



**MARYLAND HEALTH CARE COMMISSION**

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**MEMORANDUM**

**TO:** Commissioners  
**FROM:** Kevin R. McDonald  
Chief, Certificate of Need  
**DATE:** March 19, 2020  
**SUBJECT:** Baltimore Detox Center  
Docket No. 16-02-2374

A handwritten signature in black ink, appearing to read 'Kevin R. McDonald', is written over the 'FROM' field of the memorandum.

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Enclosed is the staff report and recommendation for a Certificate of Need (CON) application filed by Baltimore Detox Center (BDC), LLC, to establish a new 24 bed Track One Intermediate Care Facility providing Level III.7-WM, Medically Monitored Intensive Inpatient Withdrawal Management (Detoxification) services in Woodlawn, Baltimore County. The proposed detox program will operate on two floors in an existing building located at 1825 Woodlawn Drive.

The total project budget is \$585,982, and includes: building renovations, furnishings, and equipment estimated at \$285,982; \$225,000 in working capital start-up costs to cover initial payroll, lease, equipment, and other operational expenses; and \$75,000 for CON application assistance and legal fees. The applicant will finance the entire cost of this project with cash.

Commission staff analyzed the proposed project's compliance with the applicable State Health Plan criteria and standards and the other applicable CON review criteria at COMAR 10.24.01.08 and recommends that the project be APPROVED with the following conditions:

1. Baltimore Detox Center shall provide a minimum of 15% of patient days of care to indigent and gray area patients, as defined at COMAR 10.24.14.08B(9) & (11) and shall document the provision of such charity care by submitting annual reports auditing its total days of care and the provision of days of care to indigent and gray area patients as a percentage of total days of care. Such

audit reports shall be submitted to the Commission following each BDC fiscal year, from the project's inception and continuing for five years thereafter.

2. Baltimore Detox Center must receive preliminary accreditation by the Commission on the Accreditation of Rehabilitation Services ("CARF") prior to receipt of First Use Approval and must timely receive final accreditation by CARF.
3. Baltimore Detox Center shall provide written transfer and referral agreements with the following entities or organizations prior to first use approval: acute care hospitals; halfway houses, therapeutic communities, long-term care facilities, and local alcohol and drug abuse intensive and other outpatient programs; local community mental health center or center(s); Baltimore County's mental health and alcohol and drug abuse authorities; the Behavioral Health Administration; and Baltimore County's agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services.
4. Baltimore Detox Center shall provide written referral agreements with outpatient alcohol and drug abuse programs that meet the requirements of (1) through (4) of COMAR 10.24.14.05O.

**IN THE MATTER OF  
BALTIMORE  
DETOX CENTER, LLC  
Docket No. 18-03-2419**

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**BEFORE THE  
MARYLAND HEALTH  
CARE COMMISSION**

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**STAFF REPORT AND RECOMMENDATION**

**March 19, 2020**

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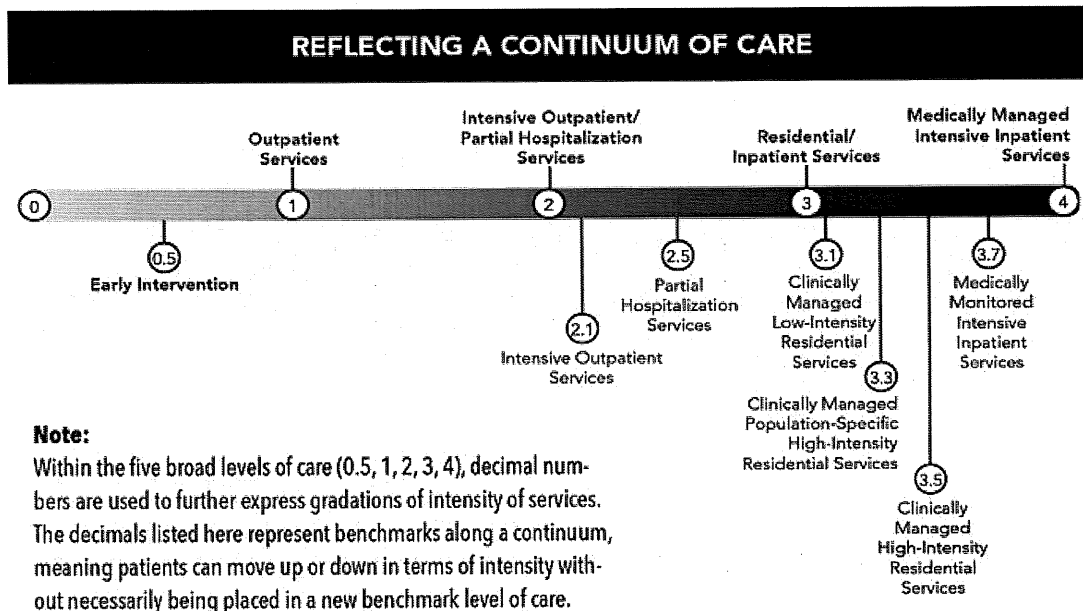
# I. INTRODUCTION

## A. Background

Baltimore Detox Center, LLC (BDC) proposes the establishment of a 24-bed alcoholism and drug abuse treatment intermediate care facility (ICF) in Baltimore County. ICFs provide a high level of care, usually including both withdrawal management (WM, or detoxification) and/or on-going treatment for persons with substance use disorder (SUD). This level of care is described by the American Society of Addiction Medicine (ASAM) as medically monitored intensive inpatient services (ASAM Level 3.7 services). The Maryland Health Care Commission (Commission) regulates this level of addictions treatment and hospital-level medically managed intensive inpatient services (ASAM Level 4.0) within the scope of Certificate of Need (CON) regulation but does not regulate the much larger spectrum of lower level withdrawal management and treatment programs, which include both outpatient programs and residential facilities. (See Figure 1 below.) The ASAM level of care taxonomy is used by the Maryland Department of Health’s Behavioral Health Administration (BHA) to classify levels of treatment in Maryland.

A Certificate of Need is required to establish or relocate an ICF or to establish, relocate, or add beds to a hospital-level alcoholism and drug abuse treatment service. Once established, an ICF may add beds without CON review and approval.

Figure 1



Source: The ASAM Criteria - American Society of Addiction Medicine  
<http://asamcontinuum.org/knowledgebase/what-are-the-asam-levels-of-care/>

ASAM Level 3.7-WM care<sup>1</sup> has the following attributes:

**Level 3.7-WM: Medically Monitored Inpatient Withdrawal Management**

- Services are delivered in a freestanding withdrawal management center with inpatient beds
- Services are provided 24 hours daily with observation, monitoring, and treatment
- Services include specialized clinical consultation; supervision for cognitive, biomedical, emotional, and behavioral problems; medical nursing care; and direct affiliation with other levels of care

**B. The Applicant**

BDC is owned by MBM Ventures, LLC (MBM Ventures), which also owns Amatus Health, LLC (Amatus Health ) and Amatus Recovery Centers, LLC. (DI #55, p.1). Amatus Health is the operator of a series of treatment centers owned by MBM Ventures. Amatus Recovery Centers, LLC is the marketing arm and operates a call center that is equipped to place patients in Amatus Health centers.

BDC will enter into a management agreement with Amatus Health, LLC, to provide business management and operational services, and with Amatus Recovery Centers, LLC to provide placement and business development services. (DI #55, p. 1).

MBM Ventures is the managing member and has an ownership interest in 12 centers providing WM and/or other SUD treatment services in six states. In Maryland, this includes Foundations Recovery Center, an outpatient center located at the same Woodlawn site proposed for establishment of the ICF, Fresh Start Recovery Center, an outpatient center located in Gaithersburg, and Awakenings Recovery Center, a residential treatment program (ASAM Level 3.5) in Hagerstown. It also includes two ASAM Level 3.7 facilities and two outpatient centers in Ohio, an ASAM Level 3.7 facility in Florida, an ASAM Level 3.7 facility and an outpatient center in Georgia, an outpatient center in New Hampshire, and an ASAM Level 3.7 facility in Texas. Additionally, MBM Ventures is the managing member (but no longer has an ownership interest) in two Florida outpatient programs that also include a community housing component. All of these facilities have opened recently, with the oldest beginning operations in May 2017. (DI #55, p. 2).

The applicant submitted organizational charts, which can be reviewed at Appendix 2.

**C. The Project**

BDC is proposing a 24-bed “Track One” ICF offering 3.7WM services for adults in a facility located at 1825 Woodlawn Drive in Woodlawn (western Baltimore County). A Track One ICF, as defined in COMAR 10.24.14: State Health Plan for Facilities and Services: Alcoholism and Drug Abuse Intermediate Care Facility Treatment Services (ICF Chapter), operates “private beds”

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<sup>1</sup><https://www.medicaid.gov/state-resource-center/innovation-accelerator-program/iap-downloads/reducing-substance-use-disorders/asam-resource-guide.pdf>, at p.13

in a facility which admits a majority of private-pay patients. Track One facilities seeking a CON are required to provide no less than 15 percent of the facility's annual patients days to the indigent and gray area population. COMAR 10.24.14.04. The other type of ICF defined in the SHP, are "Track Two" ICFs, facilities with "publicly-funded beds" that "reserve at least 50 percent of their proposed annual adolescent or adult bed capacity for indigent or gray area patients." *Id.* "Indigent" patients are those who qualify for services under the Maryland Medicaid program. COMAR 10.24.14.08B(11). "Gray area" patients do not so qualify but have an annual income (from any source) that is no more than 180% of the current Federal Poverty Index and have no insurance for alcohol and drug abuse treatment services. COMAR 10.24.14. 08.B(9)

BDC proposes to convert a facility in which MBM currently operates an outpatient recovery center into a 24-bed ICF providing Level 3.7-WM adult withdrawal management services. The building, located on Woodlawn Drive, is owned by Woodlawn Holdings, LLC, an entity that is owned by the same principals as MBM Ventures, LLC. (DI #17, pp. 4-5; DI #17, Att. 27). It will occupy one of the four tenant suites within the Woodlawn Drive building. The applicant states that to accommodate the establishment of BDC, Foundations Recovery Center will relocate to Owings Mills.

