



2025 SESSION
POSITION PAPER

BILL NO: **HB 1515**

COMMITTEE: **House Health and Government Operations Committee**

POSITION: **Support**

TITLE: **Certificate of Need - Intermediate Health Care Facilities - Exemptions**

BILL ANALYSIS

HB 1515 – Certificate of Need - Intermediate Health Care Facilities - Exemptions reestablishes a requirement that intermediate care facilities (ICF), offering American Society of Addiction Medicine (ASAM) Level 3.7 medically managed residential substance use disorder treatment, obtain MHCC approval before adding bed capacity. The bill establishes a requirement that an existing ICF that offers ASAM Level 3.7 substance use disorder treatment obtain approval from MHCC to change bed capacity. It also replaces the full certificate of need (CON) requirement in current law with the same approval requirement for the establishment or operation of a new ICF, thereby establishing a consistent and equitable regulatory framework for the establishment or expansion of ASAM Level 3.7 substance use disorder treatment.

POSITION AND RATIONALE

The Maryland Health Care Commission (MHCC) supports *HB 1515*.

I. Current Statute – Problem

A CON is required to establish or relocate an ICF providing ASAM Level 3.7 care, medically managed residential substance use disorder treatment (Md. Code Ann., Health-Gen. §19-120; COMAR 10.24.14). To obtain a CON, the applicant must address each standard under the State Health Plan (SHP) COMAR 10.24.14 and meet additional CON criteria that include need, financial viability, cost-effectiveness, impact on existing providers, health equity, and character and competence. Under the SHP, a new ICF applicant can apply for up to 50 beds, a limit established to determine whether a new provider can viably operate an ICF.

However, once licensed and operational, an ICF may add bed capacity without any MHCC regulatory review (§19-120(h)(2)(v)). This creates a disconnect between a project

presented to MHCC for CON review and the project ultimately implemented.¹ For example, in December 2017, an applicant obtained CON approval to establish a 21 bed ICF. Within one year of opening (August 2019) and shortly after the effective date of the 2019 CON Modernization law, the facility provided notice of its plan to add 81 beds, more than triple the capacity of the approved facility. This makes MHCC’s review meaningless when the facilities can expand with no MHCC regulatory review.

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 MHCC regulatory limit on the number of beds that can be added to each room. 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.

II. Legislative Correction

The MHCC supports *HB 1515* because it will create a single consistent regulatory framework for all ICFs whether it is a new facility or one that is expanding bed capacity. The legislation would require ICFs to request approval from MHCC through an exemption from the CON process to establish a new facility, relocate, or add beds to an existing facility. *HB 1515* adds ICFs to a category of facilities subject to exemption from CON in MHCC’s statute.

Under the exemption process, the applicant would still be required to address SHP standards in COMAR 10.24.14, including those related to serving indigent patients, maintaining appropriate accreditation, and documenting appropriate admission standards, treatment protocols, staffing standards, and physical plant configuration. All the critical elements of health facility planning would remain.

The MHCC would still review the applicant’s plans for the physical space and staffing levels to ensure that the applicant will provide adequate care for its patients and remain financially viable. The main difference between a CON review and an exemption is that in an exemption interested parties are not permitted to intervene, which results in a faster review. In general, an exemption from CON is resolved in 45 days.

¹ This current imbalance was created by the 2019 CON Modernization legislation, which removed MHCC’s authority to review expansions of existing ICFs. The MHCC support other aspects of the 2019 legislation but no longer supports the absence of regulatory oversight for expansions by ICFs already operating in Maryland.



The 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 2019 CON Modernization law that was intended to expand access to treatment. This outcome benefits patients and families by providing more choices and enables MHCC to have better regulatory oversight over the availability of ICF beds. In addition, *HB 1515* benefits the industry by removing ICF facilities from full CON review, while establishing a more equitable process that applies to all types of actions by new and existing ICF operators.

For the stated reasons above, we ask for a favorable report on *HB 1515*.

