

IN THE MATTER OF

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BEFORE THE

**HYGEA DETOX AT CAMP
MEADE, LLC**

MARYLAND HEALTH

CARE COMMISSION

DOCKET NO. 23-02-2468

STAFF REPORT AND RECOMMENDATION

September 21, 2023

Table of Contents

I.	INTRODUCTION.....	1
	A. Background	1
	B. The Applicant	3
	C. The Project.....	3
	D. Summary of Staff Recommendation	4
II.	PROCEDURAL HISTORY.....	6
	A. Record of the Review	6
	B. Interested Parties in the Review	6
	C. Local Government Review and Comment	6
	D. Other Support and Opposition to the Project.....	6
III.	REVIEW AND ANALYSIS.....	6
	A. COMAR 10.24.01.08G (3) (a)-THE STATE HEALTH PLAN	
	COMAR 10.24.14.05 Alcoholism and Drug Abuse Intermediate Care Facility	
	Treatment Services	
	A. Facility Size	6
	B. Bed Need	7
	C. Sliding Fee Scale	8
	D. Service to Indigent and Gray Area Patients.....	9
	E. Information Regarding Charges	10
	F. Location	10
	G. Age Groups.....	10
	H. Quality Assurance.....	11
	I. Utilization and Control	12
	J. Transfer and Referral Agreements.....	12
	K. Sources of Referral	15
	L. In-Service Education	16
	M. Sub-Acute Detoxification	16
	N. Voluntary Counseling, Testing, and Treatment Protocols for HIV.....	16
	O. Outpatient Programs	17
	P. Program Reporting.....	18
	B. COMAR 10.24.01.08G (3)(b)-NEED.....	18
	C. COMAR 10.24.01.08G (3)(c)-AVAILABILITY OF MORE	
	COST EFFECTIVE ALTERNATIVES	19
	D. COMAR 10.24.01.08G (3)(d)-VIABILITY OF THE PROPOSAL.....	20

E. COMAR 10.24.01.08G (3)(e)-COMPLIANCE WITH CONDITIONS OF PREVIOUS CERTIFICATES OF NEED22

F. COMAR 10.24.01.08G (3)(f)-IMPACT ON EXISTING PROVIDERS.....23

IV. STAFF’S RECOMMENDATION25

FINAL ORDER27

Appendix 1 – Record of the Review

Appendix 2 – Project Budget

Appendix 3 – Floor Plan

I. INTRODUCTION

A. Background

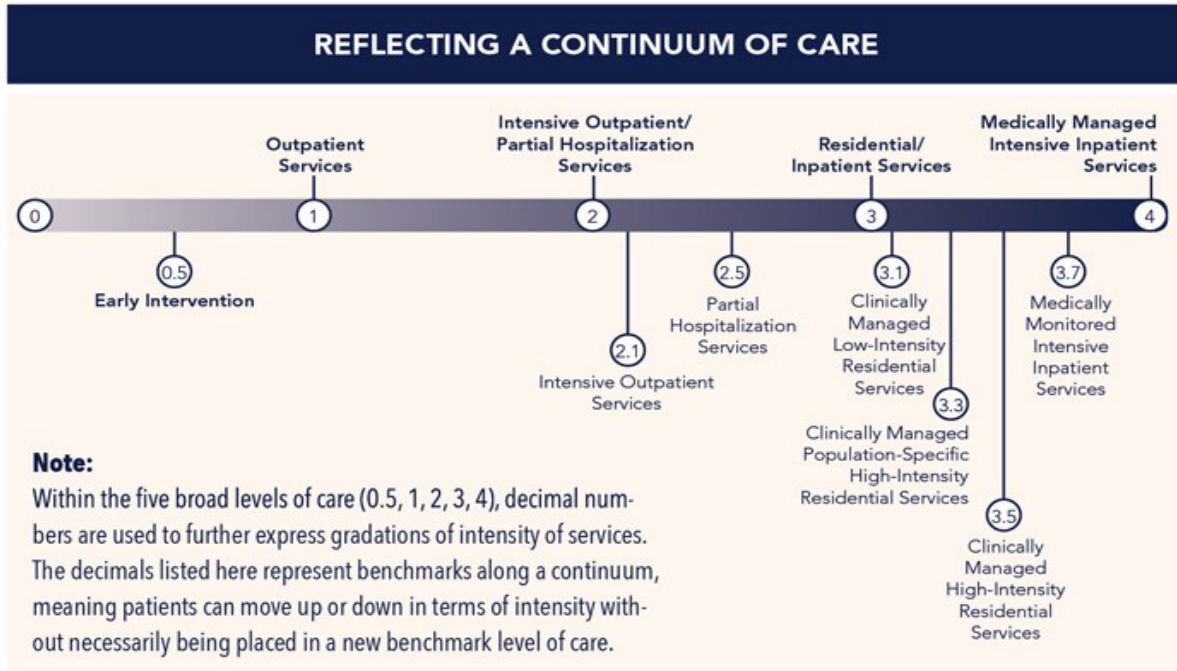
Hygea Detox at Camp Meade, LLC (Hygea) proposes to establish a Track One 16-bed, alcoholism and drug abuse intermediate care facility (ICF) at 817 S. Camp Meade Rd, Linthicum Heights, Anne Arundel County. The Maryland Health Care Commission (MHCC or the Commission) defines an ICF in COMAR 10.24.14.08(13), the State Health Plan for Facilities and Services: Alcoholism and Drug Abuse Intermediate Care Facility Treatment Services as:

A facility designed to facilitate the sub-acute detoxification and rehabilitation of alcohol and drug abusers by placing them in an organized therapeutic environment in which they receive medical services, diagnostic services, individual and group therapy and counseling, vocational rehabilitation, and work therapy while benefiting from the support that a residential setting can provide.

