COMMONWEALTH of VIRGINIA

Department of Health

Office of Licensure and Certification

M. Norman Oliver, MD, MA
State Health Commissioner

TYY 7-1-1 OR
1-800-828-1120

9960 Mayland Drive, Suite 401
Henrico, Virginia 23233-1485
FAX: (804) 527-4502

December 19, 2019

Ms. Emily W.G. Towey
Hancock, Daniel & Johnson P.C.
4701 Cox Road, Suite 400
Glen Allen, Virginia 23060

RE: **COPN Request No. VA-8470**
Pyramid Healthcare, Inc., Newport News, Virginia
Establish an intermediate care facility for the treatment and rehabilitation of individuals with substance abuse with 120 beds.

Dear Ms. Towey:

For your consideration, I enclose the Division of Certificate of Public Need (DCOPN) report and recommendation on the above referenced project. DCOPN is recommending **conditional approval** of this application for the reasons listed in the attached staff report.

If Pyramid Healthcare, Inc. is willing to accept the recommendation for conditional approval of this project, please provide documentation of this acceptance no later than **December 26, 2019.** If not willing to accept, before the State Health Commissioner makes his decision on this project, the Department will convene an informal-fact-finding conference (IFFC) pursuant to Title 2.2 of the Code of Virginia. This IFFC has been scheduled for Monday, December 30, 2019 beginning at 10:00 a.m. in Board Room 1 of the Perimeter Center located at 9960 Mayland Drive in Henrico, Virginia. A copy of the procedures for conduct at IFFCs may be found at http://www.vdh.virginia.gov/OLC/copn/.

Persons wishing to participate in an IFFC have four days from the date of this letter to submit written notification to the State Health Commissioner, DCOPN and the applicant stating a factual basis for good cause standing. If no person has submitted written notification stating grounds and providing a factual basis for good cause standing and Pyramid Healthcare, Inc. accepts the conditional approval, DCOPN will then notify you of the cancellation of the scheduled IFFC. DCOPN would then anticipate action by the State Health Commissioner within a few weeks of transmission.

Should you have questions or need further clarification of this report and/or its recommendations, please feel free to call me at (804) 367-1889 or email me at Erik.Bodin@VDH.Virginia.Gov.

Sincerely,

Erik Bodin, Director
Division of Certificate of Public Need

Enclosures

cc: Douglas R. Harris, J.D., Office of Adjudication, Virginia Department of Health

VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis

December 19, 2019

RE: COPN Request No. VA-8470
Pyramid Healthcare, Inc.
Newport News, Virginia
Establish a 120-bed intermediate care facility for the treatment and rehabilitation of individuals with substance abuse disorders

Applicant

Pyramid Healthcare, Inc. (Pyramid) is a Pennsylvania for-profit stock corporation formed in 1999. Pyramid is a wholly owned subsidiary of Clearview Pyramid Acquisition Co., LLC. Pyramid has a variety of wholly and partially owned subsidiaries spanning across several states including Maryland, Delaware, North Carolina, and Pennsylvania. Pyramid provides behavioral healthcare in a multi-state region that includes over eighty inpatient and outpatient facilities with over 1,000 beds used for residential treatment and/or detoxification services for individuals with substance use disorders. The applicant proposes to establish Pyramid Healthcare Newport News, an intermediate care facility for the treatment and rehabilitation of individuals with substance abuse. If approved, the facility would be located in Newport News, Virginia, in Health Planning Region (HPR) V, Planning District (PD) 21.

Background

Table 1 below provides an overview of Certificate of Public Need (COPN) authorized inpatient psychiatric services in PD 21. As the table illustrates, for 2017, the most recent year for which utilization data is available from Virginia Health Information (VHI), the 325 authorized inpatient psychiatric beds in PD 21 operated at a collective utilization of 73.5%. More specifically, the 125 adult psychiatric beds operated at a collective utilization of 76% for 2017, while the 200 child/adolescent psychiatric beds operated at a collective utilization of 72%.

Table 1. PD 21 Inpatient Psychiatric Bed Usage by Facility for 2017

Facility	Class	Licensed	Staffed	Available Days	Actual Days	%
Newport News Behavioral Health Center	Child/ Adolescent	132	132	48,180	40,163	83.4%
Riverside Regional Medical Center	Adult/ Geriatric	59	43	21,535	15,389	71.5%
Riverside Regional Medical Center	Child/ Adolescent	68	34	24,820	12,373	49.9%
The Pavilion at Williamsburg Place	Adult/ Geriatric	66	66	24,090	19,270	80.0%
TOTAL		**325**	**275**	**118,625**	**87,195**	**73.5%**

Source: VHI (2017)

According to information obtained from the Virginia Department of Behavioral Health and Developmental Services (DBHDS), presently in PD 21, three facilities provide residential treatment for persons suffering from substance use disorders (**Table 2**). One of these facilities, the Newport News Behavioral Health Center, only provides services to children and adolescents. As a result, this facility does not provide treatment to the same client population the proposed project will serve. Consequently, only The Farley Center, located in Williamsburg, and Riverside Behavioral Health Center, located in Hampton, provide residential substance abuse treatment for adults. Despite this service being available in PD 21, upon DCOPN's request and after a review of the Pyramid application, DBHDS stated the following:

> *"DBHDS recognizes there continues to be an insufficient supply of providers for addiction services so would be supportive of the expansion of such programs."*

Table 2. PD 21 Facilities for the Residential Treatment of Substance Use Disorders.

Facility	Licensed As
Riverside Behavioral Health Center	1. A mental health and substance abuse inpatient psychiatric service for children and adolescents. 2. A mental health and substance abuse inpatient psychiatric service for adults. 3. A substance abuse medical detox/chemical dependency service for adults. 4. A Level C Mental Health Residential Service for children with serious emotional disturbance.
Newport News Behavioral Health Center	1. A mental health residential treatment service for children and adolescents ages 11-17. 2. A mental health and substance abuse inpatient psychiatric service for children and adolescents ages 8-17. 3. A mental health and substance abuse service residential treatment program for adolescents ages 11-21.
The William J. Farley Center (license # 252)	1. A substance abuse residential treatment service for adults. 2. A substance abuse supervised living residential service for adults. 3. A substance abuse partial hospitalization service for adults with substance use disorders. 4. A substance abuse intensive outpatient service for adults.
The William J. Farley Center (license # 2177)	1. A substance abuse intensive outpatient service for adults (Prince George, VA only). 2. A substance abuse medical detox/chemical dependency inpatient service for adults (Williamsburg).

