IN THE MATTER OF	*	BEFORE THE
Application of Pyramid Healthcare, Inc. for an Intermediate Care Facility	*	MARYLAND HEALTH
Docket No. 22-16-2452	*	CARE COMMISSION

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**RESPONSE OF PYRAMID HEALTHCARE, INC.
TO COMMENTS OF LUMINIS HEALTH PATHWAYS, INC.,
d/b/a PATHWAYS ALCOHOL & DRUG TREATMENT CENTER**

August 3, 2022

#795993
013984-0003

Pyramid Healthcare, Inc., ("Pyramid") by its undersigned counsel and pursuant to COMAR § 10.24.01.08F, submits this response to the Comments of Luminis Health Pathways, Inc. d/b/a Pathways Alcohol & Drug Treatment Center ("Pathways"). For the reasons set forth below, the Commission should approve the CON application ("CON Appl.").

Introduction

Pyramid proposes to establish a Track Two Intermediate Care Facility ("ICF") with 50 beds licensed and designated for Withdrawal Management and Medically Monitored Inpatient (Level III.7WM and Level III.7) level of care ("LOC") services. The proposed facility will also include 50 beds licensed for Clinically Managed High Intensity Residential Treatment (Level III.5) LOC services, not subject to CON review. The proposed ICF will provide acute detoxification and residential treatment services to individuals with substance use disorders.

Pyramid has a longstanding history of serving individuals suffering from substance use disorders. In operation since 1999, Pyramid has over 80 behavioral health treatment facilities in seven eastern states. This includes over 1,400 detoxification and rehabilitation beds in 30 facilities. Pyramid takes over 40,000 calls per month for people seeking treatment. Pyramid treats over 12,000 patients on any given day, and treats over 50,000 patients each year. Pyramid has two residential and two outpatient chemical dependency treatment programs in southern Maryland (Walden), and has opened a detoxification and rehabilitation program in Joppa, Harford County. Following the research, which indicates that longer treatment for chemical dependency results in improved outcomes, the Pyramid model provides a full continuum of services from detox and rehabilitation to partial hospital, intensive outpatient, outpatient group, and individual and family treatment so that patients can flow seamlessly through the continuum as their needs dictate.

In both Maryland and other states, Pyramid is proud to treat all clients, regardless of their funding source. A majority of Pyramid's revenue comes from Medicaid and other government sources. In states where dual licensure is available, Pyramid's residential facilities are staffed and licensed to provide treatment to dual diagnosed clients, and all facilities incorporate Medication Assisted Treatment into programming. Pyramid's growth is the result of the specialization of the company in superior, evidenced based programming that meets the complex needs of the chemically addicted. As evidenced by the continued surge of the opioid epidemic and the well documented research that shows the vast majority of clients who need treatment do not receive it, Pyramid's development of this service will be a significant, needed asset to the local and greater Maryland populace.

Maryland, like the nation, is in the midst of a substance use disorder crisis, with indicators increasing significantly over the past decade (and beyond). The number of unintentional drug-and-alcohol related overdose fatalities increased by 317.1 percent between 2011 and 2020. Maryland Department of Health, Data-Informed Overdose Risk Mitigation ("DORM") 2021 Annual Report, p. 4.[1] Opioid-related unintentional intoxication fatalities have increased over the past decade across every racial/ethnic group for which data is reported, and in all age groups. DORM 2021 Annual Report, p. 6; Maryland Department of Health, Annual report on Unintentional Drug and Alcohol Related Intoxication Deaths, 2020, p. 12.

From 2019 to 2020 alone, there was a 17.7% increase in overdose-related deaths, with 2,379 fatal overdoses in the State. *Id*, .p. 2. Maryland's Opioid Operational Command Center ("OOCC") acknowledged in its 2020 Annual Report that "the pandemic has undoubtedly had a

[1] Available at https://beforeitstoolate.maryland.gov/resources/

large impact on fatal overdose rates." OOOC 2020 Annual Report, p. 3.[2] Prince George's County was among the counties in the State with the highest increase in opioid-related intoxication fatalities from 2019 to 2020. *Id.*, p. 8. While some Maryland counties saw mild reductions in the first three quarters of 2021 as compared to the same time period in 2020, Prince George's County continued to see an increase. Maryland Department of Health, Quarterly Drug and Alcohol Intoxication Report, 3rd Quarter 2021.[3]

Available resources represent a lack of sufficient ICF bed capacity to address this crisis, based on wait times for those seeking care. *See*, for example, *In re: House Bill 384* (2018 Reg. Sess.), House Committee Hearing before the Health and Government Operations Committee, Feb 13, 2018 (presenting testimony regarding a survey of 17 ICF providers in Maryland indicating that 12 of 17 ICF provider survey respondents had a wait time of two or more weeks);[4] Interim Report of the Lieutenant Governor's Heroin & Opioid Emergency Task Force, August 24, 2015 ("Families consistently reported experiencing multiple and repeated barriers, such as excessively long waiting periods…);[5] *In re Ashley, Inc.*, Docket No. 13-12-2340, Commission Decision, Sept. 19, 2013, p. 13 (reporting mean wait times of 4.96 days for monitored intensive inpatient care, and 3.55 days for detoxification care). Pyramid's recent call center data support the unavailability of sufficient capacity, as Pyramid turns away a significant

[2] Available at https://beforeitstoolate.maryland.gov/oocc-data-dashboard/

[3] Available at https://health.maryland.gov/vsa/Pages/overdose.aspx.