This definition corresponds with a level of treatment for substance use disorder (SUD) defined by the American Society of Addiction Medicine (ASAM) for health care facilities that provide “medically monitored intensive inpatient services.” Maryland state agencies use the ASAM level of care taxonomy to classify facilities and programs providing SUD services. Medically monitored intensive inpatient service, categorized as Level 3.7 care in the ASAM taxonomy, is the highest level of sub-acute (i.e., non-hospital services) for SUD. (See Figure 1 below.) ICFs typically operate as facilities providing withdrawal management (WM), commonly referred to as “detoxification” services, and post-WM treatment services. The average length of stay at ICFs in recent Certificate of Need (CON) applications considered by the Commission range up to 30 days.

The Maryland Department of Health’s Behavioral Health Administration (BHA) uses the ASAM level of care taxonomy, illustrated in Figure 1 below, to classify levels of treatment provided in Maryland.

Figure 1



ASAM describes “medically monitored inpatient care (ASAM 3.7) and medically monitored inpatient withdrawal management programs (ASAM Level 3.7WM)” as programs directly provided by an interdisciplinary staff of nurses, counselors, social workers, addiction specialists, or other health and technical personnel under the direction of a licensed physician. Medical monitoring is provided through an appropriate mix of direct patient contact, review of records, team meetings, 24-hour coverage by a physician, 24-hour nursing and a quality assurance program. Additionally, Level 3.7WM, medically monitored inpatient withdrawal management services: “...are delivered in a freestanding withdrawal management center with inpatient beds; are provided 24 hours daily with observation, monitoring and treatment... (and) include specialized clinical consultation; supervision for cognitive, biomedical, emotional and behavioral problems; medical nursing care; and direct affiliation with other levels of care.”¹

A Certificate of Need is required to establish or relocate an ICF (ASAM Level 3.7), or to establish, relocate, or add beds to a hospital-level alcoholism and drug abuse treatment service (ASAM Level 4). Md. Code Ann., Health-Gen. §19-120. Once established, a licensed and operating ICF may add beds without CON review and approval. §19-120(h)(2)(v). This latter

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

feature became an effective change in the scope of CON regulation in 2019. Bed additions by ICFs required CON review and approval prior to this change in the law. Because the change eliminated the Commission’s control of the inventory of ICF beds, it made the bed need projection standard in the State Health Plan (SHP), at COMAR 10.24.14.05B, obsolete.

There are two types of categories of ICF facilities under the SHP. Track One facilities contain “private beds” which are beds in private facilities not sponsored by local government and that derive no “significant funding by the state or local jurisdictions.” COMAR 10.24.14.08B(20). The second category of ICFs are Track Two facilities. These facilities have “publicly funded beds...owned and wholly operated by the State or substantially funded by the budget process of the State; or in facilities substantially funded by one or more jurisdictional governments, which are established jointly by providers and the jurisdictions to meet the special needs of their residents and that reserve at least 50 percent of their proposed annual adolescent or adult bed capacity for indigent and gray area patients.” COMAR 10.24.14.08B(21). The bed need projection standard, when in effect, was only applicable to Track One ICFs.

B. The Applicant

Robby Stempler is the 100% owner of Hygea Healthcare, LCC, which is the sole member of Hygea Detox at Camp Mead and the proposed operator of the facility. (DI #6, Exh. 3). Mr. Stempler is the CEO and owner of Malibu Detox, LLC in Topanga, California which operates five separate locations. Malibu Detox has been in operation since 2016 providing medically supervised detoxification, residential treatment, and aftercare programs. (DI #6, p.11, DI #12, p. 3). The five California based facilities are all Joint Commission approved and contract with major health insurance providers.² Additionally, Mr. Stempler is the 100% owner Of Hygea Detox, another subsidiary of Hygea Healthcare, LLC. On March 17, 2022, the Maryland Health Care Commission granted Hygea Detox a CON to open a 50-bed Track One ICF in Baltimore County which is scheduled to open in 2024. (Docket No. 21-03-2450).

The Project

Hygea is proposing a 16-bed Track One ICF for adults aged 18 and over to be located at 817 S. Camp Meade Road in Linthicum Heights (Anne Arundel County County). (DI #6, pp.4-6). The ICF will be housed at the former Maryland House Detox facility, a 5,851 SF building with one single, three double and three triple patient rooms. Each room will have its own bathroom. The facility will also contain clinical areas, administration areas, a lounge area, and a commercial kitchen to prepare and serve meals to patients.

² <https://malibudetox.com/>

Camp Meade Investments LLC (landlord), owns the 1.9 -acre site and will lease the building to Hygea for a 1-year term with an option for two additional 5-year terms. (DI #6, Exh. 4). Mr. Stempler is also 100% owner of Camp Meade Investments, LLC.

According to the applicant, the proposed building will be divided into a patient centered area and a business area. The patient area will include six patient rooms, each with egress windows and an adjoining bathroom, patient gathering, family meeting, and consult areas, a relaxation lounge, a group room, a dining room that includes a commercial kitchen enclosure and an open dining area, and an outdoor area that includes a walking path and flower gardens. Patients will be separated into rooms by gender. (DI #12, p. 2). The business area will include patient exam and treatment areas, a nurse’s station for medication prep and storage, staff offices and a lab. (DI #6, p.5).

The total estimated project cost is \$136,781, of which \$127,038 will be provided by the applicant. Camp Meade Investments, LLC will fund \$9,743 for minor renovations to the building. The applicant contribution will include updates to the fire safety, security, and communication systems as well as painting, new signage and repairs to fixtures. The Landlord will repair eternal fencing, damaged flooring, and perform general generator maintenance. Both Landlord and applicant will fund the project with cash. (DI #6, p. 6; DI #6, Table B).

