MARYLAND
Health Care
Commission

Randolph S. Sergent, Esq, Chairman
Ben Steffen, Executive Director

March 11, 2025

VIA Email
Darci Smith, Esquire
Gordon Feinblatt, LLC
1001 Fleet Street, Suite 700
Baltimore, MD 21202

Re: Foundations Inpatient, LLC
Application for Certificate of Need to establish
an Intermediate Care Facility

Dear Ms. Smith:

Maryland Health Care Commission (MHCC or Commission) staff has reviewed your February 19, 2025 response to completeness. The response contains a number of areas that require explanation and/or clarification. These areas are enumerated below. However, Commission staff still finds the application incomplete. There are key documents and pieces of information that the applicant has not satisfactorily furnished. These include:

- Transfer and referral agreements with required entities
- Agreements with outpatient programs.

All of the requested information must be provided for the application to be considered complete. The applicant risks denial of the application if the remaining requested and/or obligatory information, as above and below, is not provided.

1. Gray area patients – Provide the strategy/mechanism to recruit more indigent and gray area patients if bed days for these individuals falls below 15%?
2. Need – On page 4 of your February 19 response, you state that after opening the Foundations facility, patients currently receiving 3.7 level care at BDC will be moved to Foundations, freeing up more beds for detox patients (at BDC). You state that "Foundations anticipates this shift to account for an additional 8.6 patients." Clarify whether the 8.6 patients are monthly, yearly? How did you arrive at the 8.6 patient number?
3. On page 4 of your response, you state that:

> *Foundations also assumes…that the care plan for Level III.7 residential is 14 days instead of the 8 days used in the prior more conservative model.*

What is the clinical justification (or evidence for) 14-day length of stay for III.7 patients. Provide the source(s) of information used.

4. Impact – On page 8 of your response you state that "Foundations does not believe its proposed 40 ICF beds will have a significant impact on other providers in Central and Western Maryland given the geographic distance between Foundations and most of the facilities." Yet you state that "Washington County, Allegheny County and Garrett County are large referral sources to BDC and are anticipated to be large referral sources to Foundations." What proportion of patients are expected to come from Western Maryland? Explain why Foundations would not have an impact on existing Track 2 facilities in Western Maryland.

5. Provide the data to support your statement on page 8 of your response "Although Baltimore City has 228 approved Track 2 ICF beds, which have their own access and availability issues." Describe the access and availability issues currently faced by residents.

6. Health Equity – On page 9 of your response you state, "Foundations plans to employ a Spanish speaking business development representative to engage the Hispanic population and facilitate admissions." Identify which individual on the staffing chart (Table G) will fulfill this role.

TABLES

7. Tables C and F – These tables show occupancy rates for the residential and 3.7 beds at 84.4% and 93.8% respectively. According to Commission staff calculations, the residential side of the facility will be running at 93.8% occupancy (15,056 projected bed days/16,060 possible bed days) while the 3.7 facility will be operating at 84.4% (12,319 projected bed days/14,600 possible bed days). Please correct.

8. Table G – Commission staff remains concerned about the feasibility of the staffing at Foundations, especially as it pertains to the salaries. Staff notes that the medical director, clinical director and director of nursing, all positions requiring various levels of education and expertise, are slated to receive the same salary. Clarify the salary structure and/or correct. Make sure any changes are reflected in tables D/F.

9. Table G - Staff is unclear about the work schedule of the executive director. The position is labeled as Executive Director – PT but it shows 1.0 full-time equivalent. Correct the table as necessary.

10. Table G – The final projected year of the entire facility's total costs on the bottom right of the table Row 55 shows $1,074,411 but should actually show $4,542,276. Please correct.

11. Exhibit C:

    a) The Assumptions sheet states your Gross Revenue per patient day as $1,300. We understand that when you reduce contractual allowance and bad debt your Net Revenue should yield $389. Relatedly, on page 9 under the "Impact to Health Care Delivery System" you compare the projected Gross Patient Revenue per patient day, at $389, to Hygea Detox's, at $1224.5. If you observe the Gross Patient Service Revenue in Hygea's CON tables (Row 8, Table D) and divide it by the Patient Days (Row 14, Table C) stated therein, it does yield a constant Gross Patient Revenue of $1224.5 across the projected years CY 2024, 25, and 26. Same was the case in BDC tables (Row 8, Table D), divide it by the Patient Days (Row 14, Table C) stated therein, and it yielded a constant Gross Patient Revenue of $1108, across the projected years CY 2021, 22, 23, and 24. Table D data in both CON applications tally with their stated assumptions. Also note that the payer mix for both the aforementioned applicants was predominantly Blue Cross and Commercial. Considering that 90% of Foundation's patients are expected to be on Medicaid, and applying similar calculation to your latest CON table D; the Gross Revenue per patient day should be $371, $392 and $398 (Row 8, Table D divided by Patient Days on Row 14, Table C) across CY 25, 26,and 27 respectively. Kindly clarify our understanding. In case this is a representation error, then you might have to correct Table D and/or Table C and/or Table F and/or the Assumptions sheet to match your response.

    b) On similar lines, the Bad Debt % stated on the Assumptions sheet reflects 2% whereas the actual Bad Debt (in Row 9, Table D) turns out to be 3.1%, 2.7%, and 2.7% of the stated Gross Patient Service Revenue (Row 8, Table D) across CY 25, 26, and 27 respectively. It is the same case with Charity Care. The Assumptions sheet does not state it ~~speak~~, however the ~~actual~~ Charity Care stated on Row 11, Table D works out to 1.9%, 2.3% and 2.3% of the stated Gross Patient Service Revenue for the same period. The reverse is the case with Contractual Allowance. The Assumptions sheet has a percentage attributed to it, however Row 10, Table D shows blank across respective fields, which again takes it back to the question 11a about representation and public interpretation. Kindly explain your position.

c) The 15% year over year growth in "Facility Operations and Support" on Row 2e of Table F between CY 2026 and 2027 is mainly driven by a 256% increase in "Other Facility Operations Support Expenses" on Row 33 of Exhibit C “Table - Other Expenses”, from $13,505 to $48,053. Could you kindly explain? These expense items affect profitability, which is fundamental to ascertaining viability of the project.

Please submit four copies of the responses to the above questions and the requests for additional information within ten working days of receipt. Also submit the response electronically, in both Word and PDF format, to our CON mailbox at mhcc.confilings@maryland.gov If additional time is needed to prepare a response, please let me know at your earliest convenience.

As with the request itself, all information supplementing the request must be signed by person(s) available for cross-examination on the facts set forth in the supplementary information, who shall sign a statement as follows: “I hereby declare and affirm under the penalties of perjury that the facts stated in this application and its attachments are true and correct to the best of my knowledge, information, and belief.”

MHCC recommends that the applicant consult with MHCC staff to discuss the application and completeness of this final submission. Should you have any questions regarding this matter, please contact me at (410) 764-3232.

Sincerely,

Moira Lawson
Program Manager

cc: Ewurama Shaw-Taylor, Chief, Certificate of Need
Wynee Hawk, Director, Health Facilities Planning and Development
Vishal Mundlye, Health Planning and Finance Analyst
Caitin Tepe, Assistant Attorney General
Alexa Bertinelli, Assistant Attorney General
Deanna Dunn, Health Facilities Coordinator