

STATE OF MARYLAND

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**MARYLAND HEALTH CARE COMMISSION**

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215  
TELEPHONE: 410-764-3460 FAX: 410-358-1236

February 21, 2020

By E-Mail and USPS

Margaret M. Witherup, Esquire  
Gordon Feinblatt LLC  
233 East Redwood Street  
Baltimore, MD 21202-3332

Re: Summary of Project Status Conference  
Baltimore Detox Center, LLC  
Application for Certification of Need  
Docket No.: 18-03-2419

Dear Ms. Witherup:

The Commission staff is writing this letter to summarize the project status conference held today, regarding the application filed by Baltimore Detox Center, that seeks to establish a 24-bed Track One American Society of Addiction Medicine (“ASAM”) Level 3.7.WM medically monitored intensive inpatient services withdrawal management (detoxification) and Level 3.7 medically monitored intensive inpatient services program in the Central Maryland region, which covers Baltimore City and Anne Arundel, Baltimore, Harford, and Howard counties.

At the project status conference, we discussed the following areas for which additional information is needed before staff can make a positive recommendation to the Commission.

**Bed Complement**

The applicant’s description of the bed complement at the proposed facility has been inconsistently stated throughout the review process.

It is clear that the applicant seeks to establish a 24 bed facility to treat patients for chemical dependency, with those beds to be distributed between ASAM level 3.7 and 3.7WM and a lower level residential service. But conflicting statements made by the applicant over time

regarding the mix of those beds has made it impossible to ascertain how many of these beds will provide Level 3.7 and Level 3.7WM care.

I note that only the beds authorized to provide service at Level 3.7 and above are considered to be subject to CON review.

The applicant's statements regarding the number of Level 3.7WM and Level 3.7 beds have shifted during the course of the review. At various points, whether in the initial application, in a response to completeness questions, or in the modified application, the project has been described as:

- twenty-four 3.7/3.7WM beds;
- ten Level 3.7/3.7WM, ten "residential," and four which are described as "flex" beds; or
- fourteen residential beds and ten 3.7/3.7WM beds.

*Remedy: BDC needs to confirm the number of Level 3.7WM and Level 3.7 beds it seeks for the proposed facility. Note that beds will need to be licensed at the highest level of use anticipated, i.e., if the intention is to occasionally use the four "Flex Beds" for Level 3.7WM and Level 3.7 services, they must be classified as 3.7 and/or 3.7WM. BDC should re-submit both Table A – Physical Bed Capacity and Table C – Statistical Projections, to show a clear breakdown on the level of care that BDC will provide through implementation of the program. With regard to the "flex" beds, please provide the assumptions used in determining the projected utilization for this category of service at BDC.*

### **Revenue and Expense Projections**

The applicant's Revenue and Expense Statements show revenue to be calculated assuming that all patient days are at the payment rate for 3.7/3.7WM services, despite the fact that BDC's statistical projections and bed complement includes lower level "residential" services.

Apparently, in calculating Net Operating Revenue, BDC does not take into consideration that residential care generates a lower daily revenue than Level 3.7WM and Level 3.7 care. When the applicant changed its bed complement from 24 Level 3.7WM and Level 3.7 beds to 10 Level 3.7WM and Level 3.7 and 14 residential beds it did not modify revenue projections accordingly.

*Remedy: BDC should revise Table D-Revenues and Expenses, and Table E-Workforce Information to be consistent with the final breakdown in the total number of both Level 3.7WM/Level 3.7 beds, and for Level 3.5 and below beds. Please include the reimbursement rates and assumptions used with the calculations for the revised Table D and Table E.*

**Provision of Service to Indigent and Gray Area Patients**

This standard, found at COMAR 10.24.14.05D, requires that a Track One provider commit to “provide 15 percent or more of its proposed annual adult intermediate care facility bed days to indigent or gray area patients.”

In its application BDC states that it would make a commitment “to utilize slightly more than three of BDC’s 24 occupied beds exclusively for indigent and gray area patients.” While reserving beds for indigent and gray area patients is a methodology BDC may choose to use to meet its responsibility under the standard, that methodology alone may not suffice. For example, if the “reservation” of the beds is not accompanied by vigorous outreach and/or monitoring of the patient mix, it may or may not succeed in meeting the target.

*Remedy: To confirm that the applicant remains committed to meeting this standard BDC should devise and outline the system it will use to monitor the amount and proportion of bed days utilized for indigent or gray area patients (i.e., on a daily, monthly, quarterly, etc., basis), and how it will adjust its outreach and admissions process to ensure that 15% or more of its annual bed days are allocated to indigent or gray area patients.*

**Project Budget**

MHCC’s application form includes a *Table B - Project Budget* which has line item cost columns for: “3.7/3.7WM” beds; “residential” beds (defined as inpatient treatment below Level 3.7); and “Total.” The applicant’s Project Budget allocates no cost to the “residential” column, despite the inclusion of residential beds in the project.

*Remedy: Submit a revised Table B that allocates the project budget between the Level 3.7WM/Level 3.7 component and the residential component. Explain any assumptions made in allocating the cost.*

**We are pleased with your decision – shared at the meeting – to make these changes. As we discussed, our hope would be to be able to take a recommendation to the Commission’s March meeting. In order to be able to do that, we will need a thorough complete set of changes in short order. If we don’t have the complete information by March 2, that will be hard to make happen.**

Sincerely yours,

A handwritten signature in black ink, appearing to read "Kevin McDonald", written over a horizontal line.

Kevin McDonald, Chief  
Certificate of Need

Ms. Witherup  
Status Conference Summary, Baltimore Detox Center, LLC  
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cc: Billie Penley, MBA, Health Officer, Anne Arundel County  
Letitia Dzirasa, MD, Health Officer, Baltimore City  
Gregory Wm. Branch, MD, Health Officer, Baltimore County  
Russell Moy, MD, Health Officer, Harford County  
Maura Rossman, MD, Health Officer, Howard County  
Paul Parker, Director, Health Care Facilities Planning and Development  
Aliya Jones, M.D., Executive Director, Behavioral Health Administration  
William Chan, Program Manager  
Suellen Wideman, Assistant Attorney General