It is projected that the applicant will complete renovations and obtain licensure and accreditation by the end of second quarter of 2024. (DI #6, p.6). The applicant provided the following estimated budget for its portion of the proposed project:

**Table I-1: Project Budget Estimate
Hygea Detox at Camp Meade Contribution**

Project Element	Cost
Building	\$34,870
Fixed Equipment (not included in construction)	\$27,310
Permits	\$1,000
Subtotal	\$63,181
Movable Equipment	\$8,857
Total Current Capital Costs	\$72,038
CON Application Assistance	\$55,000
Total Uses of Funds	\$127,038
Sources of Funds	
Cash	\$127,038
Total Sources of Funds	\$127,038

C. Summary of Staff Recommendation

Staff recommends project approval based on its conclusion that the proposed project complies with the applicable State Health Plan standards. Staff also concludes that the applicant has demonstrated the need for the project, its cost effectiveness, and its viability. Further, the impact of the project is positive, because it will improve the availability and accessibility of ASAM Level 3.7 alcohol and drug abuse treatment services in Anne Arundel County and surrounding areas. Staff recommends that, if the Commission awards a CON for this project, the following conditions be included:

1. Hygea Detox at Camp Meade LLC shall document the provision of a minimum of 15% of patient days 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 and the provision of days to indigent and gray area patients as a percentage of total days. Such audit reports shall be submitted to the Commission each July first following the issuance of first use approval and continuing for five years thereafter;
2. Hygea Detox at Camp Meade LLC must receive preliminary accreditation for the Level 3.7 services it will provide, including withdrawal management and post-withdrawal treatment programming, by The Joint Commission (TJC) or another accrediting body approved by the Maryland Department of Health prior to First Use approval by the Commission, and must timely receive final accreditation by TJC or another approved accrediting body. [COMAR 10.24.14.05H];
3. Hygea Detox at Camp Meade LLC shall notify the Commission and the Behavioral Health Administration, in writing, within fifteen days after it receives notice that its accreditation has been revoked or suspended or should it lose its State license. If its accreditation has been revoked or suspended for reasons related to health or safety or it loses its State license, Hygea Detox at Camp Meade. LLC shall cease operation until the Behavioral Health Administration notifies the Commission that the deficiencies have been corrected. [COMAR 10.24.14.05H]; and
4. Hygea Detox at Camp Meade LLC shall document referral agreements, prior to First Use approval by the Commission, in the form of letters of agreement or acknowledgement from acute care hospitals, halfway houses, therapeutic communities, alcohol and drug abuse centers, community mental health centers, and mental health and alcohol and drug abuse authorities including local agencies that provide prevention, education, driving-while-intoxicated programs, and family counseling. [COMAR 10.24.14.05L]

II. PROCEDURAL HISTORY

A. Record of the Review

Please see Appendix 1, Record of the Review.

B. Interested Party in Review

There are no interested parties in this Review.

C. Local Government Review and Comment

Was there any submitted?

D. Other Support and Opposition to the Project

Hygea submitted letters supporting the project from representatives of both substance abuse treatment programs and counseling programs, as follows: (DI #6, Exh.13).

Other substance abuse treatment providers

- Sam Bierman, Chief Executive Officer, Maryland Addiction Recovery Center
- Jennifer Weiss Wilkerson, Vice President and Chief Strategy Officer, Sheppard Pratt
- Alex Denstman, Joint Chief Executive Officer, Ashley Addiction Treatment

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 SHP chapter is COMAR 10.24.14, Alcoholism and Drug Abuse Intermediate Care Facility Treatment Services (ICF Chapter). COMAR 10.24.14.05 outlines the CON 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.

(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.

Hygea seeks to establish a new 16-bed Track One ICF facility for adults, which is consistent with subsection (2) of this standard. Subsections (1) and (3) are not applicable.

Staff Analysis and Recommendation

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 has been made obsolete by the previously discussed 2019 amendments to Maryland law changing the scope of CON regulation. Using the SHP methodology to avoid oversupplying the market with ICF beds cannot be equitably achieved through its use because MHCC no longer has regulatory oversight of ICF bed capacity for an established ICF. The practical effect is that MHCC no longer has regulatory control over the supply of ICF beds. Its authority is limited to reviewing proposals to establish or relocate ICFs.

Staff Analysis and Recommendation

The bed need methodology cannot logically or equitably be applied in this review. The need criterion at COMAR 10.24.01.08G(3)(b) is recommended for use in this review.

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

Hygea states that it will establish a sliding fee scale for gray area patients that is consistent with the patient’s ability to pay. This includes financial assistance for those who are “uninsured, under insured, or otherwise unable to pay for medically necessary care.” (DI #6, p.18). The applicant based its sliding fee scale on review of the last five Level One providers with CONs approved by the Commission. To document eligibility for the sliding fee scale, the patient will need to supply evidence of their financial situation. The applicant states that it will track all applications for financial assistance and make decisions promptly, following up each decision with a letter of final determination. (DI #6, p.18). Hygea states that it will utilize the sliding fee schedule below.

Figure III-1: Proposed 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, p.19).

Staff Analysis and Recommendation

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 would utilize 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

The applicant will not serve adolescents.

(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.

Hygea commits to providing at least 15 percent of its proposed annual facility bed days to indigent or gray area patients. To ensure that this target is met, the applicant stated that it will track its provision of care through an electronic medical records system. (DI #6, p.19). The applicant will monitor this information quarterly. If, after the first six months of operation, the level of indigent or gray area care falls below 15 percent, the applicant states that it will reach out to its partners for referrals and seek out new referral partners, if needed. In addition, Hygea states that it will review its process annually and make any needed changes. (DI #6, p.19).

Staff Analysis and Recommendation

Staff recommends that the Commission find the application in compliance with this standard and recommends that an approval of the application include the following condition:

Hygea Inc. shall document the provision of a minimum of 15% of patient days 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 and the provision of days to indigent and gray area patients as a percentage of total days. Such audit reports shall be submitted to the Commission following each fiscal year, from the project's inception and continuing for five years thereafter.

Subsections .05D (2), (3), and (4) of this standard are only applicable to existing ICFs.

.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.