Foundations Recovery Center, operated by Amatus Health, began operations at the Woodlawn site in May 2018. It offers a partial hospitalization program (PHP), intensive outpatient (IOP) services, and outpatient (OP) programming for people with substance abuse disorder who are transitioning from a higher level of care or initiating a first step in recovery.<sup>2</sup> (DI #12, p. 4). Should the applicant receive approval to establish BDC, the facility will relocate to a building in Owings Mills owned by MBM Ventures. (DI #17, p. 4).

Over the course of the review BDC changed its description of the bed complement several times. Its projected utilization and financial projections did not align with the various bed complement scenarios presented during the course of this review. As a result, staff determined that a project status conference was required to modify the application to define the bed complement as well as provide projections that aligned with these plans. A project status conference was held on February 21, 2020.

In response BDC clarified its intent to operate a 24-bed Track One facility limited to providing Level 3.7-WM, medically monitored intensive inpatient withdrawal management services. (DI #55, pp. 3-4). (DI #55, p. 3). The facility will be housed on two floors. The first floor will consist of a day room, a game room, a dining area, a staff work area, staff offices and a reception area. The second floor will contain 12 semi-private rooms (approximately 140 square feet in size), a nursing station and staff area, four toilets and three showers. (DI #4, p 7; DI #12, p. 8 and Att. 17). The facility will not have a kitchen; BDC will contract with a caterer who will deliver meals. The total estimated cost to renovate this space for its intended use is \$585,982, which will be funded with cash. The following Table I-1 details the project budget. (DI #12, p. 9). Floor plan drawings for the proposed facility can be found in Appendix 3. BDC proposes to enter into a ten-year lease for the space.

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<sup>2</sup> Further information is available at: <https://www.foundationsrecoverycenter.com/levels-of-care/>.

The applicant believes that, if approved, the required renovations can commence within one month.

**Table I-1: Baltimore Detox Center  
Project Budget Estimate**

<b>Use of Funds</b>	
<i>Renovations</i>	
Building	\$155,000
Architect/Engineering Fees	30,000
Permits (Building, Utilities, etc.)	4,500
<i>Subtotal</i>	\$189,500
<i>Other Capital Costs</i>	
Movable Equipment (Beds, Nurse Station, Furnishings)	\$65,000
Contingency Allowance	28,300
<i>Subtotal</i>	\$93,300
<i>Total Current Capital Costs</i>	\$282,800
Inflation Allowance	\$3,182
<i>Total Capital Costs</i>	\$285,982
<i>Financing Cost and Other Cash Requirements</i>	
CON Application Assistance	
Legal Fees	\$35,000
Other Fees	40,000
<i>Subtotal</i>	\$75,000
Working Capital/Startup Costs	\$225,000
<i>Total Uses of Funds</i>	\$585,982
<b>Sources of Funds</b>	
Cash	\$585,982
<i>Total Sources of Funds</i>	\$585,982

Source: DI #31, Att. 21, Table B.

#### **D. Summary of Staff Recommendation**

Staff recommends approval of the project based on its conclusion that the proposed project complies with the applicable standards in the ICF Chapter of the State Health Plan and that the need for the project, its cost effectiveness, and its viability have been demonstrated. Staff also concludes that the impact of the project is positive, primarily because it will improve access to alcohol and drug treatment withdrawal management services. Staff recommends that, if the Commission awards a CON for this project, four conditions be included regarding the provision of care to the indigent and gray area populations, accreditation, transfer agreements, and referral agreements with providers of outpatient alcohol and drug abuse programs.

## **II. PROCEDURAL HISTORY**

### **A. Record of the Review**

Please see Appendix 1, Record of the Review.

## **B. Interested Party in Review**

On December 14, 2018, Maryland House Detox, LLC (MHD) filed comments and sought interested party status in this review. MHD is a 16-bed, Track One ICF, which, like the proposed BDC facility, limits its operations to withdrawal management. It is located in Linthicum in Anne Arundel County. Establishment of MHD was approved by the Commission in a December 2016 CON (Docket No. 16-02-2374). It began operating in May 2018 and, in May of 2019 it received a determination of coverage from Commission staff that it could add 24 additional ASAM 3.7-WM beds pursuant to changes in the law<sup>3</sup> that went into effect in 2019 that removed the requirement for an existing ICF to obtain a CON to add beds.

Commissioner Jason McCarthy was appointed as Reviewer in this case and qualified MHD as an interested party in the review. (DI #45). However, on February 14, 2020, MHD submitted a letter withdrawing its request to be an interested party as well as its opposition to the project. (DI #51). With MHD's withdrawal as an interested party, Commission staff completed the review of this project.

## **C. Local Government Review and Comment**

No local government agencies submitted comments on this project.

## **D. Other Support and Opposition to the Project**

BDC submitted letters supporting the project from public officials and representatives of both substance abuse treatment programs and counseling and court diversion programs, arrayed below by category.

### **Public Officials**

- Senator Shirley Nathan-Pulliam, Legislative District 44, Baltimore City and Baltimore County
- Delegate Pat Young, Legislative District 44B, Baltimore County
- Hillena Beyene, Peer Support Specialist Supervisor, Baltimore County Department of Health
- Michael M. Gimbel, President, Mike Gimbel Associates, LLC and former Director, Baltimore County Office of Substance Abuse

### **Other substance abuse treatment providers**

- Chance Ashman-Galliker, Vice President, Magnolia New Beginnings
- Leeann Bedsaul and Myra Derbyshire, Program Managers, Char Hope Foundation
- Frank Biden, Esq., National Recovery Council
- Andrew P. Darby, Kolmac Outpatient Recovery Centers
- Lynn Fowler Miller, Maryland Heroin Awareness Advocates

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<sup>3</sup> Maryland Code Annotated, Health-General §19-120(h)(2)(v).

- Lorelie C. Irons, Director, Nathan's Ridge
- Craig Lippens, Marketing Director – The Bergand Group
- Noah Nordheimer, Concerted Care Group

**Counseling and Court Diversion Agencies**

- Alejandra Munoz, STEER program.
- Teresa Smithson, Clinical Supervisor, Greenbelt CARES Youth and Family Services Bureau

(DI #4, Att. 12; DI #23; DI #28; DI #30; DI #32, pp. 11-13; DI #33, DI #48).

There was also opposition to the project filing. Within three months of the filing, twelve currently licensed substance abuse disorder treatment providers,<sup>4</sup> submitted a letter opposing Baltimore Detox Center's CON application, including documents impugning the practices of facilities associated with Amatus Health. (DI #11). The group raised a number of questions regarding the quality of care that the owners of Amatus Health provide with existing SUD programs currently in operation in Florida and also criticized the applicant's business practices. In response, BDC submitted a rebuttal addressing each of the allegations raised by the Petitioners. (DI #14).

After reviewing the group's submission and the applicant's response, staff did not pursue these allegations further. The Commission's review process provides that an existing provider of the same service may comment on applications and seek status as interested party if the application is docketed for review. This option was only exercised by one existing provider, Maryland House Detox, which later withdrew as an interested party, as described in Part II.B, *supra*, p. 7.

**III. REVIEW AND ANALYSIS**

**A. STATE HEALTH PLAN**

***COMAR 10.24.01.08G(3)(a) State Health Plan. An application for a Certificate of Need shall be evaluated according to all relevant State Health Plan standards, policies, and criteria.***

The relevant State Health Plan chapter is COMAR 10.24.14, the ICF Chapter. The ICF Chapter, at Regulation .05, includes the following sixteen "Certificate of Need Approval Rules and Review Standards for New Substance Abuse Treatment Facilities and for Expansions of Existing Facilities."

**.05A. 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.**

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<sup>4</sup> Included Maryland Addiction Recovery Center, Delphi Behavioral Health Group d/b/a Maryland House Detox, Ashley Addiction Treatment, Newport Academy, Addiction Recovery, Inc. d/b/a Hope House Treatment Centers, Maryland Recovery, Serenity Acres Treatment Center, The Bergand Group, Recovery Care Partner, Gaudenzia, Tranquility Woods, and Sandstone Care. At least one of the providers subsequently withdrew its comments.

- (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.**

BDC seeks to establish a new 24-bed adult Track One ICF facility that provides Level 3.7-WM services. Therefore, this CON application is consistent with the facility capacity range in Subsections (1) and (2) of this standard. Subsection 3 is not applicable.

Staff concludes that the project meets this standard.

#### **.05B. 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*.**

The bed need projection methodology for Track One facilities, whose patients primarily pay for services with private sources of funding, is defined in COMAR 10.24.14.07(b) and is illustrated in step-by-step fashion in Table III-1. Following this methodology, BDC calculated a net bed need range of 95 to 141 beds for the target year 2020. (DI #4, pp. 15-17).<sup>5</sup>

Staff performed the same calculation for the Central Maryland planning region, using 2018 as the base year (the most recent year for which the number of Medicaid recipients is available) and obtaining the number of Medical Assistance recipients age 18 years and older<sup>6</sup> for the Central

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<sup>5</sup> BDC used the Maryland Department of Planning's population projection series and assumed that the number of indigent residents in Central Maryland aged 18 years and older is 11.7% of the region's adult population. (DI #12, pp. 12-13).