[4] Available at https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/HB0384/?ys=2018rs.

[5] Available at https://governor.maryland.gov/ltgovernor/wp-content/uploads/sites/2/2015/08/Draft-Heroin-Interim-Report-FINAL.pdf

volume of people actively seeking treatment options because it lacks available beds for inpatient care.

I. PYRAMID HAS SUFFICIENTLY DEMONSTRATED THE NEED FOR A NEW TRACK TWO ICF IN PRINCE GEORGE'S COUNTY.

Unlike Track One facility applicants, who must document need for their services based on the Commission's need projection methodology set forth in COMAR 10.24.14.07, Track Two applicants have more flexibility in providing a rationale for their project. The applicant must simply "document the need for the number and types of beds being applied for," in addition to other requirements that Pathways does not contest. The Commission recognized in its 2020 Decision regarding Pyramid Walden that the State Health Plan "does not provide guidance for how to calculate bed need for Track Two facilities, leaving it up to the applicant to provide a rationale for the size and scope of the proposed project." *In re: Pyramid Walden, LLC*, Docket No. 20-12-2440, Commission Decision, June 11, 2020, p. 8.

In 2019, legislation supported by the Commission was passed that eliminated the requirement to obtain a CON from the Commission to change bed capacity for an existing ICF. *See* Annotated Code of Maryland, Health-General Article § 19-120 (h)(2)(v). The Commission has recognized in Track One CON reviews that this change in the law renders the bed need methodology for Track One providers obsolete. *In re: Avenues Recovery Center of Chesapeake Bay, LLC,* Docket No. 21-09-2449, Commission Decision, Oct. 21, 2021, p. 11; *In re: Hygea Inc., Docket No. 21-03-2450*, Commission Decision, March 17, 2022, p. 2. As a result of the legislation, the Commission does not have the authority to closely regulate the number of ICF beds in the State – once a Track One or Track Two ICF opens, it may increase or decrease its bed complement as its operations support, so long as it provides appropriate notice.

In light of these changes, while the number of beds remains a component of the Need review criterion, weight and focus is more prudently centered on whether the applicant has generally documented need for the scope of the proposed project. This is especially true for a facility like the one Pyramid proposes, which will offer III.7WM and III.7 LOC services, together with residential LOC services not subject to CON review, as Pyramid may use beds flexibly based on the needs of its patient population (without exceeding 50 ICF beds, absent appropriate notice).[6]

A. Pyramid complied with the Need standard by supporting the need for a new Track Two ICF in Prince George's County using its internal data.

Pyramid has documented the need for its proposed 50 ICF beds by using its internal data regarding the total number of patients Pyramid is currently turning away at its existing treatment facilities in Maryland due to lack of bed availability.[7] Pathways complains that Pyramid's analysis is based on an average length of stay ("ALOS") that exceeds the State Health Plan's estimated ALOS of 14 days. Pathways further complains that Pyramid's internal turndown data is "unverifiable and thus undocumented" (Interested Party Comments, p. 7), and that these data do not sufficiently illustrate turndowns for detox patients specifically, crafting a supposed alternative analysis based on this data. These critiques are without merit.

[6] Maryland Department of Health, Office of Health Care Quality licenses these services by building, rather than by number of beds.

[7] Pyramid also documented need by applying the State Health plan methodology despite that it is not required to do so. However, Pyramid notes that the Commission has found that methodology "obsolete." *In re: Avenues Recovery Center of Chesapeake Bay, LLC,* Docket No. 21-09-2449, Commission Decision, Oct. 21, 2021, p. 11. *In re: Hygea Inc., Docket No. 21-03-2450,* Commission Decision, March 17, 2022, p. 2.

i. Pyramid's projected ALOS is not contradicted by the State Health Plan, and is supported by appropriate evidence.

Pyramid's projected ALOS is appropriately calculated and documented, consistent with the ALOS throughout Pyramid's other comparable facilities, and other Maryland Track Two providers. The only place in the applicable State Health Plan chapter that refers to the 14-day ALOS on which Pathways focuses its criticism is in the bed need projection methodology for Track One facilities. The State Health Plan chapter expressly applies this methodology to Track One facilities only, and the Commission has found that the methodology is obsolete. Moreover, the ALOS defined within the Track One bed need methodology does not even purport to be a parameter for clinically appropriate care. Instead, it is a more than twenty-year-old baseline assumption based on utilization data from the no longer existent Alcohol and Drug Abuse Administration's Substance Abuse Management Information System ("SAMIS").[8] COMAR 10.24.14.07(B)(5)(d). The landscape of substance use disorders has changed significantly since that time, in clinical approach to best practices, in scope of the population affected, and in the scope and potency of substances used.