Hygea states that it will post information regarding the range and types of services provided and a statement of charges. The applicant also states that it will provide this information to the public upon request. (DI #6, p. 19). The applicant provided a list of its charges which included charges for detoxification and urinalysis. (DI #6, Exh.9).

Staff Analysis and Recommendation

Staff reviewed the list of charges provided, Hygea has committed to posting the required information and documented the information is available to the public upon request. Staff conclude 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.

The proposed facility will be located at 817 Camp Meade Road in Linthicum Heights (Anne Arundel County) and is approximately a 12-to-14-minute drive time from Baltimore Washington Medical Center, 12 to 15 minutes from Ascension Saint Agnes Medical Center, and 25 minutes from Luminis Anne Arundel Medical Center, all within the required one-way travel time by automobile. (DI #6, p. 17).

Staff Analysis and Recommendation

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.

The applicant is applying for 16 adult beds and submitted all draft policies and procedures including treatment protocols for adult patients. (DI #4, Exh.10).

Staff Analysis and Recommendation

Staff reviewed the draft policies provided and concludes the applicant has met this subpart.

(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.

The applicant will not serve adolescent patients. This standard is not applicable.

(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.

Hygea proposes establishment of a new ICF. This standard is not applicable.

.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 before first use it will seek accreditation from an appropriate entity and maintain the accreditation as required by the standard. If the certification is revoked, the applicant will notify OHCQ and MHCC as required in the standard. (DI #6, p.21).

(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.

The applicant states that before first use it will seek certification from the Office of Health Care Quality and maintain the certification as a condition to operate. The applicant states that it will maintain certification as a required by the standard and will notify OHCQ and MHCC if certification is revoked. (DI #6, p.21).

Staff Analysis and Recommendation

Hygea states that it will seek and maintain certification by an appropriate entity and licensure by the Maryland Department of Health once its CON is approved. (DI #6, p.21). The applicant's response meets this standard, and staff recommends that approval of the application include the following condition:

Hygea Detox at Camp Meade LLC must receive preliminary accreditation for the Level 3.7 services it will provide, including withdrawal management and post-withdrawal treatment programming, by The Joint Commission (TJC) or another accrediting body approved by the Maryland Department of Health prior to First Use approval by the Commission, and must timely receive final accreditation by TJC or another approved accrediting body. [COMAR 10.24.14.05H].

.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.

The applicant states that it will participate in utilization review and control programs. It also states that it will have treatment protocols including policies for admission, length of stay, discharge planning and referrals and has included these draft policies in its application. (DI #6, p.21). The applicant provided written policies concerning admission, length of stay, discharge planning and referral. (DI #6, Exh. 10).

(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.

Hygea states that it has a commitment to aftercare following discharge as evidenced by an excerpt from its policy that states “each patient’s treatment plan includes at least one year of aftercare following discharge from the facility, and available referral partners providing aftercare services, including evenings and weekend options, are provided during discharge.” (DI #6, Exh.10, Length of Stay, Aftercare policy, p.13).

Staff Analysis and Recommendation

Staff has reviewed the submitted policies and 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.

The applicant provided transfer and referral agreements with other facilities that complement its own capabilities as shown in Table III-2.

(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 Administration³;**
- (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.**

Hygea included letters of agreement and acknowledgement with other facilities it had gathered, to date, as shown in the following table. (DI #4, pp.19-20).

Table III-2: Hygea Transfer and Referral Agreements

Provider Category	Agreement or contact with:
Acute care hospitals	The Applicant has also reached out to Sinai Hospital and University of Maryland Baltimore Washington Medical Center and is working to establish referral partner agreements with these facilities.
Halfway houses, therapeutic communities, long-term care facilities, local alcohol, and drug abuse intensive	Sheppard Pratt Health System, a special psychiatric hospital, which has inpatient capabilities exceeding those of the Applicant. Sheppard Pratt also offers a wide-array of outpatient programs and services. Maryland Addiction Recovery Center, which offers partial hospitalization services, an intensive outpatient program, and other outpatient services.
Local community mental health center or center(s)	The applicant continues to work towards establishing transfer and referral agreements
The jurisdiction’s mental health and alcohol and drug abuse authorities	The Applicant is in communication with the Anne Arundel County Department of Health and is working to establish a referral partner arrangement with the County.
The Behavioral Health Administration of MDH (formerly the Mental Hygiene Administration with its division of Alcohol and Drug Abuse)	The Behavioral Health Administration prefers to engage with applicants after CON approval - the applicant will seek out a referral agreement if CON is granted.
The jurisdiction’s agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services	The applicant continues to work towards establishing transfer and referral agreements

Source: (DI #4, pp. 19-20) and (DI #11, pp.3-4).

³ These former components of the Maryland Department of Health are now included within the Behavioral Health Administration.

Staff Analysis and Recommendation

Staff concludes that Hygea is in the process of executing transfer and referral agreements and as a new agency in the State, will be required to finalize these agreements prior to first use. Therefore, staff recommends that the Commission find the application in compliance with this standard with the following condition:

Hygea Detox at Camp Meade LLC shall document referral agreements, prior to First Use approval by the Commission, in the form of letters of agreement or acknowledgement from acute care hospitals, halfway houses, therapeutic communities, alcohol and drug abuse centers, community mental health centers, and mental health and alcohol and drug abuse authorities including local agencies that provide prevention, education, driving-while-intoxicated programs, and family counseling. [COMAR 10.24.14.05L]

.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.**

Hygea seeks to establish a Track One facility. This sub-part of the 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.**

Hygea noted that it is working with the Anne Arundel Department of Health to establish a referral agreement" (DI #6, p. 23). In this proposed agreement, Hygea will dedicate two of its beds to Anne Arundel County referrals who are eligible for charity care.

The applicant also included a referral agreement with Maryland Addiction Recovery Center which expresses a commitment to accept patients eligible for charity care.⁴ (DI #6, Exh. 11).

