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2001 Regular Session (1lr0069)

ENROLLED BILL

-- Finance/Environmental Matters --

Introduced by Chairman, Finance Committee (Departmental - Health and Mental Hygiene)

	Wenter Hygiene)	
	Read and Examined by Proofreaders:	
		Proofreader.
Seale	ed with the Great Seal and presented to the Governor, for his approval thisday of at o'clock,M.	Proofreader.
		President.
	CHAPTER	
1 A	AN ACT concerning	
2 3	Department of Health and Mental Hygiene - Maryland Health Care Commission - Modifications and Clarifications	
	FOR the purpose of authorizing the Maryland Health Care Commission to adopt	
5	regulations to establish certain deadlines for filing information and to impose	
6 7	certain penalties in certain circumstances; making certain modifications to the methodology for calculating user fees assessed payors; <u>altering the maximum</u>	
8	dollar amount of total fees that the Commission may assess in any fiscal year;	
9	altering the manner in which the Commission determines the assessments of	
10	total fees; transferring certain health planning functions to the Secretary of	
11	Health and Mental Hygiene; repealing or transferring to the Secretary of Health	
12	and Mental Hygiene certain provisions relating to establishment and operation	
13	of local health planning agencies; altering certain definitions; clarifying that the	
14	Commission may provide certain information to the Department of Health and	
15	Mental Hygiene and local health departments; <u>requiring the Commission to</u>	
16	adopt certain regulations; making clarifying changes; and generally relating to	

33 otherwise, Baltimore City.

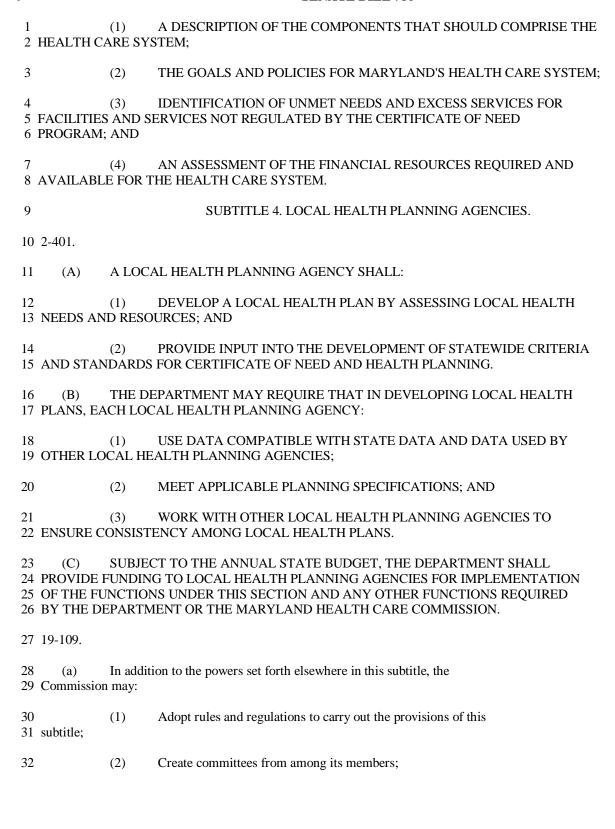
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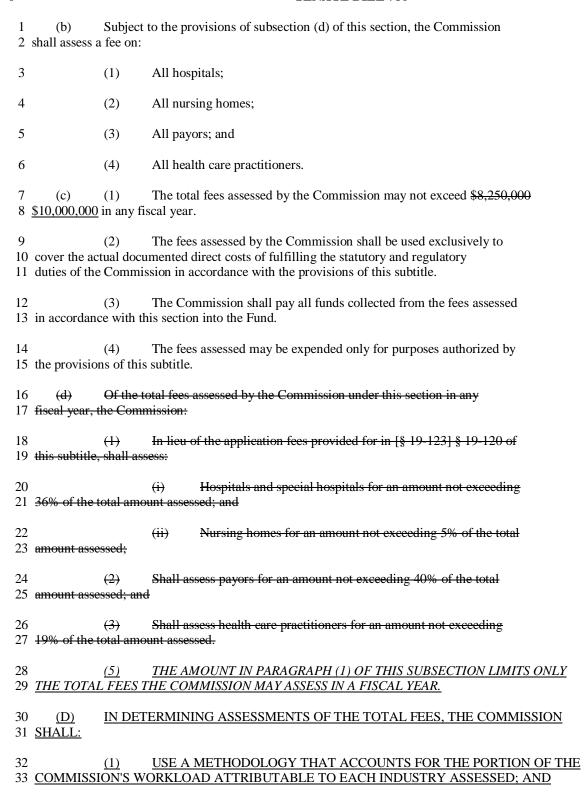
1 the Maryland Health Care Commission. 2 BY repealing and reenacting, with amendments, 3 Article - Health - General 4 Section 1-101, 2-105, 19-109(a), 19-111, 19-114, 19-116(b), 19-121, 5 19-122(d)(4), 19-123(l)(2), 19-124(b)(1)(ii), 19-126(2), 19-127(a), (c)(3), and (d), 19-134(f), and 19-135(a)(1) and (b) 6 Annotated Code of Maryland 7 8 (2000 Replacement Volume) 9 BY adding to Article - Health - General 10 Section 2-401 to be under the new subtitle "Subtitle 4. Local Health Planning 11 12 Agencies" 13 Annotated Code of Maryland 14 (2000 Replacement Volume) 15 BY repealing 16 Article - Health - General 17 Section 19-118 through 19-120, inclusive Annotated Code of Maryland 18 19 (2000 Replacement Volume) 20 BY renumbering Article - Health - General 21 22 Section 19-121 through 19-125.2 and 19-126 through 19-138, respectively 23 to be Section 19-118 through 19-137, respectively Annotated Code of Maryland 24 25 (2000 Replacement Volume) (As enacted by Section 1 of this Act) 26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 27 28 MARYLAND, That the Laws of Maryland read as follows: 29 **Article - Health - General** 30 1-101. 31 In this article the following words have the meanings indicated. (a) 32 "County" means a county of this State and, unless expressly provided