Source: Virginia Department of Behavioral Health and Developmental Services

Proposed Project

Pyramid proposes to establish an intermediate care/residential treatment facility for the treatment and rehabilitation of individuals with substance use disorders in PD 21. The proposed project, if approved, will occupy the building that currently houses Riverside Rehabilitation Institute and Riverside-Select Specialty Hospital in Newport News. Pursuant to COPN No. VA-04450, Riverside Rehabilitation Institute relocated to a replacement facility effective November 12, 2019. Additionally, pursuant to COPN No. VA-04465, Riverside-Select Specialty Hospital relocated to a replacement facility effective August 2019.

The proposed facility will include 120 intermediate ICF-SA beds. Twenty beds will be dedicated to detoxification services (withdrawal management) and 100 beds will be dedicated to residential substance use disorder treatment. Pyramid will offer each of its clients the following services:

- Individual psychotherapy
- Group psychotherapy
- Family therapy
- Psychiatric evaluation
- Nursing assessment
- Medication management

- History and physical medical evaluation
- Initial clinical assessment
- Process-oriented group therapy
- Life skill group
- Psycho-educational group
- Recreational therapy

The core therapeutic modalities to be applied under the proposal include:

- Motivational interviewing
- Peer support/peer recovery services
- Acceptance and commitment therapy
- Family systems therapy
- Motivational enhancement therapy
- Twelve step facilitation
- SMART (Self-Management and Recovery Training) recovery
- Refuge recovery

The facility will be located in the city of Newport News on the major thoroughfare of Chesapeake Avenue. Major state and interstate highways are within a two-mile drive including Route 60 and Interstate 64. Hampton Roads Transit, the local provider of public transportation, has stops immediately adjacent to the facility's parking lots.

Because the existing building was used most recently by licensed and Medicare-certified healthcare providers, only modest renovations and modifications are required. The square footage of the patient rooms and the overall facility will not change as part of the renovation. The renovation will entail a remodel of 6,000 existing square feet of the facility, with the majority of changes being updates to existing bathrooms. Though located in a developed, urban area, the project site has significant green space that could allow flexibility for future expansion, in addition to over 120 parking spots, including a large surface lot.

The total projected capital cost of the proposed project is $4,733,040 (**Table 3**), the entirety of which will be funded using the accumulated reserves of the applicant. Accordingly, there are no financing costs associated with the proposed project. The applicant states that through the acquisition of an existing medical building, Pyramid is conserving resources and managing costs, thereby making this project a cost-effective approach to introducing an ICF-SA. Construction is anticipated to begin on March 1, 2020 and to be complete by August 1, 2020. The applicant has provided a target opening date of October 2020.

Table 3. Pyramid Healthcare, Inc. Projected Capital Costs

Direct Construction	$585,340
Equipment Not Included in Construction Contract	$350,000
Site Acquisition Costs	$3,700,000
Architectural and Engineering Fees	$60,000
Taxes During Construction	$37,700
TOTAL Capital Costs	**$4,733,040**

Source: COPN Request No. VA-8470

Project Definition

Section 32.1-102.1 of the Code of Virginia defines a project, in part, as the "establishment of a medical care facility." A medical care facility is defined, in part, as "psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of individuals with substance abuse."

Required Considerations -- § 32.1-102.3, of the Code of Virginia

In determining whether a public need exists for a proposed project, the following factors shall be taken into account when applicable.

1. **The extent to which the proposed service or facility will provide or increase access to needed services for residents of the area to be served, and the effects that the proposed service or facility will have on access to needed services in areas having distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care;**

As previously discussed, 2017 VHI data indicates that the 325 authorized inpatient psychiatric beds in PD 21 operated at a collective utilization of 73.5% in 2017 (**Table 1**), a substantial increase from the 46.4% PD 21 utilization reported to VHI in 2013 (**Table 4**). More specifically, the 125 adult psychiatric beds operated at a collective utilization of 76% for 2017, while the 200 child/adolescent psychiatric beds operated at a collective utilization of 72%.

Table 4. PD 21 Inpatient Psychiatric Bed Utilization: 2013-2017

Year	Beds	Utilization
2017	325	73.5%
2016	208	63.2%
2015	282	58.6%
2014	184	60.3%
2013	127	46.4%

Source: VHI (2013-2017)

As will be discussed in more detail later in this staff analysis report, the applicant projects that by the end of the second full year of operation, as much as 85% of its patient base will be comprised of adult Medicaid beneficiaries. As indicated in **Table 5** below, the poverty level for seven of the eleven jurisdictions in PD 21 is well above the Virginia state average. With approximately 13% of the total PD 21 population living below the federal poverty level, DCOPN concludes that the

proposed project, if approved, would play a considerable role in improving access to treatment for those residents of PD 21 living in poverty.

Table 5. PD 21 Poverty Levels by Jurisdiction

Locality	% Population in Poverty
Virginia	10.7%
PD 21	
James City County	6.8%
York County	5.0%
Hampton City	14.9%
Hampton (County)	15.9%
Newport News City	16.4%
Newport News (County)	17.2%
Poquoson City	4.9%
Poquoson (County)	5.0%
Williamsburg City	21.5%
Williamsburg (County)	22.5%
PD 21 AVERAGE	**13.0%**

Source: U.S. Census Bureau

DCOPN also notes concern expressed by local Community Service Boards (CSBs) regarding an increased demand for services and the unavailability of beds in PD 21. A letter of support received from the Executive Director of a PD 21 CSB stated the following, in part:

> *"We continue to encounter at multiple points in the system persons who are in need of detox and/or residential substance use treatment...[T]he challenge has shifted to a lack of available beds and long wait times for persons to access residential types of treatment."*

Similar concerns were expressed in a letter of support received from the Executive Director of Colonial Behavioral Health. That letter stated the following:

> *"Some individuals also require post-acute residential programs with comprehensive support such as those offered in intermediate care facilities...When a bed finally becomes available, it is often at a distant location away from the patient's home community."*

The applicant did not identify any other unique geographic, socioeconomic, cultural, transportation or other barriers to care which the proposed project would address.