The outdated ALOS in the State Health Plan methodology for Track One providers does not accurately represent the ALOS of Track Two ICF patients in the current opioid epidemic. Heroin, methamphetamine, and cocaine are used today in a much more pure state than in prior years and decades, and present more problems in detoxification and rehabilitation. Pyramid's

[8] The State Health Plan chapter methodology was published in 2002. While the Data Sources for the calculation of Private Bed Need states the source of the utilizations data for the ALOS used in the methodology, it does not refer to the year(s) of SAMIS data consulted. However, a footnote earlier in the chapter demonstrates that the Commission consulted Length of Stay by Payor data for 1999-2000 for at least some portion of the chapter. COMAR 10.24.14.03(B)(1), n.4.

experience has been that individuals presenting for detox present much sicker physically than in prior years, and Pyramid treats a higher percentage of patients with dual substance use and mental health diagnoses than previously.

Pyramid's projected ALOS is in line with its actual experience at facilities in which it is currently providing high quality care, and for which Pyramid is receiving reimbursement by payors including Maryland Medical Assistance and CMS:

Table 1
Pyramid Maryland Facilities with 3.7, 3.7WM Beds
Average ALOS, CY 2020, 2021

	2020	2021*
3.7WM (Detox)		
Charlotte Hall Inpatient Anchor	5	5
Harford Inpatient	N/A	5
3.7 Intensive Inpatient		
Charlotte Hall Inpatient Anchor	13	13
Harford Inpatient		13

*March 2021 was the first full month of ICF services at Harford Inpatient.
ALOS in 2020 and 2021 was impacted by state-mandated COVID-19 infection control measures.

Table 2
Pyramid PA, NJ Public Payor Facilities with 3.7, 3.7WM Beds
Average ALOS, CY 2020, 2021

	2020	2021
3.7WM (Detox)	4	4
3.7 Intensive Inpatient	17	16

Pyramid's projected ALOS is also squarely in line with, and slightly under, that of other Maryland Track Two providers. The Maryland Department of Health provided the following

table in its July 19, 2021 Report on Substance Use Disorder (SUD) Treatment in the Medicaid Program (highlight added):[9]

Table 3
Report on Substance Use Disorder (SUD)
Treatment Limitations in the Medicaid Program
Table 1. SUD Residential Services by ASAM Level of Care,
July 1, 2017–December 31, 2019

Metric	SUD ASAM LEVEL OF CARE				
	Level 3.1	Level 3.3	Level 3.5	Level 3.7	Level 3.7WM
Number of Individuals	1,481	3,940	6,809	13,745	12,005
Total Number of Days	104,025	194,357	277,451	265,017	89,404
Days paid out of state funds because of the two episode 30-day limit rule but have MA eligibility	74,272 (71%)	99,818 (51%)	122,630 (44%)	26,110 (10%)	8,742 (10%)
Days paid out of state funds because of lack of MA eligibility	1,826 (2%)	11,084 (6%)	18,740 (7%)	14,323 (5%)	6,020 (7%)
Number of Discharges	1,824	4,723	8,281	17,936	15,969
Average Length of Stay (in days)	57.0	41.2	33.5	14.8	5.6

Source: Based on Beacon Paid Claims Data through January 2, 2020.

The Commission should reject Pathways' attempt to constrain Pyramid's demonstration of need by applying an outdated, inapplicable, and currently unsupported ALOS that is not in line with the actual experience of Maryland providers.

ii. Pyramid's turndown data are accurate and reasonable.

Pyramid maintains its call center data in an appropriate electronic record system that enables Pyramid to review and extract data. CON applicants routinely rely on such internal data and verify the veracity of such data by affidavits. While Pyramid did not attach an affirmation to its responses to the Commission's requests for additional information, it corrects this oversight by providing appropriate affirmations with this filing. The Commission has never required CON

[9] Available at https://health.maryland.gov/mmcp/Documents/JCRs/2020/SUDtreatmentlimitsJCRfinal9-20.pdf

applicants to rely solely on data from published, publically available sources. Moreover, the Commission previously recognized the use of call center turndown data as a reasonable method of documenting bed need for a Track Two ICF. *See In re: Pyramid Walden, LLC*, Docket No. 20-12-2440, Commission Decision, June 11, 2020, p. 7.

Pathways' suggestion that the increase in turndowns from Pyramid's 2020 Application is inherently suspect is also incorrect. At the outset, Pathways' suggestion that Pyramid, a licensed, long-time provider in Maryland, has misled the Commission by misrepresenting its internal data should be rejected outright absent some prima facie showing by Pathways that Pyramid is not credible. However, to respond substantively to this concern, Pyramid notes that it has considerably increased its outreach activity in order to increase its presence in the market. It also expanded its network through implementation of the 2020 CON by establishing ICF services in Harford County, its second ICF in the State. Pyramid reconfirms the accuracy of the data provided regarding its turndowns.

