CON Review Guide: SHP Standards for Establishment or Expansion of a Track One or Two Substance Abuse Treatment Facility (ICF)

Standard	Instructions
A. Approval Rules Related To Facility Size. Unless the applicant demonstrates why a relevant standard should not apply, the following standards apply to applicants seeking to establish or to expand either a Track One or a Track Two intermediate care facility. (1) The Commission will approve a Certificate of Need application for an intermediate care facility having less than 15 beds only if the applicant dedicates a special population as defined in Regulation .08. (2) The Commission will approve a Certificate of Need application for a new intermediate care facility only if the facility will have no more than 40 adolescent or 50 adult intermediate care facility beds, or a total of 90 beds, if the applicant is applying to serve both age groups. (3) The Commission will not approve a Certificate of Need application for expansion of an existing alcohol and drug abuse intermediate care facility if its approval would result in the facility exceeding a total of 40 adolescent or 100 adult intermediate care facility beds, or a total of 140 beds, if the applicant is applying to serve both age groups.	Recent Commission decisions have allowed a variance from these specifications, upon the applicant's thorough explanation as to why such a modification is required or desired.
B. Identification of Intermediate Care Facility Alcohol and Drug Abuse Bed Need. (1) An applicant seeking Certificate of Need approval to establish or expand an intermediate care facility for substance abuse treatment services must apply under one of the two categories of bed need under this Chapter:	
(a) For Track One, the Commission projects maximum need for alcohol and drug abuse intermediate care beds in a region using the need projection methodology in Regulation .07 of this Chapter and updates published in the Maryland Register.	(a) See the state health plan at COMAR 10.24.14.07(B)(7) for the need calculation formula…MHCC staff will provide the current inventory, as regular updates are not published
(b) For Track Two, as defined at Regulation .08, an applicant who proposes to provide 50 percent or more of its patient days annually to indigent and gray area patients may apply for: (i) Publicly-funded beds, as defined in Regulation .08 of this Chapter, consistent with the level of funding provided by the Maryland Medical Assistance Programs (MMAP), Alcohol and Drug Abuse Administration, or a local jurisdiction or jurisdictions; and	This section of the SHP is outdated. As of July 2017, Maryland reimburses ICFs through a fee-for-service arrangement using an Administrative Services Organization. Communication from the Behavioral Health Administration of MDH describes the fee-for-service arrangement as follows: *"… if a provider is willing to serve those with Medicaid…they can…submit bills for reimbursement. There is no pre-determined amount of funding for any particular facility. This…is a significant change from the previous system where funds were given to specific ICFs through grants from BHA to the local jurisdiction. The previous payment method only allowed a limited number of ICFs to receive funding, and there was limited to no ability to manage*

	utilization. Under our new reimbursement structure, the ASO, Beacon, authorizes admission for everyone admitted to this level of care. Patients must meet medical necessity criteria to receive that approval."
(ii) A number of beds to be used for private-pay patients in accordance with Regulation .08, in addition to the number of beds projected to be needed in Regulation .07 of this Chapter.	A Track Two facility seeking a number of Track One beds should justify need as in (1) (a) above.
(2) To establish or to expand a Track Two intermediate care facility, an applicant must: (a) Document the need for the number and types of beds being applied for; (b) Agree to co-mingle publicly-funded and private-pay patients within the facility; (c) Assure that indigents, including court-referrals, will receive preference for admission, and (d) Agree that, if either the Alcohol and Drug Abuse Administration, or a local jurisdiction terminates the contractual agreement and funding for the facility's clients, the facility will notify the Commission and the Office of Health Care Quality within 15 days that that the facility is relinquishing its certification to operate, and will not use either its publicly- or privately-funded intermediate care facility beds for private-pay patients without obtaining a new Certificate of Need.	(a) As there is not a set need formula for Track Two beds, applicants should make their case for need by sharing whatever data documents and supports the need for the proposed project and convinced them of the need to apply for a CON. Source of data must be documented. Subsections (b) through (d) are self-explanatory
C. Sliding Fee Scale. An applicant must establish a sliding fee scale for gray area patients consistent with the client's ability to pay.	Provide a sliding fee scale and an explanation of the basis of that scale, as well as the source of any data or parameters that informed the structure of the sliding fee scale. Include any documents used by the applicant to implement /administer the sliding fee scale as exhibits.
D. Provision of Service to Indigent and Gray Area Patients. (The entirety of this standard a*pplies to Track One applicants only*.) (1) Unless an applicant demonstrates why one or more of the following standards should not apply or should be modified, an applicant seeking to establish or to expand a Track One intermediate care facility must:	An applicant seeking to modify this requirement must explain and justify why such a modification should be considered.
(a) Establish a sliding fee scale for gray area patients consistent with a client's ability to pay;	Provide a sliding fee scale and an explanation of the basis of that scale, as well as the source of any data or parameters that informed the structure of the sliding fee scale. Include any documents used by the applicant to implement /administer the sliding fee scale as exhibits.