2. The extent to which the project will meet the needs of the residents of the area to be served, as demonstrated by each of the following:

(i) The level of community support for the project demonstrated by citizens, businesses, and governmental leaders representing the area to be served;

The applicant provided several letters of support for the proposed project from area healthcare providers, area community services boards, and the medical director of Pyramid Healthcare-North Carolina Division. Collectively, these letters addressed the following:

1. Current difficulty surrounding the ability to access treatment for substance use disorders across the Southeastern United States results in difficulty accessing continual care for this population. Limited options across the region results in difficulty placing patients into various levels of care, with wait times being up to several weeks to months long. Often, this results in out-of-area referrals, inconveniencing patients and impacting their quality and ease of care.

2. Many individuals require post-acute residential programs with comprehensive support such as those offered in intermediate care facilities. While this is important, of greater concern is the lack of appropriate beds to divert individuals with substance use disorders from state hospitals under current "last resort" legislation. When a bed finally becomes available, it is often at a distant location away from the patient's home and community. The proposed project would expand existing resources in PD 21, addressing an ongoing and critical need of the local community and region.

3. Providers continue to encounter, at multiple points in the system, persons who are in need of detox and/or residential substance use treatment. Historically, there were beds available across the state, but funding was a barrier and limited to the funds Community Service Boards would invest in paying for treatment. Since the development of ARTS (Addiction and Recovery Treatment Services) and now Medicaid expansion, the challenge has shifted to a lack of available beds and long wait times for persons to access residential types of treatment.

4. In order for persons to successfully recover from addiction, clinically they must be offered what they need when they are ready, or risk potential negative consequences while awaiting treatment.

5. Consumers, clinicians, and peer recovery specialists concur that the availability of local residential substance abuse treatment post-crisis care and/or detox (and a treatment facility that can offer both) would dramatically improve the successes of those seeking recovery.

DCOPN did not receive any letters expressing opposition to the proposed project.

DCOPN conducted the required public hearing for this project on Tuesday, December 3, 2019. A total of three individuals signed in, all of which were associated with the applicant.

(ii) The availability of reasonable alternatives to the proposed service or facility that would meet the needs of the population in a less costly, more efficient, or more effective manner;

Neither the applicant nor DCOPN identified any reasonable alternatives to the proposed project which would meet the needs of the population in a less costly, more efficient, or more effective manner. As will be discussed in more detail later in this staff analysis report, DCOPN has calculated a net surplus of 145.7 psychiatric and substance abuse treatment beds for PD 21. However, DCOPN contends that this formula does not clearly differentiate between these two services and accordingly, is unreliable in determining the need for the requested residential substance abuse treatment beds. Furthermore, DCOPN notes that 200 of the existing 325 PD 21 psychiatric beds are used solely for the treatment of children and adolescents. With only 125 beds available for the treatment of adults, DCOPN contends that a need exists for additional psychiatric beds in order to adequately serve the adult population of PD 21. For these reasons, DCOPN concludes that the status quo is not a reasonable alternative to the proposed project.

(iii) Any recommendation or report of the regional health planning agency regarding an application for a certificate that is required to be submitted to the Commissioner pursuant to subsection B of § 32.1-102.6;

Currently there is no organization in HPR V designated by the Virginia Department of Health to serve as the Health Planning Agency for the PD 21. Therefore, this consideration is not applicable to the review of the proposed project.

(iv) Any costs and benefits of the project;

As illustrated in **Table 3**, the total projected capital cost of the proposed project is $4,733,040, the entirety of which will be funded using the accumulated reserves of the applicant. Accordingly, there are no financing costs associated with this project. DCOPN notes that the applicant proposes to significantly reduce construction costs by renovating existing medical space. Furthermore, DCOPN concludes that the total projected capital cost for this project is modest when compared to COPN No. VA-04479 (PD 5), which authorized the establishment of a 48-bed residential substance abuse treatment facility and had a capital cost of $17,579,994.

The applicant provided the following with regard to principle benefits of the proposed project:

1. Pyramid will provide the most progressive, evidence-based treatment and services available to its clients.

2. Pyramid anticipates 85% of its clients will be adult Medicaid beneficiaries. This project will provide previously unavailable care to the adult Medicaid population in PD 21, the surrounding communities, and the Commonwealth.

3. Residential treatment facilities provide individuals with long-term, comprehensive care. Individuals meeting admission requirements for residential treatment facilities typically cannot be treated in less-intensive treatment services, but are not to the point

of requiring higher-cost acute care admission. ICF-SA facilities providing residential treatment services fill the gap between the less-intensive services and acute care admission.

4. Intermediate level care with residential treatment and detoxification services is particularly important as it fits into a broader continuum of care. Without the full spectrum of care available to those in need, individuals that could benefit from residential treatment services will be placed in less effective outpatient or day treatment programs because beds are not available. This less than appropriate care and waiting for available beds can jeopardize an individual's chance of recovery.

5. Pyramid will partner with other community providers to coordinate step-down care to ensure the recovery plan is positioned to successfully transition the client to the community setting.

(v) The financial accessibility of the project to the residents of the area to be served, including indigent residents;

The Pro Forma Income Statement (**Table 6**) provided by the applicant proposes the provision of 4.6% charity care (reflected in the "Deductions from Revenue" line) based on gross patient services revenue. This percentage is consistent with the 4.6% HPR V charity care average (**Table 7**) reported to VHI in 2017. Accordingly, should the Commissioner approve the proposed project, DCOPN recommends a charity care condition of 4.6%, consistent with the HPR V average.