Pyramid agrees that the turndown data is not reflective of the total number of patients Pyramid expects to admit to its facility through the call center alone. However, Pathways' comments and analysis are incorrect. All callers to Pyramid's call centers are assessed by trained professionals who determine the needs of the person in question and identify and record whether the person in question is likely to require inpatient care *i.e.*, 3.5, 3.7, or 3.7WM LOC, or some other lower LOC. These trained professionals collectively receive more than 40,000 calls a month, and Pyramid's experience has been that their initial assessments overwhelmingly result in an accurate indication of the level of care needed. After making the determination of the level of care required, the call center will then either offer care, or refer the caller to other resources. As

Pyramid indicated, 40% of callers are offered care and accept it, and 81% of those enter treatment.

The 60% of callers who are not offered care, or who are offered care but do not accept it, comprise several categories, including (i) callers who are offered care but reject it in favor of some other resource or referral; (ii) callers whose needs are not appropriate for a service Pyramid offers; and (iii) callers whose needs are appropriate for a service Pyramid offers, but Pyramid does not currently have a bed available at the LOC required. Only calls in this last category, and among them only callers who were assessed as appropriate for inpatient care, were reported in Pyramid's turndown analysis to support its bed need.

Pyramid agrees that the turndown data does not apply to ICF capacity alone because the call center assesses and identifies the need for "inpatient services," which include 3.5, 3.7, and 3.7WM LOC services. While Pyramid does not track what specific services a patient who is turned down requires within the "inpatient services" category, it may reasonably assume that patients identified as requiring inpatient services but for whom Pyramid had no capacity approximately matches the population of patients for whom Pyramid did have capacity and actually admitted. Of Pyramid patients who are admitted to Pyramid's two Maryland facilities with ICF capacity in 2021, 55% were admitted into 3.7 or 3.7WM LOC, and 45% to 3.5 LOC.

Table 4
Pyramid Maryland ICFs
Admissions by LOC, CY 2021

	3.5	%	3.7, 3.7WM	%	Total
Charlotte Hall Inpatient Anchor	559	41%	798	59%	1,357
Harford Inpatient*	450	51%*	439	49%*	889
Total	**1009**	**45%***	**1237**	**55%***	**2,246**

Note: The percentage of 3.7 and 3.7WM admissions is understated. March 2021 was the first full month of operation of 3.7 and 3.7WM services at Harford Inpatient, while 3.5 beds were available throughout CY 2021.

The following table demonstrates the number of turned down patients from the Southern Maryland health planning region who, based on actual Pyramid experience, would likely accept and enter a Pyramid ICF bed in Prince George's County, if available.

Table 5
Bed Need to Accommodate Turndowns from Southern Maryland Region

Turndowns from Prince George's, Charles, Calvert, and St. Mary's Counties in CY 2021, assessed for inpatient care	2,578	callers
x % of inpatient admissions at 3.7, 3.7WM LOC vs 3.5 LOC (55%)*	1,423	callers
x % of callers who enter care after offer (81%)	1,153	patients
x Projected 3.7WM and 3.7 ALOS (20.1)	23,165	ICF days
/ 365	63	ICF beds

Note: *As explained in Table 4, *supra*, the 55% admission rate to 3.7 and 3.7WM LOC is an understatement.

Based on this analysis, Pyramid may reasonably expect to fill 50 ICF beds simply on the basis of patients in the Southern Maryland health planning region who would likely be assessed for, offered, and accept care for ICF services at Pyramid's proposed Prince George's County facility, based on Pyramid's 2021 experience. This does not include the 513 inpatient admissions Pyramid's existing facilities had from Prince George's, Montgomery, and Frederick Counties in CY 2021, which will comprise the service area of the proposed facility. Pyramid expects to refer patients from these counties instead to the Prince George's County facility, if approved:

Table 6
Bed Need to Accommodate Pyramid CY 2021 Admissions from Prince George's, Montgomery, and Frederick Counties

Pyramid inpatient admissions from Prince George's, Montgomery, and Frederick Counties, CY 2021	513	admissions
x % of inpatient admissions at 3.7, 3.7WM LOC vs 3.5 LOC (55%)*	282	ICF admissions
x Projected 3.7WM and 3.7 ALOS (20.1)	5,671	ICF days
/ 365	16	ICF Beds

Note: *As explained in Table 4, *supra*, 55% is an understatement.

Pyramid has thus amply demonstrated need for, and ability to fill, well over 50 ICF beds, simply based on callers and patients in the proposed service area who *already* seek out Pyramid for care. Pyramid reasonably expects that the actual need for ICF beds in the service area is much larger, as it is not likely that every patient from the service area in need of care in CY 2021 contacted Pyramid. Pyramid would increase its presence and outreach in the service area in connection with the planned opening of a new facility, and reasonably expects that an even greater number of patients in the service area would contact Pyramid for care. Pyramid also expects that patients outside of the service area will contact it for care, an assumption supported by the fact that Pyramid's other facilities admit patients from outside of their health planning region.