<sup>6</sup> Obtained from Maryland Medical Assistance Program. (DI #49).

Maryland region. The target year is 2023 (five years from the base year). The calculation resulted in a net bed need range of 85 to 126 beds by 2023.

**Table III-1: Projected Bed Need for Adult (18+) Alcoholism and Drug Abuse ICF Beds  
Central Maryland Region**

	<b>Base Year 2018</b>	<b>MHCC Projected 2023</b>
<b>Projected Adult Population (18 years and older) – Projected 2020<sup>(1)</sup></b>	2,033,321	2,074,823
<b>Indigent Adult Population (18 years and older) – Center Maryland<sup>(2)</sup></b>	456,597	465,917
<b>(a) Non-Indigent Population</b>	1,576,724	1,608,906
<b>(b) Estimated Number of Substance Abusers (a*8.64%<sup>(3)</sup>)</b>	136,229	139,009
<b>(c1) Estimated Annual Target Population (b*25%)</b>	34,057	34,752
<b>(c2) Estimated Number Requiring Treatment (c1*95%)</b>	32,354	33,015
<b>(d) Estimated Population requiring ICF/CD (12.5%-15%)</b>		
(d1) Minimum (c2*0.125)	4,044	4,127
(d2) Maximum (c2*0.15)	4,853	4,952
<b>(e) Estimated Range requiring Readmission (10%)</b>		
(e1) Minimum (d1*0.1)	404	413
(e2) Maximum (d2*0.1)	485	495
<b>Total Discharges from out-of-state</b>	N/A	N/A
<b>(f) Range of Adults Requiring ICF/CD Care</b>		
Minimum (d1+e1+out of state)	4,449	4,540
Maximum (d2+e2+out of state)	5,338	5,447
<b>(g) Gross Number of Adult ICF Beds Needed</b>		
(g1) Minimum = ((f*14 ALOS)/365)/0.85	201	205
(g2) Maximum = ((f*14 ALOS)/365)/0.85	241	246
<b>(h) Existing Track One Inventory ICF/CD beds<sup>(4)</sup></b>	120	120
<b>(i) Net Private ICF/CD Bed Need</b>		
Minimum (g1-h)	81	85
Maximum (g2-h)	121	126

Based on COMAR 10.24.14.07(B)(7), Method of Calculation for Private Beds.

(1) MHCC projections –population interpolated from Maryland Department of Planning, 2017 Historical and Projected Total Population Projections for Maryland Jurisdictions (August 2017)).

(2) Data from Maryland Medical Assistance Program regarding Medical Assistance recipients for population age 18 years and older for CY 2018. (DI #49).

(3) The prevalence rate for adults (age 18 years and over) alcohol or illicit drug dependence or abuse is 8.31%, as reported in the 2013 SAMHSA Maryland report. <http://www.samhsa.gov/data/sites/default/files/NSDUHsaeSpecificStates2013/NSDUHsaeMaryland2013.pdf>

(4) Medically Monitored Intensive Inpatient & Detox Facilities (non-forensic) MHCC records & Behavioral Health Administration, DHMH levels of care, which includes the 80 beds at Father Martin's Ashley and the 40 beds at Maryland House Detox. As previously noted in my report, MHD received a determination of non-coverage in April 2019 to expand by 24 beds from 16 to 40 Level 3.7WM Beds. See discussion beginning at p. 8, *supra*.

This bed need projection supports BDC's proposed bed capacity of 24 Level 3.7-WM beds. Because Subsections .05B(1)(b) and (2) of this standard address the establishment of Track Two (publicly funded) ICFs, they are not applicable in this review and are not included in this Staff Report.

Staff concludes that the application is consistent with this standard.

**.05C. Sliding Fee Scale. An applicant must establish a sliding fee scale for gray area patients consistent with the client's ability to pay.**

BDC states that it will establish a sliding fee scale for gray area patients that is "consistent with the client's ability to pay based on the 2018 Federal Poverty Guidelines." (DI #4, pp. 17-18). To document eligibility, the client will need to provide proof of need by submitting: tax forms; paycheck stubs from current employers; disability forms; unemployment documents; and/or past employment forms. BDC states that it will utilize the following Sliding Fee Schedule.

**BDC's Sliding Fee Schedule**

Income level is	< 100% of Federal Poverty level (FPL)	75% discount
Income level is	< 150% but > 100% of FPL	50% discount
Income level is	< 200% but > 150% of FPL	25% discount

Source: DI #4, pp. 17-18.

Staff concludes that the applicant complies with this standard.

**.05D. Provision of Service to Indigent and Gray Area Patients.**

**(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:**

**(a) Establish a sliding fee scale for gray area patients consistent with a client's ability to pay;**

The applicant documented that it will have a sliding fee scale, as discussed immediately above.

**(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.**

The purpose of this standard is to require Track One ICFs to serve a minimum percentage of indigent and gray area patients. The standard does this by requiring applicants to establish a sliding fee scale for gray area patients consistent with a client's ability to pay and by requiring that applicants commit to providing a specific percentage of its bed days to indigent and gray area patients. The standard permits an applicant to demonstrate why one or more of the requirements should not apply. The standard also offers applicants the opportunity<sup>7</sup> to propose an alternative to providing the minimum required indigent and gray area patient days so long as the availability of ICF services for indigent or gray area patients in the applicant's health planning region increases. Applicants can base this alternative on consideration of specific population needs and financial feasibility.

BDC committed to simple compliance with this standard. It states that it "is committed to providing at least 15%" of its proposed annual facility bed days to indigent or gray area patients. (DI #55, pp. 5-6). To ensure that this target is met the applicant explains that it will track daily bed utilization by payor mix, including a category for gray area and indigent patients. Management will review this data at least monthly and if, at any time, the cumulative number of gray area patient days falls below 15% of total bed days, BDC will adjust its admissions and/or outreach process to priority to admission of lower income patients. BDC has initiated referral agreements with a number of providers in the Central Maryland Region that would be likely to have contact with lower income patients in need of services.<sup>8</sup> BDC states it is confident that "in the case of a drop below 15% its current outreach efforts combined with already executed agreements will enable it to quickly raise its gray area percentage to above 15%." (DI #55, p. 5).

To verify that BDC meets this level of commitment, the applicant states it would accept, as a condition of CON approval, a requirement to submit annual reports to the Commission following each fiscal year starting with the commencement of services and continuing for five years from the date the Center begins operations. (DI #55, p. 6). The reports will provide an audit of BDC's total days of care provided to indigent and gray area patients.

Staff recommends that the Commission find the application to be in compliance with this standard and also recommends that, if the Commission approves this application, it attach the following condition:

Baltimore Detox Center shall document the provision a minimum of 15% of patient days of care to indigent and gray area patients, as defined at COMAR 10.24.14.08B(9) and (11), by submitting annual reports auditing its total days of care and the provision of days of care to indigent and gray area patients as a

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<sup>7</sup> Part 2 of this standard, not shown here for brevity.

<sup>8</sup> The applicant lists Greater Baltimore Medical Center, Lifebridge Health, Evolve Life Centers IOP, New Life Addiction Counseling, One Promise Counseling, Hope House Treatment Centers, Misha House, Turning Corners, and Concerted Care Group.

percentage of total days of care. Such audit reports shall be submitted to the Commission following each BDC fiscal year, from the project's inception and continuing for five years thereafter.

Because Subsections .05D(2), (3), and (4) of this standard refer to existing Track One intermediate care facilities, they are not applicable and are not included in this Staff Report.

**.05E. 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.

BDC states that it will post information regarding the range and types of services it will provide and a statement of charges in an accessible and conspicuous location. The applicant states it will provide this information to the public upon request. (DI #4, p. 20)

Staff concludes that the applicant complies with this standard.

**.05F. Location.** 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.

BDC states that the location of the proposed facility at 1825 Woodlawn Drive in Baltimore (Baltimore County) is located approximately four miles from Northwest Hospital, which is within a 30-minute one-way travel time by automobile. (DI #4, p. 20).

Staff concludes that the facility location is consistent with this standard.

**.05G. 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.
- (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.
- (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.

BDC states that all 24 beds in the proposed SUD program will serve adults 18 years of age and older. It is not proposing conversion of existing adolescent ICF beds to adult beds.

**.05H. 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.**

The applicant states that “BDC will apply for accreditation through the Commission on Accreditation of Rehabilitation Services (‘CARF’) [and] commits to obtain preliminary accreditation from CARF prior to receipt of First Use Approval, and will maintain final accreditation consistently while operating” the ICF.<sup>9</sup> (DI #4, p. 23).

- (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.**

BDC states that it will seek certification by the Office of Health Care Quality and the Behavioral Health Administration upon completion of renovations to the 1825 Woodlawn Drive location. (DI #4, p. 23).<sup>10</sup>

The applicant’s response meets this standard, but staff recommends that if the project is approved by the Commission, the Certificate of Need contain the following condition:

Baltimore Detox Center must receive preliminary accreditation by the Commission on the Accreditation of Rehabilitation Services (CARF) prior to receipt of First Use Approval and must timely receive final accreditation by CARF.

**.05I. 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.**

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<sup>9</sup> Amatus Health operates Atlanta Detox Center (Atlanta, GA) and Midwest Detox Center (Maumee, OH), which are both licensed to provide Level 3.7WM and/or Level 3.7 programs. Both facilities have CARF accreditation.