Table 6. Pyramid Healthcare, Inc. Pro Forma Income Statement

	Year 1	**Year 2**
Total Capacity	120	120
Average Daily Census	53	102
ADC as % of Capacity	44.3%	85.4%
Number of Patient Days	19,389	37,392
Average charge per patient day	$349.74	$351.34
Operating Revenue		
Gross Revenue	$6,781,109	$13,137,228
Deductions from Revenue	$311,931	$604,312
Net Revenue	**$6,469,178**	**$12,532,916**
Total Operating Expenses	**$6,326,581**	**$11,564,860**
Net Income	**$142,597**	**$968,055**

Source: COPN Request No. VA-8470

Table 7. HPR V 2017 Charity Care Contribution

Health Planning Region V 2017 Charity Care Contributions at or below 200% of Federal Poverty Level			
Hospital	**Gross Patient Revenues**	**Adjusted Charity Care Contribution**	**Percent of Gross Patient Revenue:**
Riverside Tappahannock Hospital	$170,161,862	$14,424,688	8.48%
Riverside Shore Memorial Hospital	$213,836,867	$15,554,845	7.27%
Riverside Walter Reed Hospital	$233,803,068	$16,337,534	6.99%
Riverside Doctors' Hospital Williamsburg	$113,798,697	$7,874,709	6.92%
Sentara Careplex Hospital	$881,940,507	$59,719,527	6.77%
Bon Secours DePaul Medical Center	$727,116,835	$47,573,800	6.54%
Bon Secours Maryview Medical Center	$1,270,130,980	$82,626,281	6.51%
Riverside Regional Medical Center	$1,724,979,089	$97,953,743	5.68%
Sentara Obici Hospital	$825,358,832	$46,178,990	5.60%
Sentara Virginia Beach General Hospital	$1,265,410,000	$58,414,291	4.62%
Sentara Leigh Hospital	$1,165,281,214	$53,576,119	4.60%
Sentara Norfolk General Hospital	$3,069,620,000	$136,010,038	4.43%
Sentara Princess Anne Hospital	$932,726,000	$38,685,082	4.15%
Sentara Williamsburg Regional Medical Center	$597,649,239	$23,639,676	3.96%
Bon Secours Rappahannock General Hospital	$78,684,125	$2,548,322	3.24%
Bon Secours Mary Immaculate Hospital	$651,234,139	$19,170,988	2.94%
Hampton Roads Specialty Hospital	$11,321,075	$190,354	1.68%
Southampton Memorial Hospital	$210,036,877	$3,066,585	1.46%
Chesapeake Regional Medical Center	$852,854,961	$11,283,609	1.32%
Children's Hospital of the King's Daughters	$953,468,491	$4,532,724	0.48%
Hospital For Extended Recovery	$27,317,785	$0	0.00%
Lake Taylor Transitional Care Hospital	$45,075,260	$0	0.00%
Total Facilities Reporting			22
Median			4.5%
Total $ & Mean %			**4.6%**

Source: VHI (2017)

Additionally, as already discussed, the applicant projects that by the end of the second full year of operations, as much as 85% of its total patient base will be comprised of adult Medicaid recipients.

(vi) At the discretion of the Commissioner, any other factors as may be relevant to the determination of public need for a project.

The Commonwealth of Virginia has recognized the need to provide substance use disorder services to all Medicaid enrollees. At the direction of the Governor and General Assembly, the Department of Medical Assistance Services (DMAS) sought federal authority to further expand Medicaid reimbursement for substance use disorder programs for adults. Under a Medicaid §

1115 waiver[1] granted by the Centers for Medicare and Medicaid Services, DMAS now has authority to cover substance use disorder treatment provided to adults in a residential setting.[2] This new Medicaid coverage option has been made available to Virginia Medicaid beneficiaries through DMAS' new Addiction and Recovery Treatment Services program (ARTS). The ARTS program expanded coverage of residential treatment to all of Virginia's 1.5 million Medicaid beneficiaries. Previously, these individuals would have had a financial barrier to appropriate care.

According to a recent Virginia Commonwealth University study[3], 60% of Medicaid beneficiaries with substance use disorders did not receive any treatment services between April 2017 and March 2018. The study also found that "[t]reatment rates are considerably lower in the Southside and Hampton Roads regions compared to other areas of the state." Furthermore, Medicaid expansion in the Commonwealth is further improving access to uninsured individuals. As a result, the study anticipates that an additional 60,000 Virginians with substance use disorders are eligible for benefits due to Medicaid expansion. Based on this information, the applicant contends, and DCOPN agrees, that the need for ICF-SA beds is significant and expanding.

Additionally, as previously discussed, upon DCOPN's request and after a review of the Pyramid application, DBHDS stated the following:

> *"DBHDS recognizes there continues to be an insufficient supply of providers for addiction services so would be supportive of the expansion of such programs."*

3. The extent to which the application is consistent with the State Medical Facilities Plan;

The applicant stated, and DCOPN agrees, that the State Medical Facilities Plan (SMFP) does not address or provide a methodology for calculating the need for residential substance abuse beds which are not "hospital-based services" as defined at 12VAC5-230-10 of the SMFP. DCOPN acknowledges that the SMFP criteria and standards relative to acute psychiatric and substance abuse treatment services do not clearly differentiate between these two services. However, DCOPN observes that the Code of Virginia (the Code) defines, in part, a medical care facility as "Psychiatric hospitals and **intermediate care facilities** established primarily for the medical, psychiatric or psychological treatment and rehabilitation of individuals with substance abuse." DCOPN agrees with the applicant that the SMFP formula provided in 12VAC5-230-860 does not provide a

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[1] § 1115 waivers allow state Medicaid programs to cover a broader range of services by waiving the institutions of mental diseases (IMD) exclusion that prohibits use of federal Medicaid funding for certain mental health and substance abuse services.

[2] 1115 Substance Use Disorder Demonstrations. (n.d.). Retrieved December 2019, from https://www.medicaid.gov/state-resource-center/innovation-accelerator-program/program-areas/reducing-substance-use-disorders/1115-sud-demonstrations/index.html.

[3] Addiction and Recovery Treatment Services: Access and Utilization during First Year (April 2017- March 2018). Virginia Department of Medical Assistance Services. Retrieved December 2019, from http://www.dmas.virginia.gov/files/links/1625/ARTS one-year report (08.09.2018).pdf.

quantifiably reliable methodology for determining the numerical need for residential substance abuse beds in PD 21 as proposed by Pyramid in this COPN request.