"Department" means the Department of Health and Mental Hygiene.

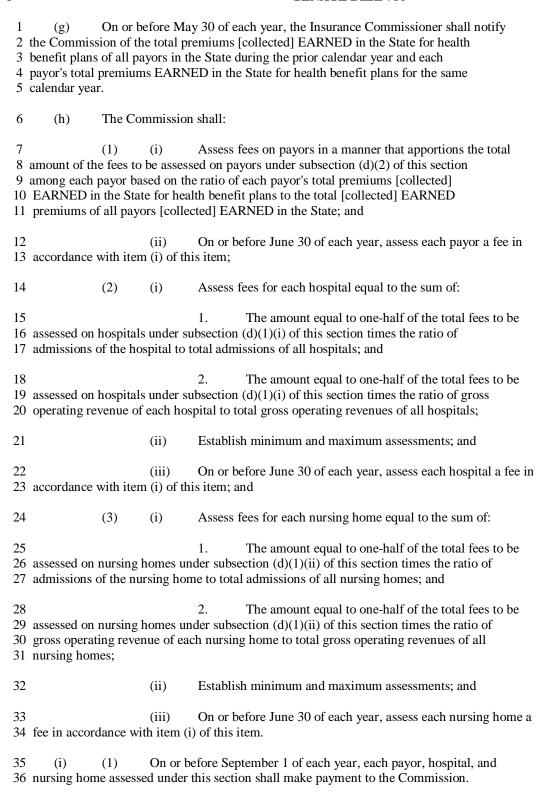
- 1 (d) "Health officer" means, unless expressly provided otherwise, the Baltimore 2 City Commissioner of Health or the health officer of a county.
- 3 (e) "Includes" or "including" means includes or including by way of illustration 4 and not by way of limitation.
- 5 (F) "LOCAL HEALTH PLANNING AGENCY" MEANS THE HEALTH DEPARTMENT 6 OF A JURISDICTION OR A BODY DESIGNATED BY THE LOCAL HEALTH DEPARTMENT
- 7 TO PERFORM HEALTH PLANNING FUNCTIONS.
- 8 [(f)] (G) "Medical examiner" means:
- 9 (1) The Chief Medical Examiner;
- 10 (2) The Deputy Chief Medical Examiner;
- 11 (3) Any assistant medical examiner; or
- 12 (4) Any deputy medical examiner.
- 13 [(g)] (H) "Person" means an individual, receiver, trustee, guardian, personal
- 14 representative, fiduciary, or representative of any kind and any partnership, firm,
- 15 association, corporation, or other entity.
- 16 [(h)] (I) "Physician" means an individual who is authorized under the
- 17 Maryland Medical Practice Act to practice medicine in this State.
- 18 [(i)] (J) "Secretary" means the Secretary of Health and Mental Hygiene.
- 19 [(j)] (K) "State" means:
- 20 (1) A state, possession, or territory of the United States;
- 21 (2) The District of Columbia; or
- 22 (3) The Commonwealth of Puerto Rico.
- 23 2-105.
- 24 (a) The Secretary shall establish general policy for, and adopt standards to
- 25 promote and guide the development of, the physical and mental hygiene services of
- 26 this State and its subdivisions.
- 27 (b) The Secretary is responsible for the health interests of the people of this
- 28 State and shall supervise generally the administration of the health laws of this State
- 29 and its subdivisions.
- 30 (C) THE SECRETARY SHALL ADOPT AND REVISE AS NECESSARY A STATE
- 31 HEALTH IMPROVEMENT PLAN THAT INCLUDES THE FOLLOWING:



3 4 5 6	recommendations to acute patient service residential treatmen	Appoint advisory committees, which shall include consumers and entatives of interested public or private organizations, to make to the Commission on community-based services, long term care, es, ambulatory surgical services, specialized health care services, at centers for emotionally disturbed children and adolescents, lcohol and drug abuse services, and any other topic or issue that insiders necessary;
8 9	(4) or government agen	Apply for and accept any funds, property, or services from any person acy;
10 11	(5) services, including	Make agreements with a grantor or payor of funds, property, or an agreement to make any study, plan, demonstration, or project;
12 13	(6) aspects of health ca	Publish and give out any information that relates to the financial are and is considered desirable in the public interest; and
16 17 18	ADOPTING REGI INFORMATION (Subject to the limitations of this subtitle, exercise any other power necessary to carry out the purposes of this subtitle, INCLUDING ULATIONS THAT SET REASONABLE DEADLINES FOR FILING OF DR REPORTS REQUIRED UNDER THIS SUBTITLE AND IMPOSE ENALTIES FOR FAILURE TO FILE INFORMATION OR REPORTS AS
20	19-111.	
21	(a) (1)	In this section the following words have the meanings indicated.
22	(2)	"Fund" means the Maryland Health Care Commission Fund.
23 24	(3) Insurance Article.	"Health benefit plan" has the meaning stated in § 15-201 of the
	(4) certified, or otherw health care services	"Health care practitioner" means any individual who is licensed, rise authorized under the Health Occupations Article to provide s.
28 29	(5) nursing home.	"Nursing home" means a related institution that is classified as a
30	(6)	"Payor" means:
		(i) A health insurer or nonprofit health service plan that holds a rity and provides health insurance policies or contracts in the with this article or the Insurance Article; or
34 35	authority in the Sta	(ii) A health maintenance organization that holds a certificate of tte.