<sup>10</sup> The Georgia Department of Community Health reports that the Atlanta Detox Center is in compliance and has no deficiencies as of its last survey on August 13, 2019. On April 3, 2018, the Ohio Department of Mental Health & Addiction Services conducted an initial application survey to assess Midwest Detox Center’s compliance with the Ohio Administrative Code. The survey identified twelve deficiencies and the facility adequately addressed each deficiency with its plan of correction.

The applicant states that “BDC commits to participate in utilization review and control programs consistently.” (DI #4, p. 23). The applicant states that it will document and implement treatment protocols and that BDC’s Policies and Procedures manual will consist of CARF-approved admission, length of stay, discharge planning and referral operations policies and procedures.

- (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.**

BDC states that it “will assure that each patient treatment plan will include one year of aftercare after a patient is discharged.” (DI #4, p. 24). BDC states that it will initially follow-up with the referred provider to ascertain whether the referred clients are continuing to receive services and will check with the patient to determine progress with recovery and provide support after their discharge. (DI #12, pp. 13-14). The applicant also indicates that it will establish a specific department to conduct annual check-ins with each graduated patient and maintain communication to stay updated with each patient’s recovery and/or treatment.

Staff concludes that the application is consistent with the utilization review standard.

**.05J. 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.**
- (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.**

BDC states that it has pursued “written transfer and referral agreements with or [sought] ... acknowledgement from agencies or facilities who have capabilities for managing cases that ‘exceed, extend, or complement’ the Applicant’s capabilities.” (DI #12, pp. 14-15). The applicant

has reached out to a number of community agencies, local hospitals, and local and state government agencies to enter into transfer and referral agreements. BDC states that it has contacted the following individuals regarding its project:

- Courtney Highsmith, Policy Advisor to Lt. Governor Boyd K. Rutherford in the Governor’s Office, State of Maryland;
- Gregory Wm. Branch, M.D., Baltimore County Health Officer, Baltimore County Department of Health;
- Kimberly Cuthrell, Chief, Bureau of Behavioral Health, Baltimore County Department of Health; and
- Barbara Bazron, former Deputy Secretary for the Behavioral Health Administration, Maryland Department of Health.

BDC explains that one of the challenges it has faced in pursuing these arrangements is the practice of some agencies or organizations to require that a program be in existence prior to entering into any agreements or acknowledgements with the provider. (DI #17, p. 6). Table III-2 shows the results of BDC’s efforts to connect with partners willing and able to accept necessary transfers and referrals. BDC states it will continue working to develop referral agreements with organizations such as the Baltimore County Health Department, the Anne Arundel County Health Department, the Howard County Detention Center, the Howard County Drug Court, Johns Hopkins Bayview Medical Center, and the University of Maryland Medical Center. (DI #55, p. 6).

**Table III-2: Baltimore Detox Center Transfer and Referral Agreements**

<b>Provider Category</b>	<b>Agreement or contact with:</b>
Acute care hospitals	Greater Baltimore Medical Center  Seeking an agreement with Northwest Hospital and/or Sinai Hospital.
Halfway houses, therapeutic communities, long-term care facilities	Hope House Treatment Centers (3.7WM, 3.7, 3.5, 3.1)  Evolve Life Centers (3.1)
Local alcohol and drug abuse intensive and other outpatient programs	Evolve Life Centers (2.1, 1, DUI education)  New Life Addiction Counseling (2.1, 1, DUI education)  Misha House (2.1, 1, DUI education)  Concerted Care Group (OTP, 2.1, 1)
Local community mental health center or center(s)	BDC has been in discussions with Citywide Behavioral Health and with Hope Health Systems and anticipates having an agreement in place shortly with one or both of these providers.
The jurisdiction’s mental health and alcohol and drug abuse authorities	BDC has been communicating with the Baltimore County Health Department . They will wait for BDC to begin offering services prior to executing a collaborative agreement.

The Behavioral Health Administration of MDH (formerly the Mental Hygiene Administration with its division of Alcohol and Drug Abuse)	BDC has been in contact with BHA's Acting Director of the Office of Managed Care and Quality Improvement & SUD Compliance seeking a referral agreement which it hopes to obtain if its CON application is approved.
The jurisdiction's agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services	One Promise Counseling and DUI Education Turning Corners New Life Addiction Counseling Evolve Life Centers
Other	PsychNP Wellness Center (psychiatry, med management, psychotherapy)

Source: DI #17, Att. 29; DI #22, pp. 1-2; DI #29.

Staff concludes that BDC has made a substantive effort to execute transfer and referral agreements, with some success, and recommends that the Commission find the application is in compliance with this standard, with the following condition attached to any CON that is granted:

Baltimore Detox Center shall provide written transfer and referral agreements with the following entities or organizations prior to first use approval: acute care hospitals; halfway houses; therapeutic communities; long-term care facilities; local alcohol and drug abuse intensive and other outpatient programs; local community mental health center(s); Baltimore County's mental health and alcohol and drug abuse authorities; the Behavioral Health Administration; and Baltimore County agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services.

**.05K. 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.**

Since BDC seeks to establish a Track One facility, this standard is not applicable.

- (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.**

BDC submitted referral agreements with a number of providers that include language stating that "Baltimore Detox Center will provide 15% of its available bed space to gray area and indigent consumers." (DI #17, Att. 29). The agreements are with organizations such as Greater Baltimore Medical Center, Concerted Care Group, Evolve Life Centers, Hope House Treatment Center, Misha House, New Life Addiction Counseling, One Promise Counseling and DUI

Education, and Turning Corners. BDC states that it also anticipates obtaining an agreement with the University of Maryland Baltimore Washington Medical Center. (DI #17, pp. 6-7).

Staff concludes that the application is consistent with this standard.

**.05L. 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.**

The applicant provided a copy of its policies and procedures regarding staff training and development with its CON application. (DI #4, p. 25 and Att. 7). BDC states that it will institute and maintain a standardized in-service orientation and continuing education program for all categories of direct service personnel, whether paid or volunteer. The applicant notes that it will provide staff orientation and training upon hire, and that this training will be supplemented by quarterly trainings to ensure staff performs in accordance with all applicable regulations and standards. BDC's licensed clinical director and licensed medical director will provide these educational services.

Staff concludes that the application is consistent with this standard.

**.05M. 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.**

BDC states it will have the capacity to admit and treat alcohol and drug abusers requiring sub-acute detoxification and provided a copy of its policies and procedures regarding program admission and exclusionary criteria with its CON application. (DI #4, p. 26 and Att. 8.). BDC also committed to comply with COMAR 10.47.02.10F, the regulation that enumerates the requirements for Medically Monitored Inpatient Detoxification Services, by documenting admissions standards, treatment protocols, staffing, and physical plant configuration. BDC also states that it will employ qualified, licensed staff and have a medical records system to assure appropriate documentation and record storage.

Staff concludes that the application is consistent with this standard.

**.05N. 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.**

BDC states it will offer courses to train staff in the appropriate methods of infection control and in specialized counseling for HIV-positive persons and active AIDS patients. BDC's pre-employment course and annual mandatory training will include modules on infection control. BDC provides a copy of its policies and procedures related to infection control. (DI #4, p. 26 and Att. 9).

Staff concludes that the application is consistent with this standard.

**.05O. 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.**
- (2) An applicant must document continuity of care and appropriate staffing at off-site outpatient programs.**
- (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.**
- (4) Outpatient programs must demonstrate the ability to provide services in the evening and on weekends.**
- (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.**

MBM Ventures LLC, the applicant's parent, operates two centers in Maryland that provide outpatient, intensive outpatient, and partial hospitalization programs. Foundations Recovery Center is located at the proposed ICF site in Woodlawn and the applicant has stated that it intends to relocate this program to Owings Mills, which is also in Baltimore County. The second center is Fresh Start Recovery Center in Gaithersburg. (DI #4, p. 27). Thus, the applicant has indicated an intention to operate at least two outpatient addictions treatment programs in Maryland in conjunction with its proposed ICF operation and the replacement Foundations program would be geographically close to the ICF.

BDC also states that it will work to obtain written referral agreements with providers in the Central Maryland Planning Region who offer outpatient alcohol and drug abuse treatment programs that provide the services listed in standards (1) through (4) above.

While staff recommends that the Commission find the application is compliant with this standard, staff recommends that any approval be issued with the following condition, to assure that BDC has a robust referral network for patients seeking on-going treatment following successful withdrawal management:

Baltimore Detox Center shall provide written referral agreements with outpatient alcohol and drug abuse programs that meet the requirements of COMAR 10.24.14.05O(1) through (4).

**.05P. 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.

The Behavioral Health Administration, in 2015, contracted with Beacon Health Options to collect data only from publicly-funded providers (Track Two). Thus, BDC's proposed Track One facility would not be required to report utilization data to the State. BDC has expressed a willingness to participate in comparable data collection programs developed internally and as specified by the Behavioral Health Administration in order to "share valuable data with the state and to evaluate its own effectiveness." (DI #12, p. 17).

Staff concludes that the applicant is consistent with this standard.

## **B. NEED**

***COMAR 10.24.01.08G(3)(b) Need. The Commission shall consider the applicable need analysis in the State Health Plan. If no State Health Plan need analysis is applicable, the Commission shall consider whether the applicant has demonstrated unmet needs of the population to be served and established that the proposed project meets those needs.***

As discussed earlier in this report under the Need standard, at COMAR 10.24.14.05B,<sup>11</sup> the bed need projection methodology for Track One beds defined in Paragraph .07 of the ICF Chapter identifies a need for 85 to 126 additional ICF beds in the Central Maryland region for a target year of 2023. This proposal would add 24 Track One Level 3.7-WM beds in this region, less than the minimal bed need projected for Central Maryland. This methodology is intended to limit development of Track Two ICFs but places no limitation on expansion of Track One, publicly funded ICF bed capacity.