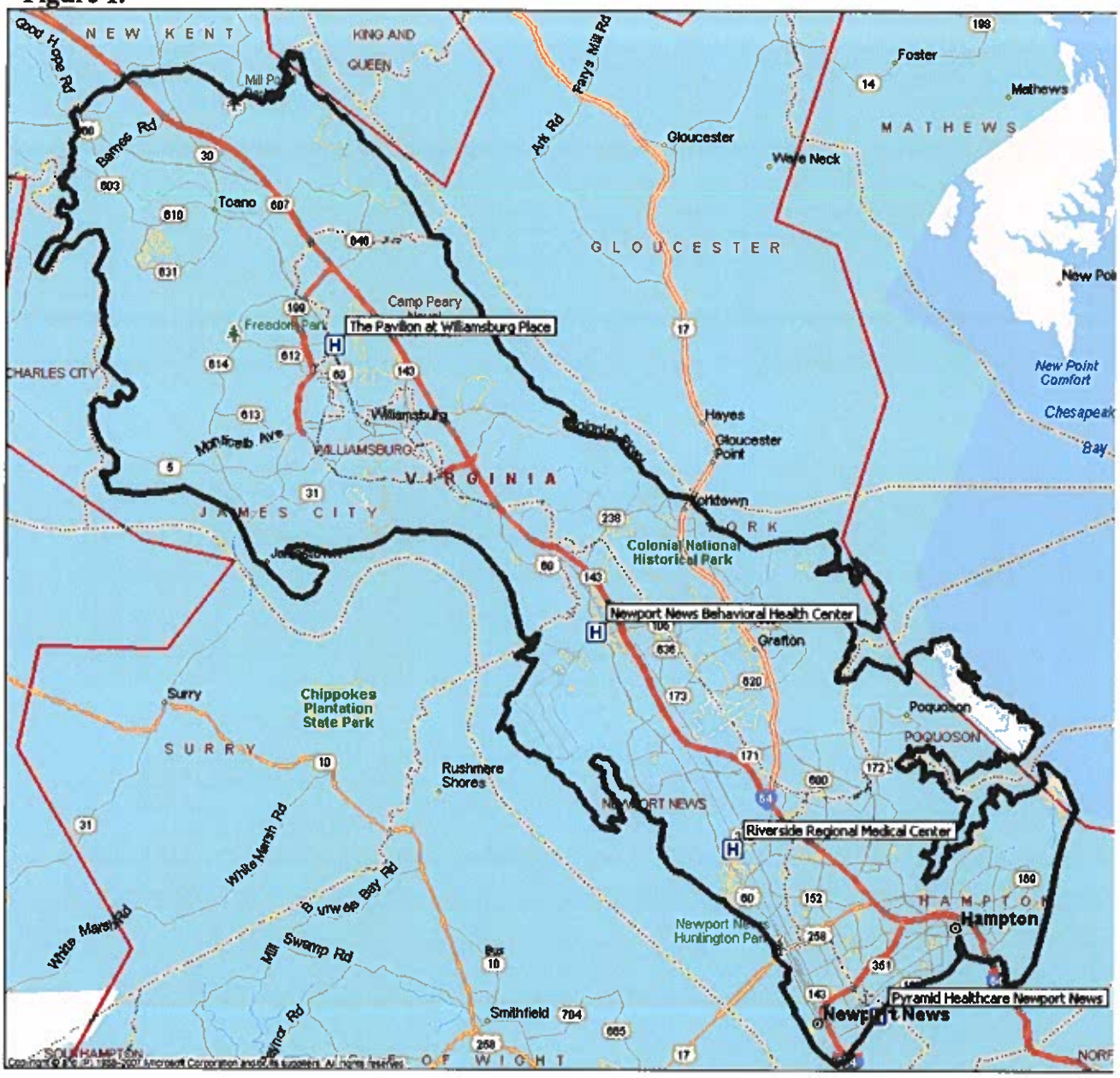
Part XII of the State Medical Facilities Plan contains the criteria/standards for the need for psychiatric and substance disorder treatment beds. They are as follows:

Part XII. Mental Health Services
Article 1. Acute Psychiatric and Acute Substance Abuse Disorder Treatment Services

12VAC5-230-840. Travel Time.
Acute psychiatric and acute substance abuse disorder treatment services should be available within 60 minutes driving time one way under normal conditions of 95% of the population using mapping software as determined by the commissioner.

The heavy dark line in **Figure 1** identifies the boundaries of PD 21. The light blue shading illustrates the area that is within a 60-minute drive of existing psychiatric beds and services in PD 21. These services are marked with white "H" signs. The area within the thin red line represents the area of PD 21 that is within a 60-minute drive of the proposed new facility, marked with a blue "H" sign. Given the amount of shaded area, it is certain that inpatient psychiatric beds and services are currently available within 60-minutes normal driving time, one way, under normal conditions of 95% of the population of PD 21. The map also illustrates that approval of the proposed project would not improve geographic accessibility to the residents of PD 21. However, DCOPN again notes that of the existing 325 PD 21 inpatient psychiatric beds, 200 of those beds are reserved solely for the treatment of children and adolescents. Accordingly, only 125 inpatient psychiatric beds are available for the treatment of adults and geriatric patients. Therefore, while inpatient psychiatric providers are located within a 60-minute drive of PD 21 residents, PD 21 Community Service Boards contend, and DCOPN agrees, that distance to existing providers is not the factor that limits access to psychiatric services for residents of PD 21.

Figure 1.