(b) Commit that it will provide 30 percent or more of its proposed annual adolescent intermediate care facility bed days to indigent and gray area patients; and (c) Commit that it will provide 15 percent of more of its proposed annual adult intermediate care facility bed days to indigent or gray area patients.	Track One applicants must commit to and describe its strategies for fulfilling these obligations. For example, and applicant should discuss how it has or plans to develop relationships with entities likely able to refer indigent or gray area patients to its facility. An applicant must provide its method(s) for tracking the number of indigent patient days it provides and its plan for adjusting recruitment if the level of indigent patient days falls below what is required. **Note:** COMAR 10.24.14.08B defines the "indigent population" as those "persons who qualify for services under the Maryland Medical Assistance Program (more commonly known as Medicaid), regardless of whether Medical Assistance will reimburse for alcohol and drug abuse treatment." The "gray area population" is defined as those "persons who do not qualify for services under the Maryland Medical Assistance Program but whose annual income from any source is no more than 180 percent of the most current Federal Poverty Index, and who have no insurance for alcohol and drug abuse treatment."
(2) An existing Track One intermediate care facility may propose an alternative to the standards in Regulation D(1) that would increase the availability of alcoholism and drug abuse treatment to indigent or gray area patients in its health planning region. (3) In evaluating an existing Track One intermediate care facility's proposal to provide a lower required minimum percentage of bed days committed to indigent or gray area patients in Regulation D(1) or an alternative proposal under Regulation D(2), the Commission shall consider: (a) The needs of the population in the health planning region; and (b) The financial feasibility of the applicant's meeting the requirements of Regulation D(1).	Applicant should provide a thorough discussion of why it is proposing an alternative as well as a thorough discussion of the factors listed in section (3)(a) and (b).
(4) An existing Track One intermediate care facility that seeks to increase beds shall provide information regarding the percentage of its annual patient days in the preceding 12 months that were generated by charity care, indigent, or gray area patients, including publicly-funded patients.	Self-explanatory.
E. Information Regarding Charges. An applicant must agree to post information concerning charges for services, and the range and types of services provided, in a conspicuous place, and must document that this information is available to the public upon request.	All applicants must agree to post this information and document that it is or will be made available upon public request. Provide a copy of the information that is posted as an attachement(new applicants provide a draft of the posting).
F. Location.	Self-explanatory

An applicant seeking to establish a new intermediate care facility must propose a location within a 30-minute one-way travel time by automobile to an acute care hospital.	
G. Age Groups. (1) An applicant must identify the number of adolescent and adult beds for which it is applying, and document age-specific treatment protocols for adolescents ages 12-17 and adults ages 18 and older.	Submit the age-specific protocols.
2) If the applicant is proposing both adolescent and adult beds, it must document that it will provide a separate physical, therapeutic, and educational environment consistent with the treatment needs of each age group including, for adolescents, providing for continuation of formal education.	Describe the environment and how the proposed facility will separate the patient population by age and gender. A floor plan that clearly shows this separation would be useful.
(3) A facility proposing to convert existing adolescent intermediate care substance abuse treatment beds to adult beds, or to convert existing adult beds to adolescent beds, must obtain a Certificate of Need.	Self-explanatory
H. Quality Assurance. (1) An applicant must seek accreditation by an appropriate entity, either the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO), in accordance with CFR, Title 42, Part 440, Section 160, the CARF…The Rehabilitation Accreditation Commission, or any other accrediting body approved by the Department of Health and Mental Hygiene. The appropriate accreditation must be obtained before a Certificate of Need-approved ICF begins operation, and must be maintained as a condition of continuing authority to operate an ICF for substance abuse treatment in Maryland. (a) An applicant seeking to expand an existing ICF must document that its accreditation continues in good standing, and an applicant seeking to establish an ICF must agree to apply for, and obtain, accreditation prior to the first use review required under COMAR 10.24.01.18; and	An existing facility must document its accreditation. Applicants for a new facility must agree to pursue such accreditation and document its receipt prior to first-use approval of the facility.
(b) An ICF that loses its accreditation must notify the Commission and the Office of Health Care Quality in writing within fifteen days after it receives notice that its accreditation has been revoked or suspended. (c) An ICF that loses its accreditation may be permitted to continue operation on a provisional basis, pending remediation of any deficiency that caused its accreditation to be revoked, if the Office of Health Care Quality advises the Commission that its continued operation is in the public interest.	Affirm understanding – and agreement to comply with - these requirements.
(2) A Certificate of Need-approved ICF must be certified by the Office of Health Care Quality before it begins operation, and must maintain that certification as a condition of continuing authority to operate an ICF for substance abuse treatment in Maryland.	