Staff recommends that the Commission find that this project is consistent with the applicable need analysis in the State Health Plan.

## **C. AVAILABILITY OF MORE COST-EFFECTIVE ALTERNATIVES**

***COMAR 10.24.01.08G(3)(c) Availability of More Cost-Effective Alternatives. The Commission shall compare the cost effectiveness of the proposed project with the cost effectiveness of providing the service through alternative existing facilities, or through an alternative facility that has submitted a competitive application as part of a comparative review.***

BDC states that the objective of the project is to "provide an opportunity for those seeking recovery from substance abuse to safely and effectively detox on an inpatient basis, under medical supervision, in an affordable non-hospital setting." BDC explained that its planning process

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<sup>11</sup> Discussion of Identification of Intermediate Care Facility Alcohol and Drug Abuse Bed Need, *supra*, p. 9-11.

included a review of the current availability of Track One ICF beds in Central Maryland, which showed that there was a significant shortage of such beds in Central Maryland and that the only Track One beds were located in Anne Arundel (Maryland House Detox) or Harford County (Ashley Addiction Treatment Center). There are no Track One ICFs in Baltimore County, the most populous jurisdiction in the health planning region. (DI #4, p. 30).

BDC states that the bed need methodology in the ICF Chapter supports the need for the addition of Track One beds in Central Maryland, and that the best alternative is to establish BDC as “a licensed, certified and accredited ICF facility.”

BDC also provided a comparison of its modest estimated cost per bed when compared to other ICF projects recently considered by the Commission. While this comparative analysis was flawed by overstating the expenditure estimates for RCA projects that included many more residential beds than actual ICF beds, bed capacity not included in BDC denominator, staff has provided a corrected comparison in the following Table III-3. It should be noted that the Ashley project shown in the table involved construction and renovation of substantial amounts of building space not used for patient rooms or for clinical or support space directly related to the 15-bed addition. It was not a project involving the simple addition of 15 beds and, thus, is not an apt project to compare with the others shown, as a capital cost comparison.

**Table III-3: Comparison of Cost/Bed: Recent Maryland Track One ICF Projects**

Project		“Capital Cost” Estimate	ICF Beds	Capital Cost* per Bed
Ashley	Harford	\$18,361,000	15	\$1,224,066
RCA Earlvilleville	Cecil	\$3,864,674	21	\$184,032
RCA Waldorf	Charles	\$8,005,499	64	\$125,086
RCA Upper Marlboro	Prince George’s	\$10,014,450	55	\$182,081
Maryland House Detox	Anne Arundel	\$1,194,800	16	\$74,675
Baltimore Detox	Baltimore County	\$285,982	24	\$11,916

\*as defined in the MHCC CON Application Project Budget Schedule  
 Source: Based on (DI#4, p. 37), as modified by MHCC staff

BDC also asserted that the Woodlawn location, close by the Baltimore Beltway and very close to the western border of Baltimore City, is an effective location choice.

Staff concludes that the applicant provides evidence that implementing BDC’s plan for a 24-bed ICF facility in Baltimore County is a low cost alternative for establishing a Track One inpatient program in the jurisdiction, when compared to projects considered in the last decade. However, space and amenities vary among these projects and this is reflected in the range of space developed, staffing assumptions, and charge assumptions made by these ventures. Considering the previous four proprietary ICF projects considered by the Commission, the three RCA projects were designed to provide 409 to 432 square feet (SF) per ICF patient, the Maryland House project was designed to provide 366 SF per patient, and BDC is designed to provide only 247 SF per patient. Staffing by RCA was projected at 1.1 to 1.3 full time-equivalent (FTE) direct care staff per bed. Maryland House projected 0.7 direct care FTEs per bed. BDC is planning for 0.4 direct care FTEs per bed. Not surprisingly, given these comparisons, Maryland House was projecting per diem net revenue of \$870 for ICF services, the RCA projects assumed a per diem (net patient service revenue) of \$860, and BDC projects net revenue of \$609 per day. (CON applications -

Docket Nos. 15-08-2362, 15-07-2363, 15-16-2364, and 16-02-2374; BDC, DI #55). It is fair to say that BDC is proposing a leaner approach to withdrawal management than recent facilities seeking to serve a similar patient population. If BDC is as successful in marketing its program as these slightly larger and more heavily staffed alternatives and produces comparable results, it will be able to claim that it has a more cost-effective delivery model. But this can only be ascertained at a later date. The four competing proprietary facilities are all relatively new and, of course, BDC has not yet entered the market.

This applicant has not had an extended history of providing these services. For this reason, drawing conclusions about its effectiveness, relative to other forms of treatment, is difficult. Maryland's recent history with Track One ICFs has been similar, in that the three RCA projects reviewed were part of an initial roll-out of new projects by a new entity entering the private SUD treatment market.

Commission staff recommends that the proposed project be found to be a cost-effective model for ICF-WM service provision compared to recent for-profit alternatives with the caveat that measurement of effectiveness is not possible to ascertain at this point in time.

#### **D. VIABILITY OF THE PROPOSAL**

***COMAR 10.24.01.08G(3)(d) Viability of the Proposal. The Commission shall consider the availability of financial and nonfinancial resources, including community support, necessary to implement the project within the time frames set forth in the Commission's performance requirements, as well as the availability of resources necessary to sustain the project.***

##### **Availability of Financial Resources**

The estimated cost of establishing Baltimore Detox Center in Woodlawn is \$585,982. These capital costs include \$285,982 to renovate a two-story unit located on the southwest end of the building, a total of 5,944 net square feet. The remaining costs include \$75,000 in CON-related costs and \$225,000 in working capital start-up expenses.<sup>12</sup>

BDC submitted a letter from Jeff Cohen of Katz/Cohen, Certified Public Accountants, a firm with no connection to Amatus Health, BDC, or any of its principals, stating that he has reviewed the applicant's financial statements and concluded that "BDC and Amatus Health [will] generate sufficient free cash flow from continuing operations to fund the necessary working capital and renovation costs identified throughout their proposal and . . . Amatus Health currently has enough liquidity to fund the working capital independent of the cash flow from operations." (DI #17, p. 5 and Att. 28).

##### **Projected Financial Performance**

BDC's financial projections are based on the assumption that the program will charge \$1,108 per day for the Level 3.7-WM Detox services, which, after adjustments for bad debt,

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<sup>12</sup> Includes funds to cover expenses prior to receiving third party reimbursement which includes payroll, lease costs, equipment, and other operational expenses. (DI #12, p. 10).

contractual allowance, and charity care, would amount to net revenue of \$609.40 per patient day. (DI #55, pp. 4-5). BDC expects to participate as a network provider with three major private third party payers in the Maryland marketplace, and that these payers will account for 61.4% of total revenue. (DI #55, Att. 3, Table D-Revenues & Expenses).

The facility is expected to start treating patients by January 1, 2021 and is assumed to ramp up bed occupancy at a brisk pace, achieving an annual average occupancy rate just under 70% in Year One and hitting 97.5% by CY 2024. (DI #55, pp. 4-5).

BDC projects that it will generate income from operations immediately.

**Table III-3: Baltimore Detox Center  
Projected Revenues and Expenses, CY 2021 - CY 2024**

Calendar Year	2021	2022	2023	2024
<b>REVENUE</b>				
Inpatient Services	\$6,786,500	\$7,526,090	\$8,492,820	\$9,492,790
<b>Gross Patient Service Revenue</b>	<b>\$6,786,500</b>	<b>\$7,526,090</b>	<b>\$8,492,820</b>	<b>\$9,492,790</b>
Allowance for Bad Debt	\$1,357,300	\$1,505,218	\$1,698,564	\$1,898,558
Contractual Allowance	678,650	752,609	849,282	949,279
Charity Care	1,017,975	1,128,914	1,273,923	1,423,919
<b>Net Patient Service Revenue</b>	<b>\$3,732,575</b>	<b>\$4,139,350</b>	<b>\$4,671,051</b>	<b>\$5,221,035</b>
Other Operating Revenues	\$429,000	\$540,000	\$540,000	\$540,000
<b>NET OPERATING REVENUE</b>	<b>\$4,161,575</b>	<b>\$4,679,350</b>	<b>\$5,211,051</b>	<b>\$5,761,035</b>
<b>EXPENSES</b>				
Salaries/wages/benefits	\$1,864,390	\$2,112,975	\$2,311,843	\$2,485,853
Contractual Services	87,750	99,450	108,810	117,000
Project Depreciation (5 years)	55,450	55,450	55,450	55,450
Other Expenses	\$1,415,923	\$1,671,263	\$1,764,547	\$1,831,760
<b>TOTAL OPERATING EXPENSES</b>	<b>\$3,423,513</b>	<b>\$3,939,138</b>	<b>\$4,240,650</b>	<b>\$4,490,063</b>
<b>INCOME</b>				
<b>Income From Operations (pre-tax)</b>	<b>\$738,062</b>	<b>\$740,211</b>	<b>\$970,401</b>	<b>\$1,270,972</b>

Source: DI #55, Attachment 3, Table D Revenues & Expenses, New Facility.

### Work Force Projections

BDC projects employment of 34.0 staff FTEs (both salaried and contractual employees) at ICF at a total cost of \$2,602,863 in salaries and benefits. It projects the ability to recruit for these positions without significant problems. (DI#55, Att. 3, Table E). A profile of the staffing plan is shown in the table below.