Finally, Pyramid notes that, as explained more fully below, it has maintained strong occupancy rates across its inpatient services, including for 3.5 LOC. Pyramid does not expect any bed to go unfilled, as Pyramid may flexibly use beds to accommodate patients across the continuum of 3.7WM, 3.7, and 3.5 levels of care.

B. The need for ICF beds is further supported by the ongoing overdose epidemic in the State of Maryland and support for the proposed project through Pyramid's agreements with governmental authorities.

As discussed in further detail in the introduction to this response, there is a well-recognized substance use disorder crisis in Maryland, with indicators rising year over year over more than a decade. *See* Reports cited throughout Introduction, *supra* pp. 2-3. The Medicaid population is particularly impacted – the DORM 2021 Annual Report found that "[b]etween 2017 and 2020, 70.4 percent of overdose decedents were enrolled in Medicaid at some point in the 12 months preceding their death, which highlights an opportunity to increase comprehensive wraparound support to high-risk populations." DORM 2021 Annual Report, p. 1. Pyramid's proposed project will be well-positioned to do this. Pyramid's other two Maryland facilities with ICF services serve the Medicaid population, and more than 85% of the admissions to those facilities are indigent/gray area patients. CON Appl., p. 21. Pyramid encourages its patients to continue with residential 3.5 LOC following ICF care. As discussed more fully in its CON Application, Pyramid is committed to ensuring access to the entire continuum of care following discharge from an inpatient or residential program. CON Appl., pp. 26-29 (response to Review Standards .05J, K, O.) Pyramid will build upon its existing network of services and referral relationships to support this commitment.

Despite the overwhelming scale of the substance use crisis in the State of Maryland and in Pyramid's proposed service area, only 59 Track Two ICF beds currently exist in Prince George's County. The Commission has previously found that governmental support for an ICF project may illustrate need. *In re: Pyramid Walden, LLC*, Docket No. 20-12-2440, Commission Decision, June 18, 2020, p. 17 ("Need for the facility is further illustrated by letters of support for this project from the Maryland Behavioral Health Administration and local law enforcement

authorities."). Here, Pyramid demonstrates need through the Agreements to Cooperate executed with the Prince George's County Health Department and the Behavioral Health Administration. CON Appl., Exhibit 10. These agreements, together with the materials and information supplied throughout this review, demonstrate a recognized need for services in Pyramid's proposed service area, and Pyramid's ability to meet that demand.

II. PYRAMID HAS DEMONSTRATED THAT ITS PROPOSED PROJECT IS VIABLE IN ACCORDANCE WITH COMAR 10.24.01.08G(3)(d).

To determine whether a proposed project is viable, the Commission considers the availability of financial and nonfinancial resources necessary to implement and sustain the project. Through its financial and staffing projections, Pyramid has demonstrated that it has the resources to open its proposed facility and to sustain the facility's viability over the long-term. The high demand for substance use disorder treatment services, along with Pyramid's proven staff recruitment and retention initiatives, will allow the proposed facility to generate steady revenues while maintaining appropriate staffing levels. While Pathways contends that Pyramid has not sufficiently accounted for pandemic-related impacts on the proposed project's financial outlook, Pyramid's facility will remain viable even if it adjusts its projections for more severe COVID-19 related effects.

A. Pyramid's project will remain viable even if its patients experience a shorter average length of stay.

Pathways argues that Pyramid's projected revenues are inaccurate because they assume an average length of stay that exceeds the 14 day ALOS on which the State Health Plan need methodology is based. Pathways contends that adjusting Pyramid's projected revenues using an ALOS of 14 days would result in the facility operating at a loss. As discussed in detail in Part I, the State Health Plan need methodology does not apply to Track Two facilities and, even if it

did, the Commission has recognized that this methodology is obsolete. The baseline assumption of a 14 day ALOS is outdated and irrelevant to Pyramid's project. Pyramid's financial projections, based upon an ALOS that reflects high quality care across the substance use disorder treatment continuum, results in positive patient outcomes, and is consistent with that of other Track Two providers, accurately represents the viability of the proposed facility. *See supra* Section I.A.i.

Even if Pyramid were to revise its revenue projections to assume an ALOS of 14 days, its revenues would not materially decrease because the shorter average stay would result in Pyramid's ability to accept more patients in total each year. The need for ICF beds in Pyramid's service area is well-established (*see supra* Part I); *see also* Pyramid's April 8, 2022 Responses to First Completeness Questions, p. 4. The high volume of requests for treatment that Pyramid receives through its call center illustrates the significant demand that exists for Pyramid's substance use disorder treatment services. Due to lack of available bed capacity, however, Pyramid is unable to accept all qualifying patients who contact Pyramid requesting care. Based on the demonstrated demand for Pyramid's services, the primary effect of a shorter ALOS on Pyramid would simply be more new patient admissions each year as beds became available more frequently.