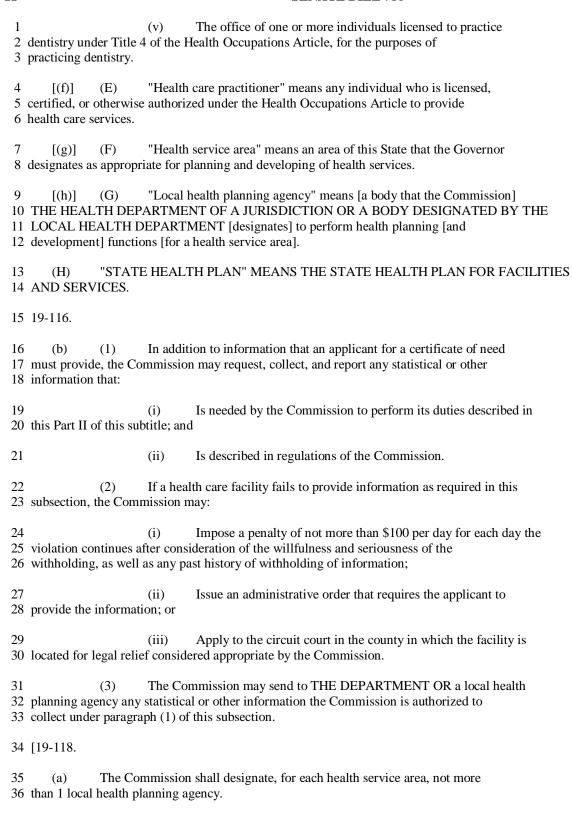


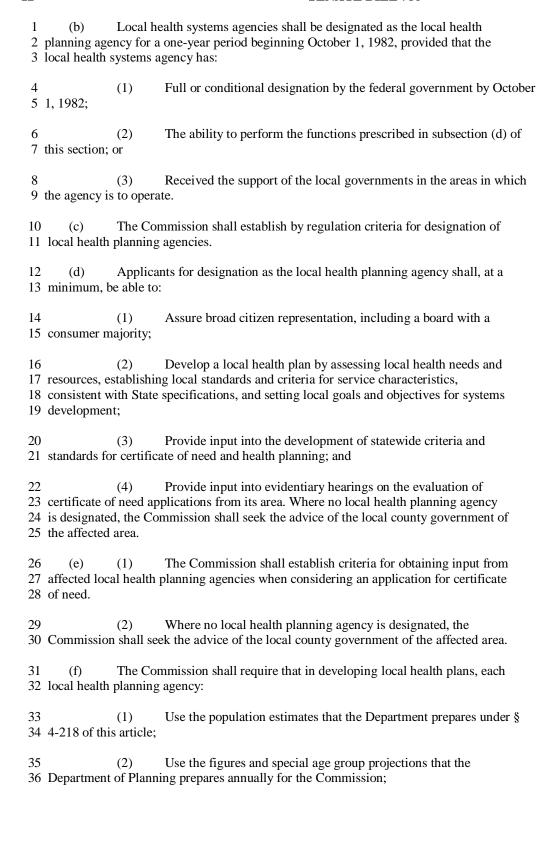
1		<u>(2)</u>	RECALCULATE WORKLOAD DISTRIBUTION EVERY 4 YEARS.
2 3	(e) practitioners	(1) shall be:	The fees assessed in accordance with this section on health care
4 5	practitioner's	licensing	(i) Included in the licensing fee paid to the health care g board; and
6 7	the Commiss	sion on a	(ii) Transferred by the health care practitioner's licensing board to quarterly basis.
8 9	under this se	(2) ction for	The Commission may adopt regulations that waive the fee assessed a specific class of health care practitioners.
			(I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE LL ADOPT REGULATIONS TO PERMIT A WAIVER OF THE FEE JIREMENTS FOR CERTAIN HEALTH CARE PRACTITIONERS.
	ASSESSMEI COMMISSI		(II) IN ADOPTING REGULATIONS TO PERMIT A WAIVER OF THE FEE DIREMENTS FOR CERTAIN HEALTH CARE PRACTITIONERS, THE LL:
16 17	<u>PRACTITIO</u>	NERS; A	1. CONSIDER THE HOURLY WAGES OF THE HEALTH CARE ND
			2. <u>GIVE PREFERENCE TO EXEMPTING HEALTH CARE</u> ITH AN AVERAGE HOURLY WAGE SUBSTANTIALLY BELOW THAT OF ARE PRACTITIONERS.
21	(f)	(1)	There is a Maryland Health Care Commission Fund.
22 23	to § 7-302 o	(2) f the Stat	The Fund is a special continuing, nonlapsing fund that is not subject e Finance and Procurement Article.
24 25	account for,	(3) the Fund	The Treasurer shall separately hold, and the Comptroller shall
26 27	other State f	(4) unds.	The Fund shall be invested and reinvested in the same manner as
28		(5)	Any investment earnings shall be retained to the credit of the Fund.
29 30	audits as pro	(6) ovided for	The Fund shall be subject to an audit by the office of legislative in § 2-1220 of the State Government Article.
31 32	receiving fur	(7) nds from	This section may not be construed to prohibit the Fund from any other source.
33 34	and for the p	(8) purposes a	The Fund shall be used only to provide funding for the Commission authorized under this subtitle.