**Table III-5: Baltimore Detox Center Workforce Table**

<b>Job Category</b>	<b>FTEs</b>	<b>Total Cost</b>
<b>Regular Employees</b>		
Total Administration	8.0	\$587,000
Total Direct Care	9.0	\$945,000
Total Support	15.0	\$579,000
<i>Regular Employees - TOTAL</i>	32.0	\$2,111,000
<b>Contractual Employees</b>		
<i>Contractual Employees - TOTAL</i>	2.0	\$117,000
<i>Payroll Taxes (Employer)</i>		\$259,653
<i>Benefits</i>		\$115,200
<i>Total Personnel Cost</i>		<b>\$2,602,853</b>

Source: DI #55, Att. 3, Table E Workforce Information.

**Community Support**

As previously discussed in this Staff Report, this proposed project received support in the form of letters from public officials and representatives of other substance use disorder treatment programs. (DI #4, Att. 12; DI #23; DI #28; DI #30; DI #32, pp. 11-13; DI #33; DI #48). The applicant also includes a letter of support from LifeBridge Health System and an agreement with Greater Baltimore Medical Center.

Staff recommends that the Commission find the proposed project is viable on the basis of resource availability and documentation of support.

**E. COMPLIANCE WITH CONDITIONS OF PREVIOUS CERTIFICATES OF NEED**

*COMAR 10.24.01.08G(3)(e) Compliance with Conditions of Previous Certificates of Need. An applicant shall demonstrate compliance with all terms and conditions of each previous Certificate of Need granted to the applicant, and with all commitments made that earned preferences in obtaining each previous Certificate of Need, or provide the Commission with a written notice and explanation as to why the conditions or commitments were not met.*

None of the entities involved in sponsorship of this project has previously been granted a CON in Maryland.

**F. IMPACT ON EXISTING PROVIDERS AND THE HEALTH CARE DELIVERY SYSTEM**

*COMAR 10.24.01.08G(3)(f) Impact on Existing Providers and the Health Care Delivery System. An applicant shall provide information and analysis with respect to the impact of the proposed project on existing health care providers in the health planning region, including the impact on*

***geographic and demographic access to services, on occupancy, on costs and charges of other providers, and on costs to the health care delivery system.***

BDC states that, because its proposed project is designed to address unmet needs for services among Central Maryland residents, there should be no impact on the volumes of any other existing Maryland ICF providers of inpatient withdrawal management services. BDC notes the need identified through use of the ICF Chapter's need projection methodology for Track One ICF beds. It assumes that the project will not have an impact on Track Two ICFs, which serve a patient population that is quite different in terms of payment sources. (DI #4, pp. 35-37). It notes the lack of a Track One ICFs in either Baltimore City or Baltimore County, the two most populous jurisdictions in the Central Maryland region. It opines that the proposed project "will help reduce the travel times for patients who might otherwise travel" to either Maryland House Detox in Anne Arundel County or Ashley Addiction Treatment Center in Harford County, the existing private ICFs in the region. (DI #17, p. 11).

The applicant expects its patient mix to consist of persons with commercial insurance, Blue Cross, Medicaid, and self-pay individuals, and commits to allocate 15% of its patient days to indigent or gray area patients. (DI #17, pp.11-12). BDC states that it will calibrate its charges "to assure that patients who can afford its services can be admitted for treatment, and at the same time, generate sufficient revenues (for BDC) to cover its expenses and allow it to meet its charity care commitment to the indigent and gray area populations," and does not expect to affect the payer mix of existing SUD providers in any negative way.

It is notable that the newest Track One ICF in Central Maryland, Maryland House Detox, with a very similar dedicated withdrawal management model of care, notified MHCC in 2019 that it is expanding its bed capacity, an indication of high bed occupancy. Staff concludes that the evidence supports a finding that the impact of this project is acceptable. Twenty-four additional beds in this region which are primarily marketed to patients using private payment sources is not likely to have a significant negative impact on any other provider of ICF services. It will provide an alternative Track One ICF that is geographically closer for most residents of Baltimore County and the City of Baltimore than alternative ICFs of this type and is planned to have lower charges than the existing alternatives.

#### **IV. STAFF RECOMMENDATION**

Based on its review and analysis of the Certificate of Need application, staff recommends that the Commission find that the project proposed by Baltimore Detox Center complies with the applicable State Health Plan standards. The need for the project is supported by the ICF Chapter, the project is proposed as a lower cost and charge alternative compared with recent comparable ICF projects, and the project appears to be financially viable. It will not have a negative impact on service accessibility, cost and charges, or other providers of health care services. Finally, the applicant intends to serve Medicaid patients and has made the commitment to serving low income patients required by the SHP.

Accordingly, Staff recommends that the Commission **APPROVE** the application of Baltimore Detox Center for a Certificate of Need to renovate an existing facility to accommodate

24 adult beds providing withdrawal management at ASAM Level III.7, medically monitored intensive inpatient services, at an approved cost of \$585,982, with the following conditions:

1. Baltimore Detox Center shall document the provision a minimum of 15% of patient days of care to indigent and gray area patients, as defined at COMAR 10.24.14.08B(9) and (11), by submitting annual reports auditing its total days of care and the provision of days of care to indigent and gray area patients as a percentage of total days of care. Such audit reports shall be submitted to the Commission following each BDC fiscal year, from the project's inception and continuing for five years thereafter.
2. Baltimore Detox Center must receive preliminary accreditation by the Commission on the Accreditation of Rehabilitation Services (CARF) prior to receipt of First Use Approval and must timely receive final accreditation by CARF.
3. Baltimore Detox Center shall provide written transfer and referral agreements with the following entities or organizations prior to first use approval: acute care hospitals; halfway houses; therapeutic communities; long-term care facilities; local alcohol and drug abuse intensive and other outpatient programs; local community mental health center(s); Baltimore County's mental health and alcohol and drug abuse authorities; the Behavioral Health Administration; and Baltimore County agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services.
4. Baltimore Detox Center shall provide written referral agreements with outpatient alcohol and drug abuse programs that meet the requirements of COMAR 10.24.14.05O(1) through (4).

**IN THE MATTER OF**  
**BALTIMORE**  
**DETOX CENTER, LLC**  
**Docket No. 18-03-2419**

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**BEFORE THE**  
**MARYLAND HEALTH**  
**CARE COMMISSION**

\*\*\*\*\*

**FINAL ORDER**

Based on Commission Staff's analysis and conclusions, it is this 19<sup>th</sup> day of March 2020, **ORDERED** that the application for a Certificate of Need submitted by Baltimore Detox Center, LLC, to establish a new 24-bed Track One Intermediate Care Facility providing Level 3.7-WM, Medically Monitored Intensive Inpatient Withdrawal Management (Detoxification), in Woodlawn, Baltimore County, at a cost of \$585,982, be **APPROVED** subject to the following conditions:

1. Baltimore Detox Center shall document the provision a minimum of 15% of patient days of care to indigent and gray area patients, as defined at COMAR 10.24.14.08B(9) and (11), by submitting annual reports auditing its total days of care and the provision of days of care to indigent and gray area patients as a percentage of total days of care. Such audit reports shall be submitted to the Commission following each BDC fiscal year, from the project's inception and continuing for five years thereafter.
2. Baltimore Detox Center must receive preliminary accreditation by the Commission on the Accreditation of Rehabilitation Services (CARF) prior to receipt of First Use Approval and must timely receive final accreditation by CARF.
3. Baltimore Detox Center shall provide written transfer and referral agreements with the following entities or organizations prior to first use approval: acute care hospitals; halfway houses; therapeutic communities; long-term care facilities; local alcohol and drug abuse intensive and other outpatient programs; local community mental health center(s); Baltimore County's mental health and alcohol and drug abuse authorities; the Behavioral Health Administration; and Baltimore County agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services.
4. Baltimore Detox Center shall provide written referral agreements with outpatient alcohol and drug abuse programs that meet the requirements of COMAR 10.24.14.05O(1) through (4).

**MARYLAND HEALTH CARE COMMISSION**

**APPENDIX 1:**

**RECORD OF THE REVIEW**

## Record of the Review

Baltimore Detox Center – Docket #18-03-2419

Item #	Description	Date
1	Commission staff sends a Request for Letters of Intent - Substance Abuse Services in Central Maryland to <i>Maryland Register</i> for publication.	12/8/2017
2	Carolyn Jacobs, Esq., submits on behalf of Free State Detox, LLC, its Letter of Intent to establish a 24-bed Track One Alcoholism and Drug Abuse Intermediate Care Facility in Baltimore County, Maryland on December 19, 2017. Commission staff acknowledges receipt of the Letter of Intent on January 26, 2018.	12/19/2017; 1/26/2018
3	Carolyn Jacobs, Esq., submits notification of applicant's name change from Free State Detox, LLC to Baltimore Detox Center, LLC.	3/13/2018
4	Richard J. Coughlan, consultant, submits on behalf of Baltimore Detox Center, LLC, a Certificate of Need application (CON) to establish a 25-bed Track One Level 3.7 medically monitored intensive inpatient treatment program.	3/23/2018
5	Commission staff sends Notice of Receipt of Application from Baltimore Detox Center to <i>Maryland Register</i> for publication.	3/27/2018
6	Commission staff acknowledges receipt of application for Baltimore Detox Center to Mark Gold, Amatus Health.	3/28/2018
7	Commission staff submits to <i>Baltimore Sun</i> a request to publish notice of receipt of CON application.	3/28/2018
8	<i>Baltimore Sun</i> publishes notice of receipt of Baltimore Detox Center CON application.	4/3/2018
9	Following completeness review, Commission staff sends to applicant a request for completeness information.	6/26/2018
10	Carolyn Jacobs, Esq., requests and MHCC staff grants extension of time to submit responses to June 26 <sup>th</sup> request for completeness information no later than July 25, 2018.	7/6/2018
11	Sam Bierman, Chief Executive Officer of Maryland Addiction Recovery Center, and 11 other substance abuse treatment providers in Maryland submit comments and concerns regarding Baltimore Detox Center's CON application.	7/16/2018
12	Carolyn Jacobs, Esq., submits applicant's responses to completeness questions.	7/25/2018
13	Kevin McDonald acknowledges receipt of comments by Sam Bierman Bierman, <i>et. al.</i> regarding Baltimore Detox Center CON application.	8/8/2018
14	Carolyn Jacobs, Esq., submits response of Baltimore Detox Center to comments in July 16, 2018 correspondence (DI #11) from Sam Bierman, <i>et. al.</i> , regarding its CON application.	8/30/2018
15	Commission staff submits second request for completeness information and clarification to first round of completeness questions.	9/19/2018
16	Carolyn Jacobs, Esq., requests and MHCC staff grants extension of time to submit responses to September 19, 2018 request (DI #15) for additional information until October 10, 2018.	10/1/2018; 10/3/2018