Moreover, Pyramid's existing Maryland facilities have consistently maintained high occupancy rates, which further supports Pyramid's ability to quickly fill beds as they become available. Prior to the onset of the COVID-19 pandemic, Pyramid's occupancy rates at its Charlotte Hall facility routinely exceeded 87%.

Table 7
Occupancy Rates at Pyramid Charlotte Hall
November 2019 to March 2020

Month	Nov. 2019	Dec. 2019	Jan. 2020	Feb. 2020	Mar. 2020
Occupancy Rate	92.6	87.1	89.0	91.6	93.4

Despite the challenges posed by the COVID-19 pandemic, Pyramid's Maryland facilities have maintained high average occupancy rates over the past twelve months.

Table 8
Occupancy Rates at Pyramid's Charlotte Hall and Harford Facilities
July 2021 to June 2022

	Charlotte Hall Inpatient Anchor	Harford Inpatient
Jul. 2021	71.3	87.1
Aug. 2021	69.8	85.7
Sept. 2021	76.4	72.9
Oct. 2021	69.5	71.7
Nov. 2021	78.5	83.0
Dec. 2021	78.3	76.4
Jan. 2022	72.1	77.1
Feb. 2022	88.1	91.0
Mar. 2022	82.6	88.6
Apr. 2022	75.7	92.9
May 2022	79.7	85.2
June 2022	86.9	87.4

Note: The occupancy rates presented here are based on an adjusted maximum bed capacity at each facility due to COVID-19. Those rates highlighted in red represent months that the facility's occupancy rates were further impacted by state-mandated COVID-19 infection control measures, resulting in admissions holds, decrease in available staff, or other measures that impacted occupancy.

The occupancy rates presented above reflect the impact the COVID-19 pandemic has had on facilities' abilities to fill beds to capacity. For example, staff absences due to positive COVID-19 diagnoses resulted in temporary periods when Pyramid was forced to halt new admissions in order to maintain appropriate staffing ratios. Pyramid has nevertheless maintained consistently high occupancy rates throughout some of the most severe months of the pandemic.

As demonstrated by Pyramid's history of high occupancy at its existing facilities and due to the high demand for its services, Pyramid's projected revenues at its proposed facility would not materially change even if its overall ALOS decreases, because the total patient days would remain constant.

B. Pyramid's staffing projections support the viability of the proposed project.

Pyramid's projected staffing costs support the viability of the proposed facility. Pathways argues, however, that Pyramid underestimated the cost of staffing in light of current workforce challenges such as staff shortages and increasing salary demand. Pyramid's proposed project will still be viable, however, even if it accounts for increases in staff salaries. As demonstrated below, Pyramid has conducted an alternative analysis assuming a hypothetical increase in staff salaries facility-wide. Holding all other variables constant as presented in Table F in the CON Application, this exercise shows that even if all staff in the proposed facility receive increased compensation up to 17.5%, Pyramid will remain profitable by FY 2025:

Table 9
Pyramid Alternative Net Income Projections Based on Increased Staff Compensation at Rate of 17.5

	FY 2023	FY 2024	FY 2025
Net Operating Revenue	$802,073	$8,764,391	$9,805,917
Salaries & Wages *	$1,059,516	$6,232,673	$6,337,950
Contract Labor	$12,000	$100,000	$120,000
Total Labor	$1,071,516	$6,332,673	$6,457,950
Total Operating Expenses	$1,680,594	$9,428,585	$9,784,703
Income Taxes	($249,808)	($188,864)	$6,032
Net Income (Loss)	**($628,713)**	**($475,331)**	**$15,182**

*Note: The Salaries & Wages line item reflects an increase in wages across all positions of 17.5%, as well as a corresponding proportionate increase to the 20% reserve for taxes and benefits.

This alternative analysis illustrates that Pyramid could absorb significant staffing cost increases and still remain viable. Pyramid's initial staffing cost projections were built on conservative assumptions, such as a by projecting costs of a fully-staffed facility with no vacancies. Like those initial projections, this alternative analysis reflects a facility with no staff vacancies, and also builds in agency staffing costs as an additional conservative cushion. As a result, the projections represent the upper end of staff costs that Pyramid would incur by applying across the board compensation increases of 17.5%. Moreover, Pyramid anticipates that its revenues will be even higher than initially projected based on recently announced increases in the Medicaid reimbursement rates for substance use disorder treatment services. *See* Maryland Department of Health FY23 Provider Rate Increases Public Notice[10] (announcing a 7.25% increase in adult residential SUD services rates effective July 1, 2022); *see also* COMAR 10.09.06 (adult residential SUD services include ASAM Level 3.3, 3.5, 3.7, and 3.7WM care settings). Such increases further support Pyramid's ability to remain viable even if it increases the compensation of its workforce.