<table>
<tr><td>a) An applicant seeking to expand an existing ICF must document that its certification continues in good standing, and an applicant seeking to establish an ICF must agree to apply for certification by the time it requests that Commission staff perform the first use review required under COMAR 10.24.01.18.</td><td>An existing facility must document its certification. Applicants for a new facility must agree to pursue such certification and document its receipt prior to first-use approval of the facility.</td></tr>
<tr><td>b) An ICF that loses its State certification must notify the Commission in writing within fifteen days after it receives notice that its accreditation has been revoked or suspended, and must cease operation until the Office of Health Care Quality notifies the Commission that deficiencies have been corrected.

c) Effective on the date that the Office of Health Care Quality revokes State certification from an ICF, the regulations at COMAR 10.24.01.03C governing temporary delicensure of a health care facility apply to the affected ICF bed capacity.</td><td>Affirm understanding and agreement to comply with these requirements.</td></tr>
<tr><td>I. Utilization Review and Control Programs.
(1) An applicant must document the commitment to participate in utilization review and control programs, and have treatment protocols, including written policies governing admission, length of stay, discharge planning, and referral.</td><td>An applicant should provide the required documentation.</td></tr>
<tr><td>(2) An applicant must document that each patient’s treatment plan includes, or will include, at least one year of aftercare following discharge from the facility.</td><td>Applicant should provide a brief description of how it facilitates the aftercare of its patients, citing and excerpting the relevant language from the corresponding policy, and appending that policy.</td></tr>
<tr><td>J. Transfer and Referral Agreements.

(1) An applicant must have written transfer and referral agreements with facilities capable of managing cases which exceed, extend, or complement its own capabilities, including facilities which provide inpatient, intensive and general outpatient programs, halfway house placement, long-term care, aftercare, and other types of appropriate follow-up treatment.</td><td>The agreements referenced in Subsection (1) should be included as exhibits.</td></tr>
<tr><td>(2) The applicant must provide documentation of its transfer and referral agreements, in the form of letters of agreement or acknowledgement from the following types of facilities:
(a) Acute care hospitals;
(b) Halfway houses, therapeutic communities, long-term care facilities, and local alcohol and drug abuse intensive and other outpatient programs;
(c) Local community mental health center or center(s);
(d) The jurisdiction's mental health and alcohol and drug abuse authorities;
(e) The Alcohol and Drug Abuse Administration and the Mental Hygiene Administration;
(f) The jurisdiction's agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services; and,
(g) The Department of Juvenile Justice and local juvenile justice authorities, if applying for beds to serve adolescents.</td><td>Applicant must document a transfer/referral agreement with at least one entity in each class of providers listed. A suggested format is shown below.
<table>
<tr><th>Provider Category</th><th>Agreement(s) with:</th></tr>
<tr><td>Acute care hospitals</td><td></td></tr>
<tr><td>Halfway houses, therapeutic communities, long-term care facilities, and local alcohol and drug abuse outpatient programs</td><td></td></tr>
<tr><td>Local community mental health center or center(s)</td><td></td></tr>
<tr><td>The jurisdiction’s mental health and alcohol and drug abuse authorities</td><td></td></tr>
<tr><td>The Behavioral Health Administration of MDH (formerly the Mental Hygiene Administration with its division of</td><td></td></tr>
</table></td></tr>
</table>