NEW KENT
KING AND QUEEN
GLOUCESTER
MATHEWS
Gloucester
Foster
Mathews
Wake Neck
Toano
Camp Peary
The Pavilion at Williamsburg Place
Freedom Park
CHARLES CITY
Williamsburg
WILLIAMSBURG
VIRGINIA
JAMES CITY
Hayes
Gloucester Point
Yorktown
YORK
Colonial National Historical Park
Newport News Behavioral Health Center
Grafton
Surry
Chippokes Plantation State Park
SURRY
Rushmere Shores
Poquoson
POQUOSON
NEWPORT NEWS
Riverside Regional Medical Center
Hampton
HAMPTON
Newport News Huntington Park
Pyramid Healthcare Newport News
Smithfield
SOUTHAMPTON
ISLE OF WIGHT
New Point Comfort
Chesapeake Bay
Good Hope Rd
Barnes Rd
Ark Rd
Parys Mill Rd
Monticello Ave
Colonial Pkwy
White Marsh Rd
Mill Swamp Rd
Bruwer Bay Rd

12VAC5-230-850. Continuity; Integration.
A. Existing and proposed acute psychiatric and acute substance abuse disorder treatment providers shall have established plans for the provision of services to indigent patients that include:

1. **The minimum number of unreimbursed patient days to be provided to indigent patients who are not Medicaid recipients;**
2. **The minimum number of Medicaid-reimbursed patient days to be provided, unless the existing or proposed facility is ineligible for Medicaid participation;**
3. **The minimum number of unreimbursed patient days to be provided to local community services boards; and**
4. **A description of the methods to be utilized in implementing the indigent patient service plan and assuring the provision of the projected levels of unreimbursed and Medicaid-reimbursed patient days.**

The applicant did not specifically address or quantify the number of patient days or methodology for meeting the needs of indigent patients as enumerated in this section. However, the applicant did provide a Pro Forma Income Statement (**Table 6**) which proffers the provision of 4.6% charity care based on gross patient services revenue, an amount consistent with the HPR V average. Additionally, the applicant anticipates that as much as 85% of its total client population will be comprised of adult Medicaid recipients by the end of the second full year of operation. Accordingly, DCOPN concludes that the applicant has reasonably stated its intention to provide service to this patient population without restriction.

B. Proposed acute psychiatric and acute substance abuse disorder treatment providers shall have formal agreements with the appropriate local community service boards or behavioral health authority that:

1. **Specify the number of patient days that will be provided to the community service board;**
2. **Describe the mechanisms to monitor compliance with charity care provisions;**
3. **Provide for effective discharge planning for all patients, including return to the patient's place of origin or home state if not Virginia; and**
4. **Consider admission priorities based on relative medical necessity.**

As the proposed project involves the establishment of a new medical facility, the applicant does not yet have formal agreements with area community service boards (CSBs); however, letters of support provided by the applicant indicate strong CSB support. With regard to this standard, the applicant provided the following:

> *"Pyramid is committed to the continuity of care for its clients and will serve as an integral partner in the path to recovery. Pyramid will establish lines of communication between its ICF-SA and other community providers treating individuals with substance use disorders. Pyramid will partner with other community providers to coordinate step-down care to ensure the recovery plan is positioned to successfully transition the client to the community setting."*

C. Providers of acute psychiatric and acute substance abuse disorder treatment serving large geographic areas should establish satellite outpatient facilities to improve patient access where appropriate and feasible.

The applicant did not identify any planned efforts to develop and implement satellite outpatient facilities. However, the applicant anticipates that the majority of its patients will originate from within PD 21. Accordingly, DCOPN contends that the applicant's primary service area is not large geographically.

12VAC5-230-860. Need for New Service.

A. The combined number of acute psychiatric and acute substance abuse disorder treatment beds needed in a health planning district with existing acute psychiatric or acute substance abuse disorder treatment beds or both will be determined as follows:

$$\frac{((UR \times PROPOP) / 365)}{0.75}$$

Where:

UR = the use rate of the health planning district expressed as the average acute psychiatric and acute substance abuse disorder treatment patient days per population reported for the most recent five-year period; and

PROPOP = the projected population of the health planning district five years from the current year as reported in the most recent published projections by a demographic entity as determined by the Commissioner of the Department of Mental Health, Mental Retardation and substance Abuse Services.

For purposes of this methodology, no beds shall be included in the inventory of psychiatric or substance abuse disorder beds when these beds (i) are in facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services; (ii) have been converted to other uses; (iii) have been vacant for six months or more; (iv) are not currently staffed and cannot be staffed for acute psychiatric or substance abuse disorder patient admissions within 24 hours.

The following calculation of the number of needed acute psychiatric and acute substance abuse disorder treatment beds in PD 21 is based on the following **Table 8** and **Table 9**. As previously noted, this formula does not differentiate between the respective calculated numbers of inpatient beds, and accordingly, is unreliable in determining the need for the requested residential substance abuse treatment beds.

$$\frac{((239{,}051 / 2{,}423{,}500) \times 497{,}508) / 365}{0.75}$$

Total projected acute psychiatric bed need in 2024 = **179.3**
Current licensed acute psychiatric beds = **325**
Surplus of acute psychiatric treatment beds = **145.7**

Table 8. PD 21 Psychiatric Patient Days: 2013-2017

Facility	2013	2014	2015	2016	2017	TOTAL
Newport News Behavioral Health Center	N/A	N/A	1,737	3,174	40,163	45,074
Riverside Behavioral Health Center	24,947	23,674	6,673	N/A	N/A	55,294
Riverside Regional Medical Center	N/A	N/A	12,147	25,939	27,762	65,848
The Pavilion at Williamsburg Place	N/A	16,822	17,788	18,955	19,270	72,835
TOTAL	**24,947**	**40,496**	**38,345**	**48,068**	**87,195**	**239,051**

Source: VHI (2013-2017)

Table 9. PD 21 Population: 2013-2017 and Projected 2024

Year	Population
2013	481,558
2014	483,129
2015	484,700
2016	486,271
2017	487,842
TOTAL	**2,423,500**
2024	497508

Source: Weldon-Cooper and US Census

Based on the preceding calculation of the projected need for acute psychiatric and substance abuse beds in PD 21, there is a calculated **surplus of 145.7 beds**. However, DCOPN notes that the majority of these beds (200 beds) are reserved solely for the treatment of children and adolescents. While approval of the proposed project would ultimately result in a large calculated surplus of 265.7 beds among the entire PD 21 psychiatric treatment bed inventory (including children/adolescent beds), DCOPN contends that a need for additional capacity exists in order to adequately serve the adult population of PD 21. Additionally, DCOPN contends that a need for additional beds exists in order to accommodate the large increase in Medicaid beneficiaries who will now be able to seek treatment due to Medicaid expansion and the §1115 wavier discussed previously.