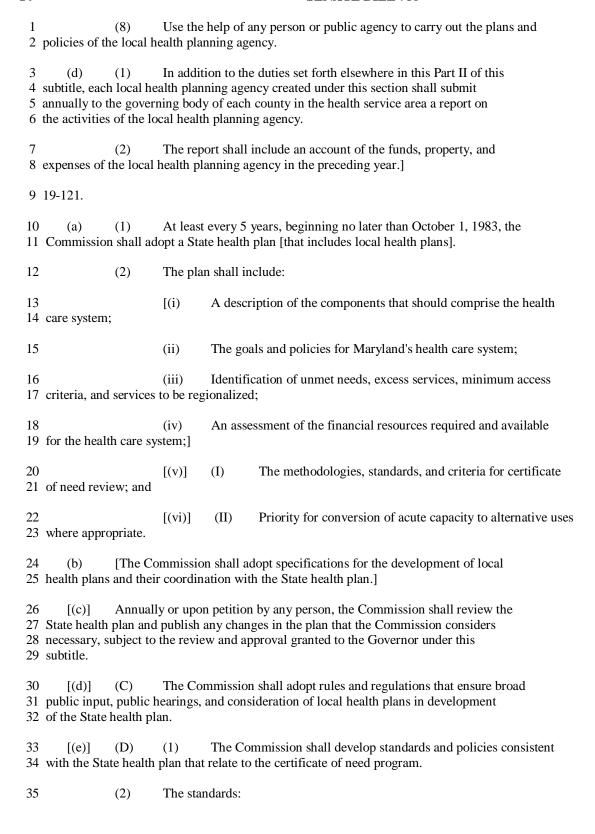
1	(2	2)	The Con	nmission shall make provisions for partial payments.
2 3				within 30 days of the payment due date may be subject to ined and collected by the Commission.
4	19-114.			
5 6	(a) In indicated.	n this Pa	art II of th	nis subtitle the following words have the meanings
	facility, or offic	ce of on	e or more	atory surgical facility" means any center, service, office, the health care practitioners or a group practice, as a Occupations Article, that:
10			(i)	Has two or more operating rooms;
11 12				Operates primarily for the purpose of providing surgical require overnight hospitalization; and
13 14	facility.		(iii)	Seeks reimbursement from payors as an ambulatory surgical
17	practitioners o	r a grou leed req	p practic	oses of this subtitle, the office of one or more health care e with two operating rooms may be exempt from the s under this subtitle if the Commission finds, in its
19 20				A second operating room is necessary to promote the efficiency, cal services offered; and
		ements	as an aml	The office meets the criteria for exemption from the certificate bulatory surgical facility in accordance with nmission.
24 25				ed" means a certification of public need issued by the of this subtitle for a health care project.
26 27				ans the National Health Planning and Resources blic Law 93-641), as amended.]
28	[(e)] (I	D)	(1)	"Health care facility" means:
29			(i)	A hospital, as defined in § 19-301(g) of this title;
30			(ii)	A limited service hospital, as defined in § 19-301(e) of this title;
31			(iii)	A related institution, as defined in § 19-301 of this title;
32			(iv)	An ambulatory surgical facility;

	rehabilitation of disable	d indivi	duals, th	tient facility that is organized primarily to help in the rough an integrated program of medical and t professional supervision;
4	(7	vi)	A home	health agency, as defined in § 19-401 of this title;
5	(1	vii)	A hospi	ce, as defined in § 19-901 of this title; and
6 7	(v Part II of this subtitle red			er health institution, service, or program for which this ate of need.
8	(2) "I	Health o	care facil	ity" does not include:
9 10	(i certified, by the First C			al or related institution that is operated, or is listed and Scientist, Boston, Massachusetts;
13	need under [§ 19-123] §	§ 19-12	0 of this	purpose of providing an exemption from a certificate of subtitle, a facility to provide comprehensive ruing care, as defined by Article 70B of the
17 18 19	subtitle, the facility is for executed continuing can the lowest entrance fee	re agree chargeo continu	ments and for an inguing care	Except as provided under [§ 19-125.1] § 19-123 of this use of the provider's subscribers who have ad paid entrance fees that are at least equal to independent living unit or an assisted living community, regardless of the level of care admission;
21 22	community; and		2.	The facility is located on the campus of the continuing care
23 24	community does not ex		3.	The number of comprehensive care nursing beds in the
25 26	community having less		A. 00 indepe	24 percent of the number of independent living units in a endent living units; or
27 28	community having 300		B. e indepe	20 percent of the number of independent living units in a ndent living units;
	`	ease trea	atment fa	for a facility to provide kidney transplant services or acility, as defined by rule or regulation of the d Human Services;
	,			for kidney transplant services or programs, the kidney provided by or on behalf of a hospital or