Staff Analysis and Recommendation

Staff has reviewed the referral agreement with Maryland Addiction Recovery Center and 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 draft policies and procedures regarding staff training and development with its CON application. (DI #6, Exh.10). It also provided a description of each module. (DI #6, pp. 24-25). Hygea states that it will institute and maintain a standardized in-service orientation and continuing education program for all categories of direct service personnel. (DI #6, p.24).

Staff Analysis and Recommendation

Staff has reviewed the aforementioned policies and procedures and 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.

Hygea states that it will implement appropriate admission, treatment, and staffing protocols as well as a physical plant design that is in line with ASAM placement criteria, Joint Commission guidelines, national patient safety goals and standards in the industry. (DI #6, p.25). The one-story structure contains rooms with private bathrooms and activity spaces, nursing areas, and treatment areas. (DI #6, Exh. 4). The applicant states that all the beds in the facility will be set up for both 3.7 and 3.7 WM care. (DI #6, p.26). Lastly, the applicant also provided a copy of its draft policies and procedures that support the validity of the above-mentioned protocols and guidelines. (DI #6, Exh.10).

⁴ Staff notes that the SHP rules referenced here by the applicant are not “charity care” rules, as that term is conventionally used with reference to health care facility services. It does require commitment by Track One ICFs to serve indigent (Medicaid-eligible) and other low-income households, when insurance coverage for ICF services is not available.

Staff Analysis and Recommendation

Staff has reviewed the floor plans and policies and procedures and 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.

Hygea submitted a copy of its HIV policy. (DI #6, Exh. 10). The policy states that Hygea will provide both initial train and yearly follow-up training on infection control to staff. The facility will provide initial HIV/AIDS testing and counseling, risk assessment, and referral support for testing, post-test counseling, appropriate treatment, and related needs to patients. The applicant provided a copy of its policies and procedures related to infection control. (DI #6, Exh.10).

Staff Analysis and Recommendation

Staff has reviewed the HIV/AIDS policy and concludes that the application is consistent with this standard.

.05O. Outpatient Alcohol and 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.**

The applicant will not provide outpatient services and will use referral agreements to work with other community providers who provide specialized services as indicated below in subpart

(5). Hygea also commits to development of patient treatment plans that will include at least one year of aftercare following discharge from the facility. (DI #6, p.26).

(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.

The applicant states that it will not provide outpatient drug and alcohol treatment but will maintain written referral agreements with providers of outpatient services that provide alcohol and drug abuse treatment programs offering the services listed in subparts (1) through (4) above. (DI #6, p.26).

To date the applicant has signed outpatient agreements with providers that work with the special populations defined in COMAR 10.24.14.08. (DI #6, p. 26). These providers include The Maryland Addiction and Recovery Center, and Sheppard Pratt Health System. (DI #6, Exh. 11). The applicant also states that it will continue to add to this list of outpatient providers so that it can offer its patients options upon discharge. In addition, the applicant's draft policy on aftercare states "the importance of aftercare will be emphasized during an exit interview with encouragement." (DI #6, Exh.11, p.13).

Staff Analysis and Recommendation

Staff has reviewed the aftercare policy and concludes that the application is consistent with this standard.

.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 Optum, Inc. to collect data only from publicly funded providers (Track Two), thus, Hygea's proposed Track One facility would not be required to report utilization data to the State. The applicant has expressed a willingness to participate in comparable data collection programs if one is created in the future. (DI #6, p.27).

Staff Analysis and Recommendation

Staff concludes that the application 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 SHP Need standard at COMAR 10.24.14.05B,⁵ the bed need projection methodology for Track One facilities has been made obsolete by the 2019 amendments to Maryland law changing the scope of CON regulation.⁶

Hygea states that the primary service area for the proposed ICF will be Anne Arundel County, with the secondary service area encompassing the remainder of Central Maryland, defined as Baltimore City, Baltimore County, Harford County, and Howard County. (DI #12, p.5). Within the Primary Market Area (PMA) of 30 miles, there exists a single Track One provider, Baltimore Detox Center (24 beds) which is located 12 miles from Hygea’s proposed location. (DI #6, p. 41). Hygea Detox will open an additional 50-bed facility in 2024, located 19 miles from the proposed site.

The applicant provided June 2021 MDH data showing a rise in the number of deaths in Maryland due to opioids, cocaine, benzodiazepines, methamphetamine, or phencyclidine, with the largest number of fatal overdoses seen in Central Maryland. (DI #6, p.32). Hygea states that the proposed 16-bed Track One ICF will provide much needed capacity to this overburdened area of the state. The applicant cites the “*University of Maryland’s Opioid Treatment Programs in Maryland Needs Assessment Report, September 2021*” which shows that Anne Arundel County as one of four jurisdictions in Maryland in which the ICF need exceeds capacity by approximately 1,500 people. (DI #6, pp. 33-34). Hygea adds that this project will make available 16-beds that were included in the Anne Arundel County bed capacity prior to the closing of Maryland House Detox in January 2023. (DI #6, p. 34).

Staff Analysis and Recommendation

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. Staff recommends a finding that the applicant has provided

⁶ Discussion of Identification of Intermediate Care Facility Alcohol and Drug Abuse Bed Need, *supra*, pp. 6-8.

⁶ Discussion of Identification of Intermediate Care Facility Alcohol and Drug Abuse Bed Need, *supra*, pp. 6-8.

relevant information demonstrating the growing unmet need of Anne Arundel County as a basis for development of additional treatment options and capacity to meet that need.

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.

Hygea states that the objective of the project is to “provide Marylanders with excellent specialty care for chemical dependency” and “seeks to provide comprehensive addiction and dual diagnosis treatment to help individuals achieve long term recovery.” (DI #6, p.35).

When comparing other alternatives to the proposed project, the applicant noted that this project was on a site already owned by Mr. Stempler and had already been in use as an ICF. The project would take three months to complete at a cost of only \$136,781, of which \$127,038 will be provided by the applicant. Any construction of a new facility would be more expensive and take longer than the proposed project (DI #6, p. 36). Similarly, any expansion of existing facilities would be less cost and time efficient than the proposed ICF (DI #6, p. 36).