	<table><tr><td>Alcohol and Drug Abuse)</td><td></td></tr><tr><td>The jurisdiction's agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services</td><td></td></tr><tr><td>The Department of Juvenile Justice and local juvenile justice authorities, if is serving or plans to serve adolescents</td><td></td></tr></table>
K. Sources of Referral. (1) An applicant proposing to establish a new Track Two facility must document to demonstrate that 50 percent of the facility's annual patient days, consistent with Regulation .08 of this Chapter, will be generated by the indigent or gray area population, including days paid under a contract with the Alcohol and Drug Abuse Administration or a jurisdictional alcohol or drug abuse authority. **(Applies *to Track two applicants only*.)**	Applicant should document that it has developed contacts with agencies and/or entities likely to have clients who will need the service and fit this socio-economic profile, and thus are likely to refer indigent or gray area patients to their facility.
(2) An applicant proposing to establish a new Track One facility must document referral agreements to demonstrate that 15 percent of the facility's annual patient days required by Regulation .08 of this Chapter will be incurred by the indigent or gray area populations, including days paid under a contract with the Alcohol or Drug Abuse Administration or a jurisdictional alcohol or drug abuse authority, or the Medical Assistance program. ***(Applies to Track One applicants only*.)**	Applicant should document that it has developed contacts with agencies and/or entities likely to have clients who will need the service and fit this socio-economic profile, and thus are likely to refer indigent or gray area patients to their facility.
L. In-Service Education. An applicant must document that it will institute or, if an existing facility, maintain a standardized in-service orientation and continuing education program for all categories of direct service personnel, whether paid or volunteer.	All applicants must confirm that they provide or will provide orientation and continuing education programs. These programs should be listed and briefly described in the body of the application. If the applicant has policies that describe these programs, then include those policies as exhibits.
M. Sub-Acute Detoxification. An applicant must demonstrate its capacity to admit and treat alcohol or drug abusers requiring sub-acute detoxification by documenting appropriate admission standards, treatment protocols, staffing standards, and physical plant configuration.	Applicants should document each of the required features.
N. Voluntary Counseling, Testing, and Treatment Protocols for Human Immunodeficiency Virus (HIV). An applicant must demonstrate that it has procedures to train staff in appropriate methods of infection control and specialized counseling for HIV-positive persons and active AIDS patients.	Provide documentation.

O. Outpatient Alcohol & Drug Abuse Programs. (1) An applicant must develop and document an outpatient program to provide, at a minimum: individual needs assessment and evaluation; individual, family, and group counseling; aftercare; and information and referral for at least one year after each patient's discharge from the intermediate care facility.	Describe how the enumerated services are provided. If this is described in a policy, procedure, or protocol cite the language, its location in such document, and append the document as an exhibit.
(2) An applicant must document continuity of care and appropriate staffing at off-site outpatient programs.	An applicant should describe the steps it takes to ensure continuity of care and document the presence of appropriate staffing. If such is described in a policy, procedure, or protocol cite the language, its location in such document, and append the document as an exhibit.
(3) Outpatient programs must identify special populations as defined in Regulation. 08, in their service areas and provide outreach and outpatient services to meet their needs.	Note that COMAR 10.24.14.08 defines special populations as "those populations that historically have not been or are not now served by the alcohol and drug abuse treatment delivery system including, women and women with dependent children, the elderly, the homeless, the poor, adolescents, persons with mixed dependencies, hearing impaired, the disabled, minorities, and others with special needs."
(4) Outpatient programs must demonstrate the ability to provide services in the evening and on weekends.	Describe how this requirement will be fulfilled. Once again, if such is described in a policy, procedure, or protocol cite the language, its location in such document, and append the document as an exhibit
(5) An applicant may demonstrate that outpatient programs are available to its patients, or proposed patient population, through written referral agreements that meet the requirements of (1) through (4) of this standard with existing outpatient programs.	Subsection (5) is self-explanatory
P. Program Reporting. Applicants must agree to report, on a monthly basis, utilization data and other required information to the Alcohol and Drug Abuse Administration's Substance Abuse Management Information System (SAMIS) program, and participate in any comparable data collection program specified by the Department of Health and Mental Hygiene.	Section P is self-explanatory