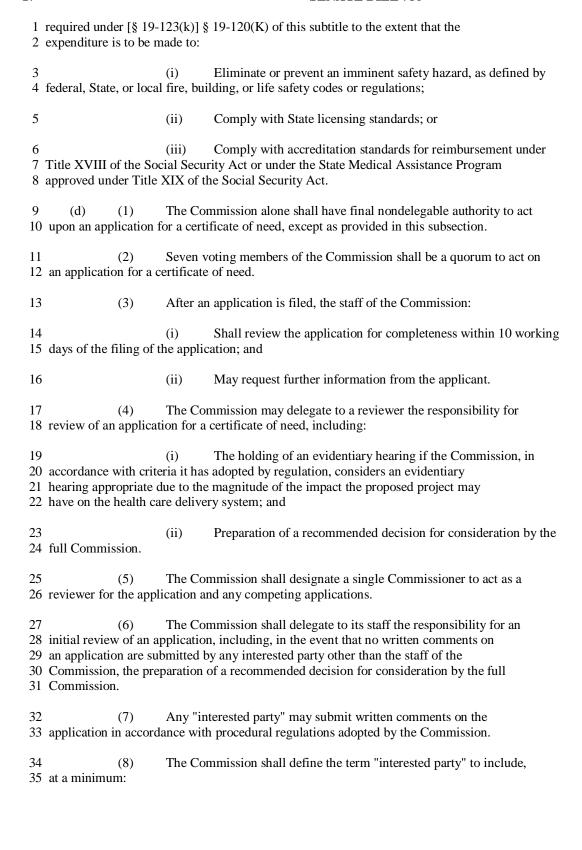
1	(3) Meet applicable planning specifications; and						
2 3	(4) Work with other local health planning agencies to ensure consistency among local health plans.]						
4	[19-119.						
7	Annually each local health planning agency shall receive the Department's program and budgetary priorities no later than July 1 and may submit to the Secretary comments on the proposed program and budgetary priorities within 60 days after receiving the proposals.]						
9	[19-120.						
	(a) (1) The governing body or bodies of 1 or more adjacent counties that constitute a health service area may establish a body to serve as the local health planning agency for the health service area, by:						
13 14	(i) Making a joint agreement as to the purpose, structure, and functions of the proposed body; and						
15 16	(ii) Each enacting an ordinance that designates the proposed body to be the local health planning agency for the county.						
17 18	(2) The body so established becomes the local health planning agency if the Commission designates the body as a health planning agency.						
21	(b) The governing board shall exercise all of the powers of the local health planning agency that, by law, agreement of the counties, or bylaws of the local health planning agency, are not conferred on or reserved to the counties or to another structure within the local health planning agency.						
23 24	(c) In addition to the powers set forth elsewhere in this Part II of this subtitle, each local health planning agency created under this section may:						
25	(1) Sue and be sued;						
26	(2) Make contracts;						
27 28	(3) Incur necessary obligations, which may not constitute the obligations of any county in the health service area;						
29	(4) Acquire, hold, use, improve, and otherwise deal with property;						
30 31	(5) Elect officers and appoint agents, define their duties, and set their compensation;						
32	(6) Adopt and carry out an employee benefit plan;						
33	(7) Adopt bylaws to conduct its affairs; and						



of

1 2	health care; and	(i)	Shall address the availability, accessibility, cost, and quality
3	developments in healt	(ii) h plannin	Are to be reviewed and revised periodically to reflect new ag, delivery, and technology.
		, the Con	ing standards regarding cost, efficiency, cost-effectiveness, nmission shall take into account the relevant ervices Cost Review Commission.
		an. The S	y, the Secretary shall make recommendations to the Secretary may review and comment on State e development of the State health plan.
13	with or responsible for care industry or person	or any asp ons involv	e agencies and departments, directly or indirectly involved pect of regulating, funding, or planning for the health wed in it, shall carry out their responsibilities in a atte health plan and available fiscal resources.
17	for hospitals, the Condevelop, or duplicate	nmission standard	ing out their responsibilities under this Part II of this subtitle and the Secretary shall recognize, but may not apply, s or requirements related to quality which have been anal or State licensing or accrediting authorities.
21	Mental Hygiene healt	th plannir ealth plan	nmission shall transfer to the Department of Health and ng functions and necessary staff resources for licensed in that are not required to obtain a certificate of need or rate of need program.
23	19-122.		
26	the institution-specifi	c plan int	health plan developed or adopted after the incorporation of to the State health plan shall include the criteria in n addition to the criteria in [§ 19-121] § 19-118 of this
28	19-123.		
29 30	(l) A certifi hospital as defined in		eed is not required to close any hospital or part of a l of this title if:
33		days befo or part o	For a hospital located in a county with fewer than three ore the closing or partial closing of the hospital, a person of the hospital files notice of the proposed closing or aission; and
35		(ii)	The Commission finds that the closing:
36			1. Is in the public interest; and