Staff Analysis and Recommendation

Staff recommends that the Commission find the proposed project is a cost-effective way to provide additional ICF service capacity available in Central Maryland.

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 the proposed project is \$136,781, with \$127,038 being paid by the applicant and \$9,743 being provided by the landlord. The applicant’s part of the expenditure includes \$ 34,870 in renovations to the building, \$27,310 in fixed equipment, \$1,000 in permits, \$8,857 in moveable equipment, and \$55,000 in legal fees related to the CON. (DI #6, Table B Project Budget).

Hygea submitted a letter from Solomon and Nislow P.A. Certified Public Accountants stating that it had “considered the member’s cash flow and entities projections and there seems to be adequate availability of funds.” (DI #6, Exh.12). However, staff noted that this firm disclosed that it is the “accountant for the above-mentioned entity and its members.” (DI #6, Exh.12). The accountants state that while they are accountants for Mr. Stempler, as Certified Public Accountants (CPAs) they are bound by the “Code of Professional Conduct of the American Institute of Certified Public Accountants.” (DI #6, Exh.12). The letter further states that although they provide tax and accounting services to Mr. Stempler, they are not employed by him or Hygea Detox and consider themselves independent CPAs. (DI #6, Exh.12).

Projected Financial Performance

Hygea’s financial projections assume gross revenue of \$1,225 per day for its ICF services, yielding \$830 per day after contractual allowances and uncompensated care. (DI #6, Table D Assumptions). The average length of stay is projected to be 8.3 days. Hygea expects to participate as a network provider with Blue Cross Blue Shield and other commercial third-party payers which will account for 85 percent of total income. (DI #6, Exh. 1, Table D. Revenues and Expenses). The facility is projected to achieve 90 percent occupancy by 2025. (DI #6, Exh.1, Table C Statistical Projections).

The applicant projects that it will generate income from operations immediately, as shown in the table below.

Table III-3: CY 2024-2026 Hygea Financial Projections Uninflated

Calendar Year	2024	2025	2026
Inpatient Services	\$4,729,520	\$6,435,987	\$6,435,987
Gross Patient Service Revenue	\$4,729,520	\$6,435,987	\$6,435,987
Allowance for Bad Debt	\$94,590	\$128,720	\$128,720
Contractual Allowance	\$719,710	\$979,389	\$979,389
Charity Care	\$709,428	\$965,398	\$965,398
Net Patient Service Revenue	\$3,205,792	\$4,362,480	\$4,362,480
NET OPERATING REVENUE	\$3,205,792	\$4,362,480	\$4,362,480
Salaries and Wages (including benefits)	\$1,716,827	\$2,289,103	\$2,289,103
Other Expenses	\$643,956	\$867,373	\$867,373
TOTAL OPERATING EXPENSES	\$2,360,783	\$3,156,476	\$3,156,476
Income From Operations	\$845,009	\$1,206,005	\$1,206,005

Source: (DI #6, Exh.1, Table D).

Work Force Projections

Hygea projects employment of 30.25 FTEs, none of which will be contractual, at a total cost of \$2,289,103 in salaries and benefits. Applicant projects the ability to recruit for these positions without significant problems. (DI #6, Exh.1, Table G Workforce Information). A profile of the staffing plan is shown in the table below.

Table III-4: Hygea Center Workforce Table

Job Category	FTEs	Total Cost
Regular Employees		
Total Administration	9.5	\$765,000
Total Direct Care	14.75	\$980,000
Total Support	6.0	\$240,000
<i>Regular Employees - TOTAL</i>	30.25	\$1,985,000
<i>Payroll Taxes and benefits (Employer)</i>		\$304,103
<i>Total Personnel Cost</i>		\$2,289,103*

Source: (DI #6, Exh.1, Table G).

*Benefits are included in wage calculations at 15 percent

The applicant states that it is aware of the ongoing staffing challenges for substance use disorder treatment programs in the Maryland and will attract new employees by offering enriched employment benefits and above market salary rates. (DI #6, p. 42). Additionally, Hygea is working with area college programs to access potential counselors and accessing resources provided by the Board of Professional Counselors, the Board of Social Work and several region-wide organizations such as LCPCM and Maryland Social Workers Association. (DI #6, p. 42).

Community Support

As previously discussed in this Staff Report, infra, p. 6, this proposed project received letters of support from representatives of other substance use disorder treatment programs, and Sheppard Pratt Hospital supporting the ability of the applicant to develop a quality ICF program. (DI #6, Exh.13).

Staff Analysis and Recommendation

Staff concludes that the applicant has sufficient monetary resources to open the ICF and maintain profitability. The staffing plan appears to be sufficient to attract workers and to care for

the patients at the facility. Additionally, Hygea has the community support necessary to reach patients in need of ICF services. 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.

Hygea Detox, Inc., an affiliate of Hygea Detox at Camp Meade, LLC, was awarded a CON to construct a new Track One ICF in Baltimore County on March 17, 2022. The facility is currently under construction and is expected to open in the first quarter of 2024. Hygea Detox, Inc. has complied with reporting requirements for the existing CON.

Staff Analysis and Recommendations

Staff reviewed the quarterly reports for the applicant's previous CON and concludes that the applicant is in compliance with previous Certificates of Need.

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.

Hygea states that, because its proposed project is designed to address unmet needs for services among Central Maryland residents, there should be no negative impact on the volumes of any other existing Maryland ICF providers of inpatient withdrawal management services. (DI #6, p.40). The applicant has stated a commitment to providing the required minimum level of care to persons falling within the indigent or gray area range. Further, the applicant points out that this site previously housed a 16 bed ICF before closing in January 2023, and any adverse impact would have been realized by the previous owner. (DI #6, p. 42).