B. Subject to the provisions of 12VAC5-230-70, no additional acute psychiatric or acute substance abuse disorder treatment beds should be authorized for a health planning district with existing acute psychiatric or acute substance abuse disorder treatment beds or both if the existing inventory of such beds is greater than the need identified using the above methodology.

Preference may also be given to the addition of acute psychiatric or acute substance abuse beds dedicated for the treatment of geriatric patients in health planning districts with an excess supply of beds when such additions are justified on the basis of the specialized treatment needs of geriatric patients.

Based on the preceding calculation, there is no projected need for additional acute psychiatric and acute substance abuse disorder treatment beds in PD 21. However, as already discussed, DCOPN contends that because the majority of existing beds serve only children and adolescents, a need for additional beds exists in order to adequately serve the PD 21 adult population. Additionally, the applicant and the Executive Director of the local CSB have reasonably substantiated that there is a sustained and growing patient population in PD 21 that would benefit from improved access to intermediate substance abuse treatment beds and services. As already discussed, DCOPN concludes that the preceding formula is not a reliable methodology for calculating the need for additional intermediate care substance abuse treatment beds. Accordingly, DCOPN recommends that the Commissioner not rely upon the calculated surplus of beds as a reason for denying the proposed project.

The proposed project is not a competing project and does not propose to provide beds dedicated to the treatment of geriatric patients requiring care for substance abuse.

C. No existing acute psychiatric or acute substance disorder abuse treatment beds should be relocated unless it can be reasonably projected that the relocation will not have a negative impact on the ability of existing acute psychiatric or substance abuse disorder treatment providers or both to continue to provide historic levels of service to Medicaid or other indigent patients.

The applicant is not requesting to relocate existing acute psychiatric or acute substance abuse disorder treatment beds. Accordingly, this standard is not applicable to the proposed project.

D. The combined number of acute psychiatric and acute substance abuse disorder treatment beds needed in a health planning district without existing acute psychiatric or acute substance abuse disorder treatment beds will be determined as follows:

$$\frac{((UR \times PROPOP) / 365}{0.75}$$

Where:

UR = the use rate of the health planning region in which the health planning district is located expressed as the average acute psychiatric and acute substance abuse disorder treatment patient days per population reported for the most recent five-year period;

PROPOP = the projected population of the health planning district five years from the current year as reported in the most recent published projections by a demographic entity as determined by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Based on 2017 VHI data, there are 325 existing acute psychiatric beds in PD 21 (**Table 1**). Accordingly, this standard is not applicable to the proposed project.

E. Preference may be given to the development of needed acute psychiatric beds through the conversion of unused general hospital beds. Preference will also be given to proposals for acute psychiatric and substance abuse beds demonstrating a willingness to accept persons under temporary detention orders (TDO) and that have contractual agreements to serve populations served by community service boards, whether through conversion of underutilized general hospital beds or development of new beds.

The proposed project is not competing with another project in this batch cycle and is not proposing to convert unused general hospital beds. Accordingly, this standard is not applicable to the proposed project.

Required Considerations Continued

4. The extent to which the proposed service or facility fosters institutional competition that benefits the area to be served while improving access to essential health care services for all persons in the area to be served;

Currently, three facilities (325 beds) provide inpatient psychiatric services in PD 21. However, the proposed project is not one that would foster institutional competition. Rather, the proposed project responds to the specific need for additional intermediate care substance abuse beds that would serve the adult population of PD 21. DCOPN is unaware of any opposition to the project. In fact, Riverside Regional Medical Center, a PD 21 provider of inpatient psychiatric services, submitted a letter in support of the proposed project. DCOPN is unable to quantifiably determine whether existing facilities will be negatively affected by the approval of the proposed project, but notes that while negative financial impacts may be consequential, they are unlikely to be

significant. Additionally, DCOPN again notes that approval of the proposed project would benefit the PD 21 patient population by improving timely patient access to services, and helping patients to avoid admission to other facilities more distant from families and support groups.

5. The relationship of the project to the existing health care system of the area to be served, including the utilization and efficiency of existing services or facilities;

As previously discussed, three facilities (325 beds) provide acute psychiatric services in PD 21. For 2017, the PD 21 inventory of psychiatric beds operated at a collective utilization of 73.5% (**Table 1**), a substantial increase from 46.4% in 2013 (**Table 4**). DCOPN calculated a net surplus of acute psychiatric beds for PD 21, but contends that, because the SMFP need formula does not clearly differentiate between acute psychiatric and substance abuse services, the formula is unreliable in determining the need for the requested residential substance abuse treatment beds. Furthermore, DCOPN again notes that of the existing 325 beds in PD 21, 200 of the beds serve only children and adolescents. Accordingly, DCOPN contends that a need exists for additional inpatient psychiatric/substance abuse beds in order to adequately serve the adult population of PD 21. DCOPN also notes that there is no known opposition to the proposed project and that Riverside Regional Medical Center, a PD 21 provider of psychiatric services, submitted a letter in support of the project. While some impact on existing providers is likely, DCOPN does not anticipate that approval of the proposed project will have a significant negative impact on the costs, charges, or utilization of other inpatient psychiatric bed providers in PD 21.

6. The feasibility of the project, including the financial benefits of the project to the applicant, the cost of construction, the availability of financial and human resources, and the cost of capital;

The Pro Forma Income Statement (**Table 6**) provided by the applicant illustrates that the proposed project would result in a positive gain of $142,597 in year one and $968,005 in year two. Accordingly, the proposed project appears to be financially viable in both the immediate and the long-term.

The applicant anticipates the need to hire 133 full-time equivalent (FTE) personnel. With regard to staffing, the applicant provided the following:

> *"Pyramid operates 842 Substance Use Disorder Residential Beds and 124 Detoxification beds at various facilities over a multi-state region including Pennsylvania, Maryland, New Jersey, and North Carolina, employing over 2,300 behavioral health professionals. Pyramid will rely on prior organization experience in staffing the proposed project. Current employees in other localities will be offered the ability to transfer to the proposed project to supplement the existing complement of behavioral health professionals in the region. Pyramid intends to post the position externally to recruit necessary personnel for the proposed project. The personnel will likely come from a cross-section of existing facilities in the region, as well as many non-Pyramid personnel that will relocate to fill positions. Pyramid intends to work with employment agencies as well as local colleges and universities to assist potential candidates with necessary training required to work in behavioral health*

services. Pyramid is committed to providing opportunities to its existing workforce, in addition to creating jobs for the Planning district and surrounding areas."