17	Carolyn Jacobs, Esq., submits response to second request for completeness information and clarification to first round of completeness questions.	10/9/2018
18	Commission staff sends notice to applicant of the docketing for formal review of Baltimore Detox Center's CON application and a request for additional information.	11/2/2018
19	Commission staff sends notice to <i>Maryland Register</i> for formal start of review of Baltimore Detox Center's CON application.	11/16/2018
20	Commission staff submits request to <i>Baltimore Sun</i> to publish notice of formal start of review of Baltimore Detox Center's CON application.	11/16/2018
21	Commission staff submits request to Baltimore County Department of Health for review and comment on Baltimore Detox Center's CON application	11/16/2018
22	Carolyn Jacobs, Esq., submits response to November 2, 2018 request (DI #18) for additional information.	11/19/2018
23	Delegate Pat Young, Legislative District 44B, Baltimore County, submits letter of support for Baltimore Detox Center's CON application.	11/26/2018
24	<i>Baltimore Sun</i> publishes notice of formal start of review for Baltimore Detox Center's CON application.	11/28/2018
25	Carolyn Jacobs, Esq., submits via e-mail a letter of support from Michael M. Gimbel, former Baltimore County Drug Czar, for Baltimore Detox Center's CON application.	12/6/2018
26	David Stup, Delphi Behavioral Health Group, submits on behalf of Maryland House Detox, a request for status as Interested Party and comments on Baltimore Detox Center's CON application.	12/21/2018
27	Suellen Wideman, Esq., responds to Carolyn Jacobs, Esq. via e-mail by granting extension for Baltimore Detox Center to submit a response to Maryland House Detox's interested party comments from January 7 to January 11, 2019.	12/27/2018; 1/2/2019
28	Senator Shirley Nathan-Pulliam, Legislative District 44, Baltimore City and Baltimore County, submits letter of support for Baltimore Detox Center CON application.	12/28/2018
29	Carolyn Jacobs, Esq., submits to the file two transfer and referral agreements between Baltimore Detox Center and Psych NP Wellness Center.	1/4/2019
30	Carolyn Jacobs, Esq., submits for the record a number of letters of support.	1/4/2019
31	Carolyn Jacobs, Esq., submits a modification to the CON application increasing the number of full-time employees and revisions in the projected expenses for these FTEs.	1/9/2019
32	Carolyn Jacobs, Esq., submits applicant's response to interested party comments by Maryland House Detox.	1/10/2019
33	Carolyn Jacobs, Esq., submits for the record letters of support.	1/16/2019
34	Commission staff posts notice to public of Baltimore Detox Center's modification regarding change to projected number of FTEs and to	1/17/2019

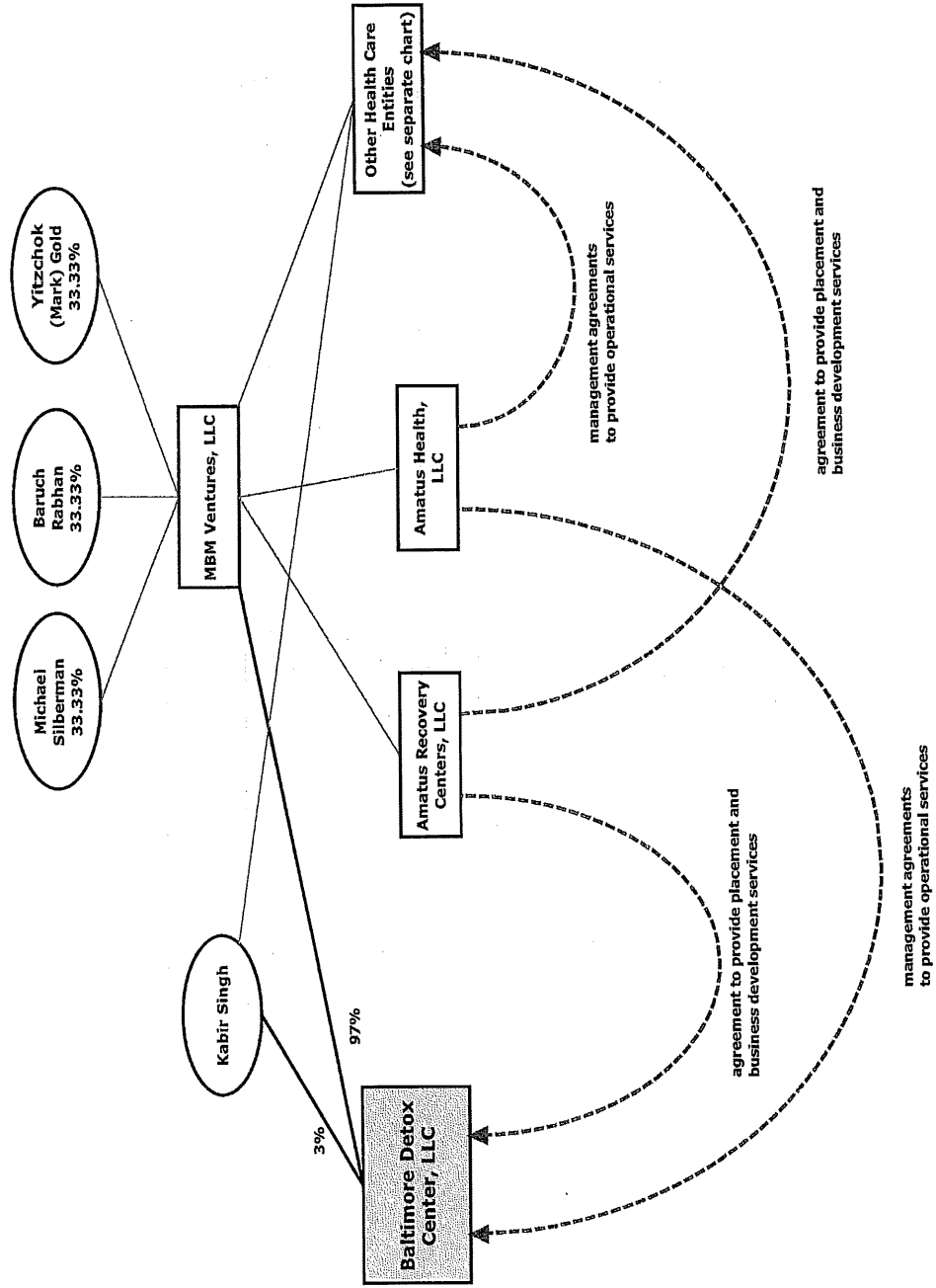
	projected expenses. Staff also requests any comments from public to these modifications.	
35	Carolyn Jacobs, Esq., inquires via e-mail on MHCC status of appointing Reviewer for this CON application.	1/17/2019
36	Chance Ashman-Galliker, President, requests to rescind letter of support from Magnolia New Beginnings for CON application.	1/18/2019
37	David Stup submits interested party comments by Maryland House Detox to modifications to CON application filed by Baltimore Detox Center.	1/18/2019
38	Gregory Wm. Branch, M.D., Baltimore County Health Officer, indicates Baltimore County Health Department chooses not to comment on the proposed project.	1/28/2019
39	Carolyn Jacobs, Esq., submits responses by Baltimore Detox Center to the interested party comments of Maryland House Detox on the modifications to the CON application.	2/14/2019
40	Carolyn Jacobs, David Stup, and Suellen Wideman, Esq., exchange e-mails that inquire as to: status of Commission's appointment of a Reviewer; request by Baltimore Detox Center to strike part of Maryland House Detox's comments on the modifications to the CON application; and request by Maryland House Detox for a hearing on the CON application.	2/14/2019
41	Suellen Wideman, Esq., clarifies via e-mail question from David Stup that Maryland House Detox may file an opposition to Baltimore Detox Center's motion to strike comments from the record.	2/26/2019
42	David Stup submits comments in opposition to the motion to strike the interested party comments of Maryland House Detox on the Modifications to the CON application by Baltimore Detox Center.	2/28/2019
43	David Stup submits via e-mail confirmation that Maryland House Detox filed a copy to Baltimore County Health Department regarding opposition to the motion to strike the interested party comments of Maryland House Detox on the modifications to the CON application submitted by Baltimore Detox Center.	2/28/2019
44	Richard J. Coughlan, DHG Healthcare, on behalf of Baltimore Detox Center, requests copies of any correspondence and documentation related to the implementation of HB 626 by the Maryland Health Care Commission, and specifically copies of any determinations of CON exemption for increases or decreases in bed capacity of intermediate care facilities pursuant to HB 626.	6/11/2019
45	Jason McCarthy, Pharm.D., sends notification of his appointment as Reviewer of the Baltimore Detox Center CON application and acknowledgement that Maryland House Detox is an interested party in this review.	7/18/2019
46	Carolyn Jacobs, Esq., notifies Commission of her withdrawal as counsel in the matter of Baltimore Detox Center's CON application.	7/30/2019
47	Margaret M. Witherup, Esq. submits notification to Commission of her appearance as counsel for Baltimore Detox Center's CON application.	7/30/2019

