resident with a living environment similar to the living environment provided by a licensee which is freestanding from a facility licensed under [chapter 135B](#) or [135C](#).

f. The proposed psychiatric institution is under the direction of an agency which has operated a facility licensed under [section 237.3, subsection 2](#), paragraph "a", as a comprehensive residential facility for children for three years or of an agency which has operated a facility for three years providing psychiatric services exclusively to children or adolescents and the facility meets or exceeds requirements for licensure under [section 237.3, subsection 2](#), paragraph "a", as a comprehensive residential facility for children.

g. If a child has an emotional, behavioral, or mental health disorder, the psychiatric institution does not require court proceedings to be initiated or that a child's parent, guardian, or custodian must terminate parental rights over or transfer legal custody of the child for the purpose of obtaining treatment from the psychiatric institution for the child. Relinquishment of a child's custody shall not be a condition of the child receiving services.

2. The department of health and human services shall not give approval to an application which would cause the total number of beds licensed under [this chapter](#) for services reimbursed by the medical assistance program under [chapter 249A](#) to exceed four hundred thirty beds.

3. In addition to the beds authorized under [subsection 2](#), the department of health and human services may establish not more than thirty beds licensed under [this chapter](#) at the state mental health institute at Independence. The beds shall be exempt from the certificate of need requirement under [subsection 1](#), paragraph "d".

4. The department of health and human services may give approval to conversion of beds approved under [subsection 2](#), to beds which are specialized to provide substance use disorder treatment. However, the total number of beds approved under [subsection 2](#) and [this subsection](#) shall not exceed four hundred thirty. Conversion of beds under [this subsection](#) shall not require a revision of the certificate of need issued for the psychiatric institution making the conversion. Beds for children who do not reside in this state and whose service costs are not paid by public funds in this state are not subject to the limitations on the number of beds and certificate of need requirements otherwise applicable under [this section](#).

5. A psychiatric institution licensed prior to July 1, 1999, may exceed the number of beds authorized under [subsection 2](#) if the excess beds are used to provide services funded from a source other than the medical assistance program under [chapter 249A](#). Notwithstanding [subsection 1](#), paragraphs “d” and “e”, and [subsection 2](#), the provision of services using those excess beds does not require a certificate of need or a review by the department of health and human services.

89 Acts, ch 283, §7; 90 Acts, ch 1239, §1, 2; 93 Acts, ch 53, §7; 93 Acts, ch 172, §30; 93 Acts, ch 180, §80; 96 Acts, ch 1213, §32; 98 Acts, ch 1218, §66; 99 Acts, ch 51, §1, 2; 99 Acts, ch 98, §1; 2001 Acts, ch 191, §35; 2005 Acts, ch 117, §1; 2011 Acts, ch 121, §8; 2011 Acts, ch 131, §151, 153; 2018 Acts, ch 1026, §49; 2023 Acts, ch 19, §186, 187

Referred to in §226.9B

Subsection 1, paragraph e amended

Subsections 2, 3, 4, and 5 amended