



2026 SESSION
POSITION PAPER

BILL NUMBER: SB 444

COMMITTEE: Finance

POSITION: Support

TITLE: Certificate of Need – Intermediate Health Care Facilities

BILL ANALYSIS

Senate Bill 444 – Certificate of Need – Intermediate Health Care Facilities reestablishes a requirement that intermediate care facilities offering American Society of Addiction Medicine (ASAM) Level 3.7 substance use disorder (SUD) treatment obtain approval from the Maryland Health Care Commission (MHCC) before adding bed capacity. The bill establishes an expedited review process to either create a new Level 3.7 SUD facility or expand bed capacity at any existing facility. Rather than full certificate of need (CON) review, an applicant must demonstrate that its project meets certain standards and serves the public interest.

POSITION AND RATIONALE

Recent investigative reporting by *The Baltimore Banner* emphasizes the need for both additional SUD treatment and additional oversight over treatment facilities to ensure quality services.^{1,2,3} This bill balances these interests by requiring a Level 3.7 SUD treatment facility to undergo a public interest review whether it is establishing a new facility or expanding capacity at an existing facility while ensuring a faster decision than a full CON review.

Under existing law, a CON is required to establish or relocate a facility providing ASAM Level 3.7 SUD treatment.⁴ For most types of facilities that MHCC regulates, a CON would also be required to add bed capacity to an existing facility; however, *no* review is currently required to add additional capacity to an ASAM Level 3.7 SUD treatment facility.

This has created a disconnect between the project initially presented to MHCC for CON review and the project ultimately implemented. For example, an applicant obtained a CON approval to establish a 21 bed ICF. Within one year of opening, the facility provided notice of its plan to add 81 beds, more than triple the capacity of the approved facility.

More troubling, some ICFs have increased bed capacity by adding more beds to existing rooms without changing the physical space or environment of the physical facility. There is no regulatory limit on the number of beds that can be added to each room, and some facilities have placed six people to a room, jeopardizing patient care. Overcrowding in behavioral health settings has led to increased violence, suicide, and injury.^{5,6} Despite policymakers' frequent concerns about how increased capacity may negatively impact the quality, medical efficacy, and safety of patients, MHCC does not have the authority to prevent an expansion of capacity once the project has received a CON.

MHCC supports *SB 444* because it will create a single consistent regulatory framework for all Level 3.7 SUD treatment facilities, whether it is a new facility or one that is expanding bed capacity. The legislation would require these facilities request approval from MHCC through a process MHCC calls exemption from CON. Under this process, an applicant would still be required to address all standards of the State Health Plan chapter governing these facilities,⁷ including those related to serving patients with Medicaid or without insurance, maintaining appropriate accreditation, and documenting appropriate admission standards, treatment protocols, staffing standards, and physical plant configuration. The applicant would also have to demonstrate how the project would be in the public interest. However, this process differs from a CON in that competitors are unable to intervene and a decision must be made within 45 days.

MHCC believes this change strikes an appropriate regulatory balance in that it provides more oversight over capacity expansion, creates a faster process for new establishments, and prevents providers from taking advantage of the current loophole in CON regulation. This outcome benefits patients and families by providing more choices and enables MHCC to have better regulatory oversight over the availability of Level 3.7 SUD treatment beds. In addition, *SB 444* benefits the industry by establishing a faster process to obtain review.

For the stated reasons above, we ask for a favorable report on *SB 444*.

¹ Zhu, A, Gallagher, J, Cohn, M (2024). They Entered Treatment. Drugs, Overdoses and Deaths Followed. The Baltimore Banner. <https://www.thebanner.com/community/public-health/baltimore-opioid-drug-treatment-investigation-AOTRDIBQAJGHFFCLJ3NW2J5JN4/>.

² Zhu, A, Cohn, M, Vaughn-Hall, J (2025). Ready by unable to open: New treatment providers face hurdles in Maryland. The Baltimore Banner. <https://www.thebanner.com/community/public-health/addiction-mental-health-treatment-delays-maryland-NTIMLBS74FCIFK75KXALF2ZKCA/>.



³ Zhu, A., Sanderlin L. (2025) Baltimore neighborhoods worry about the influx of low-quality drug treatment. The Baltimore Banner. <https://www.thebanner.com/community/local-news/baltimore-drug-treatment-programs-centers-neighborhood-TMNEB2M4J5G4DGU2XO5CIBQZO4/>.

⁴ Md. Code Ann., Health-Gen. § 19-120.

⁵ Teitelbaum A, Lahad A, Calfon N, Gun-Usishkin M, Lubin G, Tsur A. Overcrowding in Psychiatric Wards is Associated With Increased Risk of Adverse Incidents. Med Care. 2016 Mar;54(3):296-302. doi: 10.1097/MLR.0000000000000501. PMID: 26871645.

⁶ Virtanen M, Vahtera J, Batty GD, Tuisku K, Pentti J, Oksanen T, Salo P, Ahola K, Kivimäki M. Overcrowding in psychiatric wards and physical assaults on staff: data-linked longitudinal study. Br J Psychiatry. 2011 Feb;198(2):149-55. doi: 10.1192/bjp.bp.110.082388. PMID: 21282786.

⁷ COMAR 10.24.14.