48	Margaret M. Witherup, Esq., submits additional information in support of Baltimore Detox Center's CON application.	10/1/2019
49	Laura Goodman, Chief of Maryland Department of Health, submitted information from Hilltop Institute regarding the number of Maryland Medicaid recipients aged 18 years and older by jurisdiction for CY 2018 and CY 2019 (YTD).	11/14/2019
50	Ben Steffen, Executive Director of Maryland Health Care Commission, informed applicant and interested party that Commissioner Jason McCarthy cannot continue to serve and the appointment of Commissioner Marcia L. Boyle to serve as Reviewer for the BDC review.	2/3/2020
51	David Stup announced that Maryland House Detox no longer contests the Baltimore Detox Center application and withdraws its Interested Party Status.	2/14/2020
52	Kevin McDonald, Chief of Maryland Health Care Commission, informs Baltimore Detox Center of need for Commission staff to request project status conference.	2/19/2020
53	Kevin McDonald provides summary of issues addressed at February 21, 2020 project status conference and need for applicant to submit additional information before Commission staff can make a positive recommendation of BDC's application to Commission.	2/21/2020
54	Margaret M. Witherup, Esq., submits via e-mail in both pdf and Word formats two presentations that provide further information on Amatus Health as a provider of addiction treatment services.	2/27/2020
55	Margaret M. Witherup, Esq., submits response by Baltimore Detox Center to issues addressed at February 21, 2020 project status conference.	3/2/2020
56	Maryland Health Care Commission posts on Commission website modifications by Baltimore Detox Center to its CON application and requests from public to provide comment(s) on these modifications.	3/3/2020

**APPENDIX 2:**

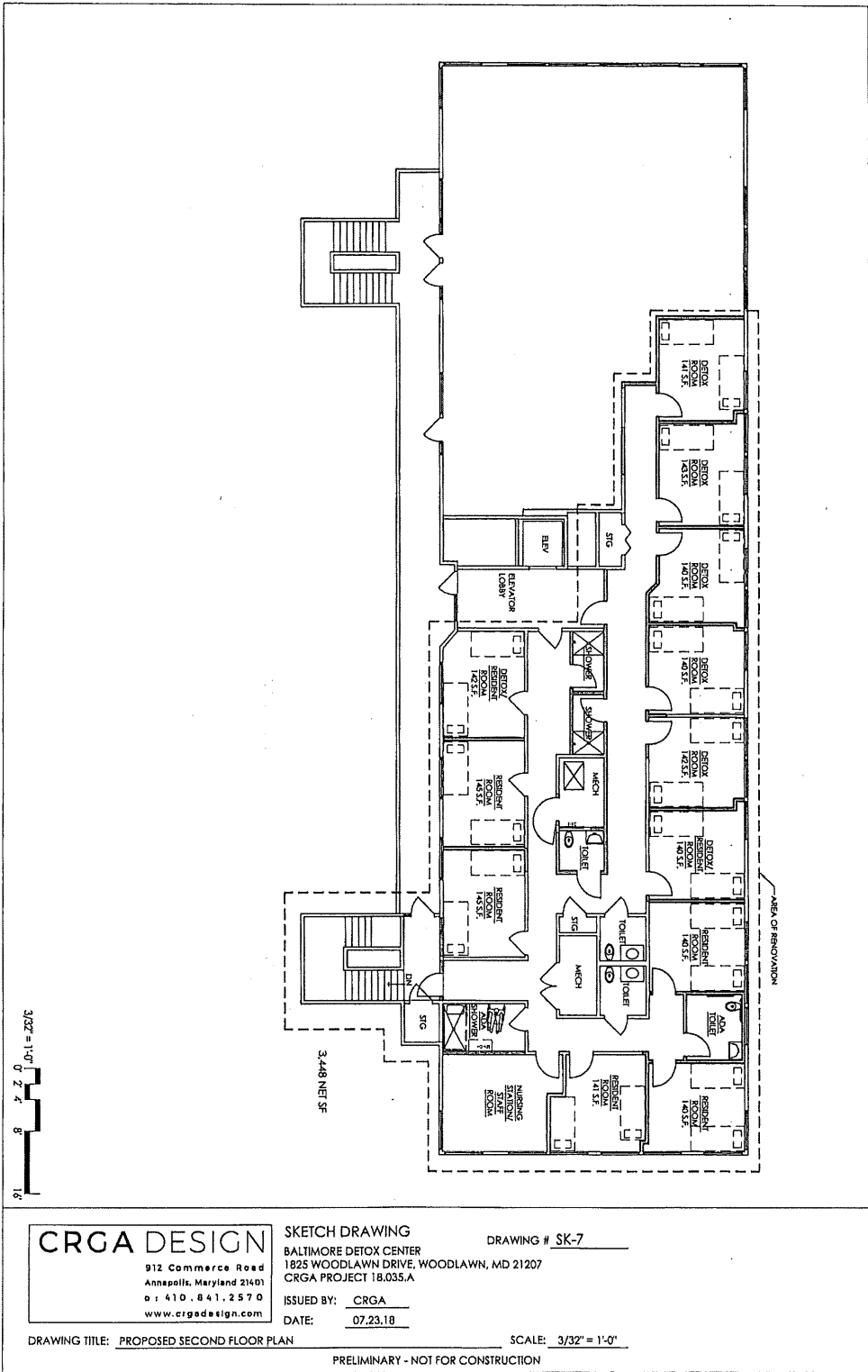
**BALTIMORE DETOX CENTER'S  
ORGANIZATIONAL CHART**

**BALTIMORE DETOX CENTER, LLC OWNERSHIP STRUCTURE**



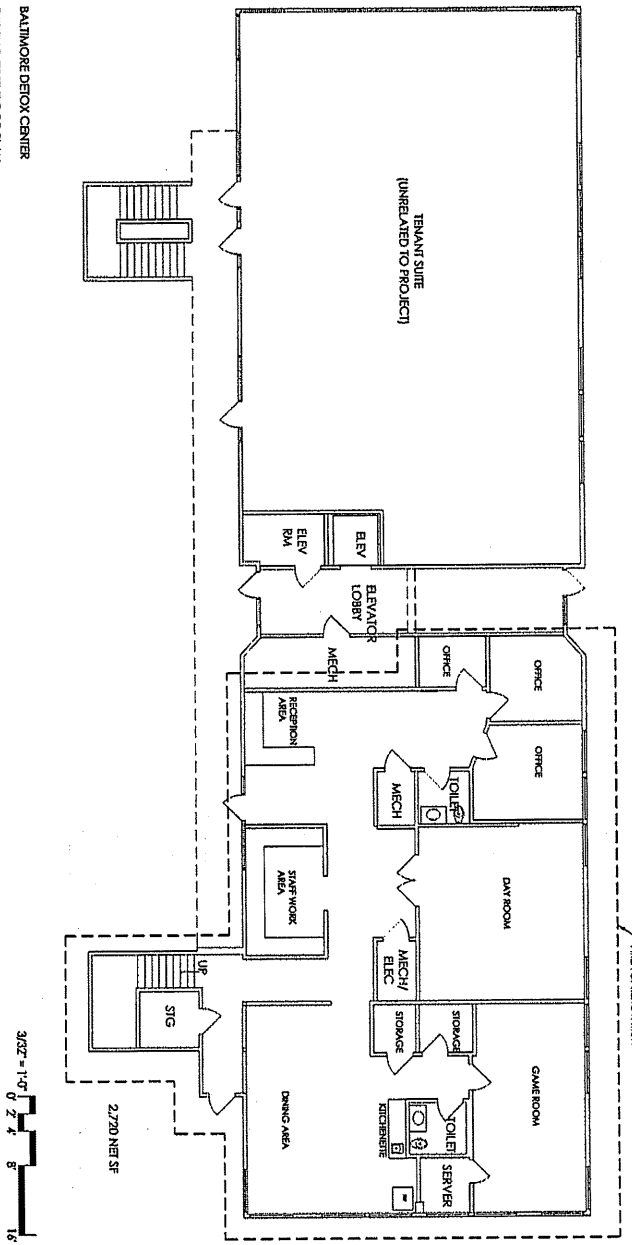
**APPENDIX 3:**

**BALTIMORE DETOX CENTER  
FLOOR PLANS**



ATTACHMENT 17

BALTIMORE DEPOX CENTER  
 EXISTING FIRST FLOOR PLAN  
 (NO IMPROVEMENTS REQUIRED)



**CRGA DESIGN**  
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SCHEMATIC DRAWING  
 1825 WOODLAWN DRIVE  
 WOODLAWN MD  
 CRGA PROJECT 18.035.A  
 ISSUED BY: CRGA  
 DATE: 03.16.18

DRAWING # SK-1

DRAWING TITLE: EXISTING FIRST FLOOR PLAN

SCALE: 3/32" = 1'-0"