1	2. Is not inconsistent with:
2	A. The State health plan; or
3	B. An institution-specific plan developed by the Commission under [§ 19-122] § 19-119 of this subtitle.
5	19-124.
8 9	(b) (1) A health maintenance organization or a health care facility that either controls, directly or indirectly, or is controlled by a health maintenance organization shall have a certificate of need before the health maintenance organization or health care facility builds, develops, operates, purchases, or participates in building, developing, operating, or establishing:
	(ii) Any other health care project for which a certificate of need is required under [§ 19-123] § 19-120 of this subtitle if that health care project is planned for or used by any nonsubscribers of that health maintenance organization.
14	19-126.
15	A certificate of need is required before an ambulatory care facility:
	(2) To provide those services, makes an expenditure, if a certificate of need would be required under [\S 19-123(k)] \S 19-120(K) of this subtitle for the expenditure by or on behalf of a health care facility; or
19	19-127.
22 23	(a) If the Commission receives an application for a certificate of need for a change in the bed capacity of a health care facility, as required under [§ 19-123] § 19-120 of this subtitle, or for a health care project that would create a new health care service or abolish an existing health care service, the Commission shall give notice of the filing by publication in the Maryland Register and give the following notice to:
25 26	(1) Each member of the General Assembly in whose district the action is planned;
27 28	(2) Each member of the governing body for the county where the action is planned;
29 30	(3) The county executive, mayor, or chief executive officer, if any, in whose county or city the action is planned; and
31 32	(4) Any health care provider, third party payor, local planning agency, or any other person the Commission knows has an interest in the application.
	(c) (3) Unless the Commission finds that the facility or service for which the proposed expenditure is to be made is not needed or is not consistent with the State health plan, the Commission shall approve an application for a certificate of need



1		(i)	The staff of the Commission;
2 3	[and]	(ii)	Any applicant who has submitted a competing application;
4 5	be adversely affected	(iii) by the de	Any other person who can demonstrate that the person would cision of the Commission on the application; AND
6 7	REGION IN WHICH	(IV) THE PR	A LOCAL HEALTH PLANNING AGENCY FOR A JURISDICTION OF OPOSED FACILITY OR SERVICE WILL BE LOCATED.
10		ny other r	ewer shall review the application, any written comments on materials permitted by this section or by the I present a recommended decision on the application to
14	opportunity to presen adopted by the Comn	nission, b	An applicant and any interested party may request the ument to the reviewer, in accordance with regulations efore the reviewer prepares a recommended decision on on by the full Commission.
16 17		(ii) uest to pro	The reviewer may grant, deny, or impose limitations on an esent oral argument to the reviewer.
20 21	paragraph (7) of this decision and make or	subsectio al argum	erested party who has submitted written comments under n may submit written exceptions to the proposed ent to the Commission, in accordance with regulations efore the Commission takes final action on the
25	decision is complete, on the basis of the rec	vote to a	nmission shall, after determining that the recommended pprove, approve with conditions, or deny the application led decision, the record before the staff or the reviewer, if any, before the Commission.
27 28	(13) present and voting.	The deci	sion of the Commission shall be by a majority of the quorum
29	19-134.		
			ons of [§ 19-135] § 19-134 of this subtitle are fully te, the Commission may limit the data collection under
33	19-135.		
36	[§ 19-134] § 19-133 operation of one or m	of this sul ore medi	to more efficiently establish a medical care data base under britle, the Commission shall establish standards for the cal care electronic claims clearinghouses in Maryland thouses meeting those standards.

- 1 (b) The Commission may collect the medical care claims information
- 2 submitted to any licensed claims clearinghouse for use in the data base established
- 3 under [§ 19-134] § 19-133 of this subtitle.
- 4 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 19-121
- 5 through 19-125.2 and 19-126 through 19-138, respectively, of Article Health -
- 6 General of the Annotated Code of Maryland be renumbered to be Section(s) 19-118
- 7 through 19-137, respectively.
- 8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 9 July 1, 2001.