In addition to challenging Pyramid's staffing cost projections, Pathways also suggests that Pyramid may have difficulty recruiting staff for the proposed facility. Pyramid currently operates several Maryland programs, and its robust staff recruitment and retention programs will allow it to appropriately staff the new facility. To meet the hiring needs of the organization, Pyramid Healthcare has created a centralized Talent Acquisition Center of Excellence, comprised of 6 full-time positions (a Head of Talent Acquisition and five full-time recruiters)

[10] Available at: https://health.maryland.gov/mmcp/Documents/FY23%20Provider%20Rate%20Increases%20Public%20Notice.pdf.

and two contract Senior Recruiter resources. The Talent Acquisition Center of Excellence deploys a mix of long-range and short-range sourcing strategies that provide the organization with a robust and diverse candidate pool. As a result, Pyramid employs approximately 3,000 employees and contractors across its system and routinely onboards over 150 new hires each month.

While the health care industry has experienced unprecedented challenges during the COVID-19 pandemic, including high rates of workforce turnover and resignations, Pyramid has implemented a number of successful recruitment and retention initiatives over the past year in response. With a focus on filling open positions and reducing staff turnover rates, Pyramid's initiatives include increasing base wages, providing enhanced health benefits, offering employee referral bonuses, and investing in employee training programs. As a result of these initiatives, Pyramid has maintained stable staffing patterns across its residential programs and has met and in some cases exceeded required staffing levels in all its programs. Over the last twelve months, during some of the most challenging phases of the COVID-19 pandemic, Pyramid has maintained high occupancy across its Maryland facilities. *See supra* Table 8. This high occupancy illustrates Pyramid's ability to maintain sufficient staffing levels despite COVID-19-related impacts to its programs, such as temporary admission holds due to state mandates or infection control protocols.

Pyramid has also seen a consistent improvement in its ability to recruit new employees and retain existing employees since July 2021. Pyramid will continue to leverage its proven staff recruitment and retention methodologies to ensure sufficient staffing in the proposed facility. With a dedicated team of referral relations, advertising, and marketing professionals, as well as

its robust talent acquisition Center of Excellence, Pyramid is well-positioned to attract and retain high-quality employees.

III. PYRAMID'S PROJECT WILL NOT ADVERSELY IMPACT EXISTING PROVIDERS OR THE HEALTH CARE DELIVERY SYSTEM.

As evidenced by the need for additional beds in the Southern Maryland region and statewide, the demand for substance use disorder beds exceeds the number of available beds. Pyramid, a proven high-quality care provider, will provide improved access to needed ICF beds in the Southern Maryland region and will allow individuals requiring substance use disorder treatment to access critical services. The addition of 50 ICF beds will not adversely impact existing providers or the health care delivery system given the significant need for additional bed capacity.

A. Pyramid's proposed project will not have an adverse impact on existing providers due to the significant, demonstrated need for additional ICF bed capacity in the region.

Pursuant to COMAR 10.24.01.08G(3)(f), an applicant must provide information and analysis with respect to the impact of the proposed project on existing health care providers in the region, including impact on geographic and demographic access to services, occupancy, and costs. As demonstrated in Part I of this Response, there is a significant need for additional ICF treatment beds in the Southern Maryland health planning region and across the State of Maryland. The need for services outweighs the current supply of beds, especially for low-income individuals. In recognizing the need for additional Track Two facilities, in particular, the State Health Plan Chapter on ICFs acknowledges that financial access for the indigent and gray area population "continues to be Maryland's major problem in providing alcohol and drug abuse treatment services." COMAR 10.24.14.08.B(1). Due to the lack of affordable care, which has

historically resulted in low-income individuals foregoing care or facing long wait times at private facilities, the Commission expressed a primary goal of "increased financial access for the poor" to ICF treatment services throughout the State Health Plan Chapter. *Id.* Despite this priority, there have been relatively few approved Certificate of Need applications for Track Two facilities based on information available from the Commission. *See* Maryland Health Care Commission, CON Staff Reports and Recommendations.[11] By adding additional Track Two ICF beds, Pyramid's proposed project will improve access to necessary care for low-income individuals. Given that demand for substance use disorder treatment services remains high, existing providers will not experience any material adverse impact as a result of Pyramid's proposed project, while more individuals, particularly those lacking financial resources, will have better access to treatment.

Pathways has not sufficiently demonstrated that Pyramid's project will adversely impact Pathways or other existing providers. An interested party that opposes an application must "state with particularity" the standards or criteria that the interested party contends the applicant has not met, *and* the reasons why the applicant has failed to meet those standards or criteria. COMAR 10.24.01.08F(c) (emphasis added). Pathways argues (without any data or analysis as support) that the five ICFs within thirty miles of Pyramid "are likely to be negatively impacted due to their close proximity and the large number of beds Pyramid is proposing." *See* Interested Party Comments, p. 11. Pathways suggests that because a percentage of Pathways' patients originate in Prince George's County, Pyramid's project will negatively affect Pathways' community referral

[11] Available at https://mhcc.maryland.gov/mhcc/Pages/hcfs/hcfs_con/hcfs_con_staff_resport.aspx.

base and that "it would be reasonable to assume the other programs would experience impacts, as well." *See,* Interested Party Comments, pp. 11-12. Pathways does not present any quantitative impact analysis to demonstrate that it will lose patients as a result of the proposed project, nor does it provide financial projections to demonstrate that the loss of patients would adversely impact it. Instead, Pathways simply asserts that it and other providers may lose referrals. By offering only general assertions, Pathways fails to "state with particularity" the reasons why it believes Pyramid has failed to meet the impact standard. As a result, it has not met its burden as an interested party with respect to the impact criterion.

