Ashley
Addiction Treatment

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November 23, 2018

Mr. Ben Steffen
Executive Director
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Dear Mr. Steffen;

Thank you for inviting Ashley Addiction Treatment to participate in the Maryland Health Care Commission Certificate of Need Modernization Program process. We have found the dialogue helpful and hope that we have provided valuable insight to the specific problems that affect substance use treatment facilities. We do have additional feedback for the Commission to consider.

First, on page 26 of the Draft Proposal, under statutory changes to modernize the process #5 is the proposal to "eliminate all CON regulation...and develop alternative regulatory approach to serve "gatekeeper" functions perceived as positive characteristics of CON regulation".

There are not "perceived characteristics", they are in fact critical.

I have repeatedly discussed in all CON meetings that other areas of medical treatment have not been affected in the same manner with fraudulent and unethical treatment providers as we see in substance use treatment field. It is CRITICAL that the CON regulations remain until such time as a sufficiently developed alternative is completed.

MHCC's staff experiences that some applicants are not sufficiently capable of developing and submitting an application is more indicative of the applicant's probable inability to offer effective and proven treatment delivery than a reflection of the CON itself. The provision of treatment is a complex business process with licensing, payroll, taxes, insurance, etc. With the changes that Ashley supports in the process, the revised CON would place the focus on the treatment plan and capacity of the applicant to be effective, rather than involved in a lengthy review of capital issues and expenditures. The modified CON process should prove to be an effective tool in determining capacity and competence.

I would also suggest that the language in the Benefits section is not appropriate. Nowhere else in the delivery of medical services do we refer to patients as "customers". This language should be changed to reflect the medical nature of the disease.

We have additional recommendations or requests for clarification on the following key points that were presented at the November meeting:

Recommendation 1

1. State Health Plan standards should additionally consider parity issues of insurance provider coverage.
2. Under Recommendation 1c, we recommend inserting that "failure to obligate and initiate construction within 365 days of receiving CON approval will void the CON".
3. Under Recommendation 1d, add 3) In the event the applicant disagrees with the decision by the Executive Director, the applicant is entitled to an appeal to the Health Care Commission for a full review of the application.

Recommendation 2

1. Under Recommendation 2; creating a waiver for alternative models of post-acute care that is endorsed by HSCRC staff should exclude substance use treatment facilities from the waiver. An issue we have raised consistently is the emergence of a significant amount of unethical behavior by "bad actors" in states that have eliminated CON (FL, CA, NJ). Upon further review, this could be a loophole that could be used by disreputable operators to circumvent the CON. During our commission discussion this Recommendation clearly seemed directed towards hospitals; which we are supportive of. Adding the language to exclude substance use disorder care would close the loophole.

Recommendation 4

1. Under the second notation, we recommend clarifying the language; "-by a residential treatment center whose facility has previously been approved through a CON".

Recommendation 9

1. While initially it would appear this recommendation would be beneficial to applicants by assuring the ability to move forward if the Commission is not diligent in scheduling and hearing CON's; it could also open up a loophole. Administrators who chose to "ignore" an application would give de facto approval. We would recommend the following change: "If the Commission does not act on an application within 90 days, the applicant will automatically be placed on the next Commission Agenda for a vote". This would achieve the same response, which is applicants receiving action in a timely fashion.
2. Ashley is concerned this loophole could be exploited by providers with a history of poor patient performance.

Areas for Study

The Commission is correct in that all issues cannot be addressed with this initial report. The areas assigned for further study would benefit from additional research.

Recommendation 1

1. The Commission should consider adding treatment centers that specifically do outpatient services. While outside of the purview of 3.7 beds; this area of treatment has grown dramatically and includes the provision of medical services in locations.
2. The Commission should study the inclusion of "sober homes" in the review process. This is another area of rapid growth; often with ownership being unfamiliar with issues of treatment.

We appreciate the changes that have already been included in the Commission's draft recommendation. Ashley would be happy to be included in the Areas for Study component of work to be done in the future. We look forward to working together in the future work of the Commission to serve the needs of Maryland residents.

Respectfully,

Richard T. Przywara

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Sr. Vice President of Operations