The applicant provided information on the geographic distribution of Track One ICFs in Maryland region. (Table III-5.) Hygea identified Baltimore Detox Center as the nearest Track One ICF to

its proposed site (12 miles away) with Hygea Detox (19 miles away) and Ashley Addiction Treatment (44 miles away) were identified as the second nearest alternatives. (DI #6, p.41).

Table III-5 Maryland Track One ICFs

Provider	County	Region	Number of Beds	Driving Distance
Baltimore Detox Center	Baltimore	Central	24	12
Hygea Detox	Baltimore	Central	50	19
Ashley Addiction Treatment	Harford	Central	121	44
RCA Waldorf	Charles	Southern	64	50
Avenues Recovery Center of Maryland	Calvert	Southern	20	52
Avenues Recovery Center of Chesapeake Bay	Dorchester	Eastern Shore	104	77
RCA, Cecil	Cecil	Eastern Shore	123	78
Hudson Health Services	Wicomico	Eastern Shore	51	109

Source: DI #6, p.41

As discussed in the Viability criterion, *infra*, pp.20-21, the applicant commented on staffing, an impact issue with respect to existing providers. Hygea states that it will be offering attractive employment benefits and above-market salary rates as a recruitment strategy and is developing relationships with several colleges as an alternate source for potential employees. It states that it is building relationships with the Board of Professional Counselors, the Board of Social Work and the Maryland Social Workers Association, as alternatives to more traditional avenues for staff recruitment. (DI #6, p.42).

Staff Analysis and Recommendations

Staff recommends that the Commission find that the impact of the project is acceptable. State statute allows expansion of bed capacity at existing ICF beds without Commission approval, which has the effect of allowing ICFs to expand without regulatory involvement. The project will increase access to ICF services in Central Maryland.

IV. STAFF RECOMMENDATION

Based on review and analysis of the Certificate of Need application, staff recommends that the Commission find that Hygea’s proposed project is consistent with the applicable State Health Plan standards and that need for the Track One ICF project has been demonstrated. The project is a cost-effective alternative for providing Track One ICF services and should be viable. The impact

of the project will be positive. The applicant has committed to serve indigent and gray area patients at levels required by the SHP rule for Track One ICFs.

Accordingly, Staff recommends that the Commission **APPROVE** the application of Hygea Detox at Camp Meade, LLC. for a Certificate of Need to establish the proposed ICF with the following conditions:

1. Hygea Detox at Camp Meade LLC shall document the provision of a minimum of 15% of patient days 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 and the provision of days to indigent and gray area patients as a percentage of total days. Such audit reports shall be submitted to the Commission each July first following the issuance of first use approval and continuing for five years thereafter.;
2. Hygea Detox at Camp Meade LLC must receive preliminary accreditation for the Level 3.7 services it will provide, including withdrawal management and post-withdrawal treatment programming, by The Joint Commission (TJC) or another accrediting body approved by the Maryland Department of Health prior to First Use approval by the Commission, and must timely receive final accreditation by TJC or another approved accrediting body. [COMAR 10.24.14.05H]; and
3. Hygea Detox at Camp Meade LLC shall notify the Commission and the Behavioral Health Administration, in writing, within fifteen days after it receives notice that its accreditation has been revoked or suspended or should it lose its State license. If its accreditation has been revoked or suspended for reasons related to health or safety or it loses its State license, Hygea Detox at Camp Meade. LLC shall cease operation until the Behavioral Health Administration notifies the Commission that the deficiencies have been corrected. [COMAR 10.24.14.05H]
4. Hygea Detox at Camp Meade LLC shall document referral agreements, prior to First Use approval by the Commission, in the form of letters of agreement or acknowledgement from acute care hospitals, halfway houses, therapeutic communities, alcohol and drug abuse centers, community mental health centers, and mental health and alcohol and drug abuse authorities including local agencies that provide prevention, education, driving-while-intoxicated programs, and family counseling. [COMAR 10.24.14.05L]

IN THE MATTER OF
HYGEA DETOX AT CAMP
MEADE, LLC

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BEFORE THE
MARYLAND HEALTH
CARE COMMISSION

Docket No. 23-02-2468

FINAL ORDER

Based on Commission Staff’s analysis and conclusions, it is this 21st day of September 2023, **ORDERED** that the application for a Certificate of Need submitted by Hygea Detox at Camp Meade, LLC. to establish a 16-bed Track One Intermediate Care Facility for adults at 817 S. Camp Meade Rd, Linthicum Heights, Anne Arundel County, at an estimated cost to the applicant of \$127,038, be **APPROVED** subject to the following conditions:

1. Hygea Detox at Camp Meade LLC shall document the provision of a minimum of 15% of patient days 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 and the provision of days to indigent and gray area patients as a percentage of total days. Such audit reports shall be submitted to the Commission each July first following the issuance of first use approval and continuing for five years thereafter.;
2. Hygea Detox at Camp Meade LLC must receive preliminary accreditation for the Level 3.7 services it will provide, including withdrawal management and post-withdrawal treatment programming, by The Joint Commission (TJC) or another accrediting body approved by the Maryland Department of Health prior to First Use approval by the Commission, and must timely receive final accreditation by TJC or another approved accrediting body. [COMAR 10.24.14.05H]; and
3. Hygea Detox at Camp Meade LLC shall notify the Commission and the Behavioral Health Administration, in writing, within fifteen days after it receives notice that its accreditation has been revoked or suspended or should it lose its State license. If its accreditation has been revoked or suspended for reasons related to health or safety or it loses its State license, Hygea Detox at Camp Meade. LLC shall cease operation until the Behavioral Health Administration notifies the Commission that the deficiencies have been corrected. [COMAR 10.24.14.05H]

4. Hygea Detox at Camp Meade LLC shall document referral agreements, prior to First Use approval by the Commission, in the form of letters of agreement or acknowledgement from acute care hospitals, halfway houses, therapeutic communities, alcohol and drug abuse centers, community mental health centers, and mental health and alcohol and drug abuse authorities including local agencies that provide prevention, education, driving-while-intoxicated programs, and family counseling. [COMAR 10.24.14.05L]