While DCOPN does not anticipate that the applicant will experience any significant difficulty in filling the required positions, due to the large number of employees needed, it is likely that doing so will have some negative impact on the staffing of existing providers.

As previously discussed, the projected capital costs of the proposed project are modest when compared to similar projects in surrounding areas. Additionally, the applicant intends to utilize accumulated reserves to fund the project and accordingly, there will be no financing costs associated with this project.

7. **The extent to which the project provides improvements or innovations in the financing and delivery of health services, as demonstrated by: (i) The introduction of new technology that promotes quality, cost effectiveness, or both in the delivery of health care services; (ii) The potential for provision of services on an outpatient basis; (iii) Any cooperative efforts to meet regional health care needs; (iv) At the discretion of the Commissioner, any other factors as may be appropriate;**

The applicant does not propose to provide improvements or innovations in the financing and delivery of residential substance abuse treatment services as evidenced by the introduction of new technology that promotes quality, cost effectiveness, or both in the delivery of health care services. However, DCOPN again notes the applicant's projection that by the end of the second full year of operations, approximately 85% of Pyramid's patient base will be comprised of adult Medicaid beneficiaries. DCOPN also notes that approval of the proposed project would improve the delivery of health services by helping to alleviate the strain currently experienced by local CSB's due to shortage of beds serving the adult population of PD 21.

8. **In the case of a project proposed by or affecting a teaching hospital associated with a public institution of higher education or a medical school in the area to be served (i) The unique research, training, and clinical mission of the teaching hospital or medical school; (ii) Any contribution the teaching hospital or medical school may provide in the delivery, innovation, and improvement of health care for citizens of the Commonwealth, including indigent or underserved populations.**

Not applicable. The applicant is not a teaching hospital associated with a public institution of higher education or a medical school in the planned service area.

DCOPN Staff Findings and Conclusions

Using the SMFP formula provided in 12VAC5-230-860, DCOPN calculated a net surplus of 145.7 acute psychiatric and substance abuse beds in PD 21. However, DCOPN agrees with the applicant that the SMFP formula does not provide a quantifiably reliable methodology for determining the numerical need for residential substance abuse beds in PD 21, and accordingly, recommends that the Commissioner not rely on this surplus as a reason for denying the proposed project. DCOPN notes that of the 325 acute psychiatric and substance abuse beds currently serving PD 21, 200 of those beds are reserved solely for the treatment of children and adolescents. DCOPN contends that there is

a need for additional psychiatric and substance abuse beds in order to adequately care for the expanding population of adults in need of substance abuse treatment in PD 21. For this reason, DCOPN contends that the proposed project is more advantageous than maintaining the status quo. Furthermore, DCOPN finds that the proposed project to establish a 120 bed ICF-SA is otherwise generally consistent with the applicable criteria and standards of the SMFP and the eight Required Considerations of the Code of Virginia.

While DCOPN does not anticipate that the applicant will have difficulty obtaining the personnel needed to staff the proposed project, it is likely that due to the large number of staff needed, doing so will have some negative impact on the staffing of existing area facilities. However, DCOPN does not believe that approval of the proposed project would have a destabilizing impact on the utilization or costs of existing area providers.

DCOPN again notes that there is no known opposition to the proposed project and that the project enjoys strong support from local CSBs. DCOPN also notes the applicant's projection that by the end of the second full year of operations, approximately 85% of its patient base will be comprised of adult Medicaid beneficiaries. This is significant for two reasons. First, PD 21 has a poverty rate significantly higher than that of Virginia as a whole. By accepting a high percentage of Medicaid recipients as patients, the applicant is improving access to needed care for a large number of Virginians who otherwise would be unable to afford treatment. Secondly, due to the Medicaid § 1115 wavier and Medicaid expansion, more Virginians with substance use disorders are eligible for treatment coverage.

The Pro Forma Income Statement provided by the applicant illustrates that the proposed project is financially feasible in both the immediate and the long-term. Additionally, the applicant proffers to provide charity care in the amount of 4.6% of total gross patient services revenue, an amount consistent with the HPR V average. Accordingly, should the Commissioner approve the proposed project, DCOPN recommends a charity care condition of 4.6%.

DCOPN Staff Recommendations

The Division of Certificate of Public Need recommends **conditional approval** of COPN Request No. VA-8470 to establish an intermediate care facility for the treatment of individuals with substance abuse with 120 beds for the following reasons:

1. The proposed project is generally consistent with the applicable criteria and standards of the State Medical Facilities Plan and the eight Required Considerations of the Code of Virginia.

2. A reasonable, less costly, more efficient alternative to the proposed project does not exist.

3. The proposed project appears to be economically viable in the immediate and long-term.

4. There is no known opposition to the proposed project and the project enjoys broad support from local Community Service Boards and behavioral health organizations.

5. The project is not likely to have a significant negative impact upon the utilization, costs, or charges of existing area providers.

6. The capital costs associated with the proposed project are reasonable.

7. The proposed project will improve access to substance abuse treatment for adult residents of PD 21 and surrounding areas.

DCOPN's recommendation is contingent upon Pyramid Healthcare, Inc.'s agreement to the following charity care condition:

> Pyramid Healthcare, Inc. will provide intermediate care substance use disorder treatment services to all persons in need of this service, regardless of their ability to pay. Pyramid Healthcare Inc. will provide as charity care to all indigent persons free services or rate reductions in services and facilitate the development and operation of primary care services to medically underserved persons in an aggregate amount equal to at least 4.6% of total gross patient service revenues derived from Pyramid Healthcare Newport News' substance use disorder treatment services as valued under the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. Compliance with this condition will be documented to the Division of Certificate of Public Need annually by providing audited or otherwise appropriately certified financial statements documenting compliance with the preceding requirement. Pyramid Healthcare, Inc. will accept a revised percentage based on the regional average after such time regional charity care data valued under the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. is available from Virginia Health Information. The value of charity care provided to individuals pursuant to this condition shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.