Pathways also fails to demonstrate the adverse impact that it or other existing providers will experience as a result of Pyramid's project in light of the significant need for ICF beds in Maryland. As recognized by the Commission in prior ICF reviews, the impact criterion "should not be interpreted as a guarantee to existing providers that they will be insulated from any adverse impact from new competition." *In re Recovery Centers of America – Waldorf,* Docket No. 15-08-2362, Commission Decision, January 9, 2016, p. 42. Rather, where the need for services outstrips the supply, the Commission has determined that existing providers are not likely to be significantly harmed by the addition of more beds. *Id.*

Pyramid's proposed project will not result in any material adverse impact to surrounding providers. Instead, the project will provide access to desperately needed substance use disorder treatment services to a patient population that currently lacks sufficient bed supply. The Commission has previously recognized that the "dearth of needed resources for the indigent and gray area populations is a long-standing condition of the health care delivery system in Maryland that is likely to persist." *See In re. Addiction Recovery Inc., d/b/a Hope House*, Docket No. 18-16-2416, Commission Decision, February 21, 2019, p. 17. Based on the substantial need for

affordable ICF services, the Commission has recognized that projects seeking to add ICF capacity for low-income Marylanders do not negatively impact existing providers or the health care delivery system. *Id.* Due to the sustained demand for substance use disorder treatment services in the region, particularly among low-income individuals, Pyramid's proposed project will not adversely impact Pathways or any other existing providers.

B. Pyramid's project will not adversely impact the health care delivery system because Pyramid has a demonstrated track record of providing high-quality care.

In addition to assessing the impact that a project may have on other providers, applicants must also analyze the impact the project will have on costs to the health care delivery system. COMAR 10.24.01.08G(3)(f). Pathways alleges that Pyramid's project would adversely impact the health care delivery system because Pyramid proposes to place three patients per room. In raising this point, Pathways fails to recognize that placing three patients in a room is neither unusual nor uncommon. *See, e.g.*, American Addiction Centers Recovery First Treatment Center, https://recoveryfirst.org/blog/inpatient-rehab-what-really-happens-during-drug-treatment/. Pyramid offers three person rooms at its other Maryland facilities, including its ICF recently approved by the Commission, Pyramid Walden. As noted in the Application, Pyramid offers two and three person rooms because the buddying process helps its clients develop strong relationships with other individuals undergoing treatment, fosters camaraderie among clients and, ultimately, helps clients stay engaged in their treatment.

Neither the Commission's previous decisions nor national accrediting body standards indicate that placing three patients in a room creates a deficient standard of care. In its decision approving the Pyramid Walden facility, the Commission expressly acknowledged that the facility would include a mix of two and three person rooms and raised no concerns regarding the

standard of care that Pyramid Walden would provide to its patients as a result. *See In re: Pyramid Walden, LLC*, Docket No. 20-12-2440, Commission Decision, June 11, 2020. Moreover, all of Pyramid's Maryland facilities are accredited by the Commission on Accreditation of Rehabilitation Facilities ("CARF"), whose mission is to promote quality care and positive outcomes for patients served by accredited facilities. CARF's standards do not prohibit three-person occupancy rooms, indicating that such a practice does not impede a provider's ability to offer quality care, nor does it adversely affect patient outcomes. Pyramid is a high quality care provider with a proven track record in Maryland. Pathways offers no credible evidence that Pyramid's proposed facility will adversely impact the health care delivery system.

Conclusion

For the reasons set forth above, Pyramid respectfully asks that the Commission approve Pyramid's CON Application proposing to establish an intermediate care facility in Bowie, Maryland.

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August 3, 2022

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of August, 2022, a copy of the Response of Pyramid Healthcare, Inc. on the Comments of Luminis Health Pathways, Inc., *d/b/a* Pathways Alcohol and Drug Treatment Center proposing the establishment of an intermediate care facility in Bowie, Maryland, was sent via email and first-class mail to:

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I hereby declare and affirm under the penalties of perjury that the facts stated in the Responses to Additional Information Questions Dated April 8, 2022 and April 29, 2022 and in this Response to Interested Party Comments are true and correct to the best of my knowledge, information, and belief.

DocuSigned by:
Jonathan Wolf
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August 3, 2022

Jonathan Wolf
President & CEO
Pyramid Healthcare, Inc.

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August 3, 2022

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Jean B. Clifton
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Pyramid Healthcare, Inc.

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Sarah Deutchman
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I hereby declare and affirm under the penalties of perjury that the facts stated in the Responses to Additional Information Questions Dated April 8, 2022 and April 29, 2022 and in this Response to Interested Party Comments are true and correct to the best of my knowledge, information, and belief.

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