MARYLAND HEALTH CARE COMMISSION

APPENDIX 1:
RECORD OF THE REVIEW

Record of the Review

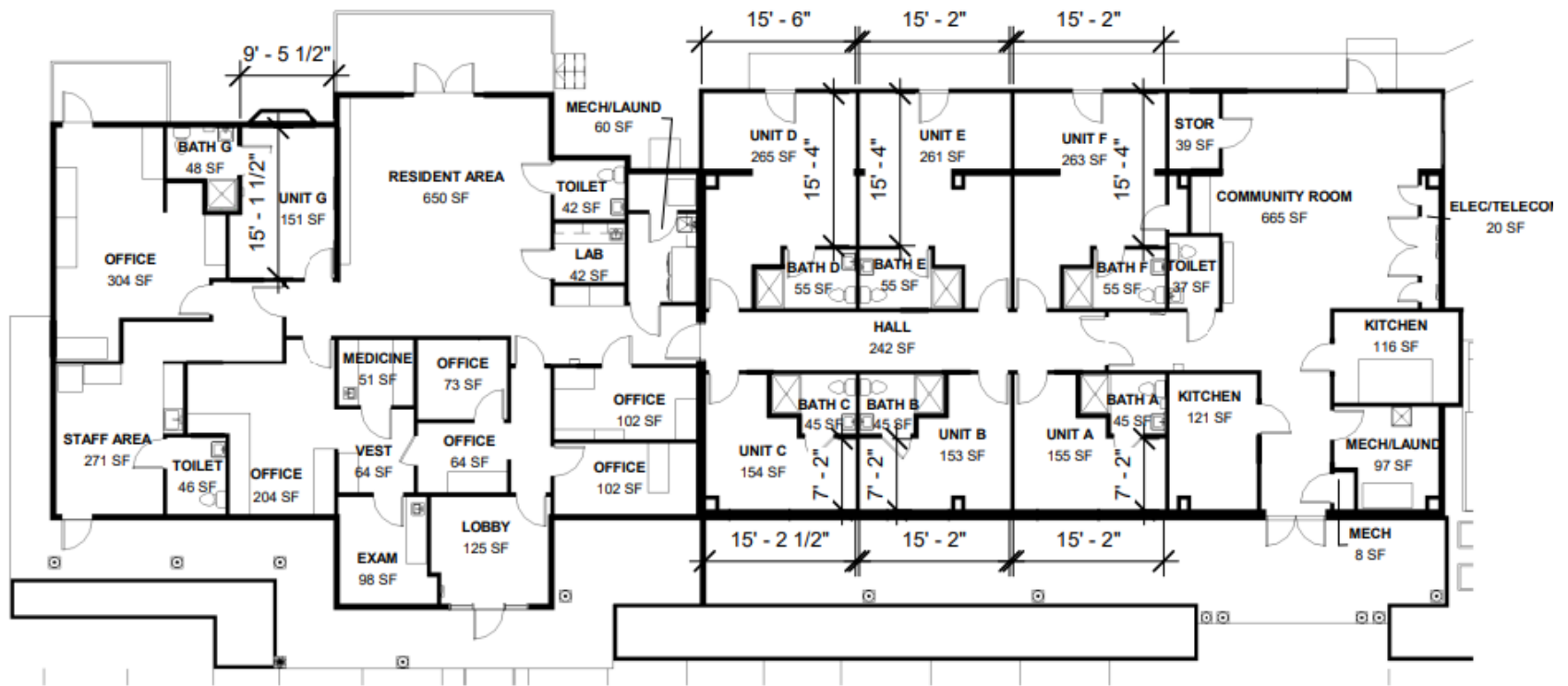
Hygea Detox at Camp Meade, LLC – Docket #23-02-2468

Item #	Description	Date
1	Applicant to MHCC - Letter of Intent	5/2/23
2	Applicant to MHCC – Request to Waive 60-Day Waiting Period	5/2/23
3	MHCC to Applicant – Waiver of 60-Day Waiting period	5/17/23
4	Maryland Register Request to publish notice Soliciting additional LOI's	5/17/23
5	Applicant to MHCC – Extension Request to file application until 6/20/23	6/6/23
6	Certificate of Need Application	6/20/23
7	MHCC to Applicant – Acknowledgment of receipt of application	6/29/23
8	Request to publish notice of receipt of application in Baltimore Sun	6/29/23
9	Request to publish notice of receipt of application in Maryland Register	6/29/23
10	MHCC to Applicant – Request for completeness information	7/5/23
11	Notice of receipt as published in the Baltimore Sun	7/6/23
12	Applicant to MHCC – Completeness Responses	7/19/23
13	MHCC to Applicant – Formal start of review will be 8/11/23	7/20/23
14	Request to publish notice of formal start of review in Baltimore Sun	7/20/23
15	Request to publish notice of formal start of review in Maryland Register	7/20/23
16	Form- Request Local Health Comments	7/20/23

APPENDIX 2:
PROJECT BUDGET INCLUDING LANDLORD COSTS

Project Element	Hygea Detox at Camp Meade Contribution	Landlord Contribution	Total
Building	\$34,870	\$9,743	\$44,614
Fixed Equipment (not included in construction)	\$27,311	-	\$27,311
Permits	\$1,000	-	\$1,000
Subtotal	\$63,181		\$63,181
Movable Equipment	\$8,857	-	\$8,857
Total Current Capital Costs	\$72,038		\$72,038
CON Application Assistance	\$55,000	-	\$55,000
Total Uses of Funds	\$127,038	-	\$127,038
Sources of Funds			
Cash	\$127,038	\$9,743	\$127,038
Total Sources of Funds	\$127,038	\$9,743	\$136,781

APPENDIX 3:
FLOOR PLAN



① FLOOR PLAN
 1/16" = 1'-0"