

BY: Finance Committee

AMENDMENTS TO SENATE BILL 593
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after “of” insert “requiring the Maryland Medical Assistance Program to pay certain rates for certain emergency services;”; in line 6, after “facilities;” insert “altering the circumstances under which the Department of Health and Mental Hygiene must issue a license to a freestanding medical facility;”; in line 7, strike “claims submitted by freestanding medical facilities at”; in line 8, after “Commission” insert “for emergency services provided at certain freestanding medical facilities; repealing certain provisions of law requiring the Maryland Health Care Commission to propose certain regulations; altering certain definitions”; in the same line, after the third “the” insert “Health Services Cost Review”; in line 10, after “Act;” insert “requiring the Maryland Health Care Commission, in consultation with the Health Services Cost Review Commission, to conduct a certain study and report the results of its study to certain committees of the General Assembly on or before a certain date; prohibiting freestanding medical facilities from being established after a certain date without a certificate of need issued by the Maryland Health Care Commission; requiring the Maryland Health Care Commission to consider certain data in establishing certain criteria and standards for issuing a certain certificate of need; requiring the Health Services Cost Review Commission to set certain rates applicable to certain payors for certain emergency services;”; strike in their entirety lines 12 through 16, inclusive; in line 19, after “Section” insert “15-105(d), 19-114,”; in the same line, after “19-211,” insert “19-3A-03,”; and after line 21, insert:

“BY repealing

Article – Health – General

Section 19-131

Annotated Code of Maryland

(2009 Replacement Volume)

(Over)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 19-201(a), (b), and (c)
Annotated Code of Maryland
(2009 Replacement Volume)”.

AMENDMENT NO. 2

On page 2, after line 3, insert:

“15–105.

(d) (1) The Department shall adopt regulations for the reimbursement of specialty outpatient treatment and diagnostic services rendered to Program recipients at a freestanding clinic owned and operated by a hospital that is under a capitation agreement approved by the Health Services Cost Review Commission.

(2) (i) Except as provided in [subparagraph] SUBPARAGRAPHS (ii) AND (III) of this paragraph, the reimbursement rate under paragraph (1) of this subsection shall be set according to Medicare standards and principles for retrospective cost reimbursement as described in 42 C.F.R. Part 413 or on the basis of charges, whichever is less.

(ii) The reimbursement rate for a hospital that has transferred outpatient oncology, diagnostic, rehabilitative, and digestive disease services to an off-site facility prior to January 1, 1999 shall be set according to the rates approved by the Health Services Cost Review Commission if:

1. The transfer of services was due to zoning restrictions at the hospital campus;

2. The off-site facility is surveyed as part of the hospital for purposes of accreditation by the Joint Commission on Accreditation of Healthcare Organizations; and

3. The hospital notifies the Health Services Cost Review Commission in writing by July 1, 1999 that the hospital would like the services provided at the off-site facility subject to Title 19, Subtitle 2 of this article.

(III) THE PROGRAM SHALL PAY THE RATES SET BY THE HEALTH SERVICES COST REVIEW COMMISSION FOR EMERGENCY SERVICES PROVIDED AT:

1. A FREESTANDING MEDICAL FACILITY PILOT PROJECT AUTHORIZED UNDER § 19-3A-07 OF THIS ARTICLE PRIOR TO JANUARY 1, 2008; AND

2. A FREESTANDING MEDICAL FACILITY ISSUED A CERTIFICATE OF NEED BY THE MARYLAND HEALTH CARE COMMISSION AFTER JULY 1, 2015.

19-114.

(a) In this Part II of this subtitle the following words have the meanings indicated.

(b) (1) “Ambulatory surgical facility” means any center, service, office, facility, or office of one or more health care practitioners or a group practice, as defined in § 1-301 of the Health Occupations Article, that:

(i) Has two or more operating rooms;

(Over)

(ii) Operates primarily for the purpose of providing surgical services to patients who do not require overnight hospitalization; and

(iii) Seeks reimbursement from payors as an ambulatory surgical facility.

(2) For purposes of this subtitle, the office of one or more health care practitioners or a group practice with two operating rooms may be exempt from the certificate of need requirements under this subtitle if the Commission finds, in its sole discretion, that:

(i) A second operating room is necessary to promote the efficiency, safety, and quality of the surgical services offered; and

(ii) The office meets the criteria for exemption from the certificate of need requirements as an ambulatory surgical facility in accordance with regulations adopted by the Commission.

(c) “Certificate of need” means a certification of public need issued by the Commission under this Part II of this subtitle for a health care project.

(d) (1) “Health care facility” means:

(i) A hospital, as defined in § 19–301 of this title;

(ii) A limited service hospital, as defined in § 19–301 of this title;

(iii) A related institution, as defined in § 19–301 of this title;

(iv) An ambulatory surgical facility;

(v) An inpatient facility that is organized primarily to help in the rehabilitation of disabled individuals, through an integrated program of medical and other services provided under competent professional supervision;

(vi) A home health agency, as defined in § 19–401 of this title;

(vii) A hospice, as defined in § 19–901 of this title;

(VIII) A FREESTANDING MEDICAL FACILITY, AS DEFINED IN § 19-3A-01 OF THIS TITLE; and

[(viii)] (IX) Any other health institution, service, or program for which this Part II of this subtitle requires a certificate of need.

(2) “Health care facility” does not include:

(i) A hospital or related institution that is operated, or is listed and certified, by the First Church of Christ Scientist, Boston, Massachusetts;

(ii) For the purpose of providing an exemption from a certificate of need under § 19–120 of this subtitle, a facility to provide comprehensive care constructed by a provider of continuing care, as defined in § 10–401 of the Human Services Article, if:

1. Except as provided under § 19–123 of this subtitle, the facility is for the exclusive use of the provider’s subscribers who have executed continuing care agreements and paid entrance fees that are at least equal to the lowest entrance fee charged for an independent living unit or an assisted living unit before entering the continuing care community, regardless of the level of care needed by the subscribers at the time of admission;

2. The facility is located on the campus of the continuing care community; and

3. The number of comprehensive care nursing beds in the community does not exceed:

A. 24 percent of the number of independent living units in a community having less than 300 independent living units; or

B. 20 percent of the number of independent living units in a community having 300 or more independent living units;

(iii) Except for a facility to provide kidney transplant services or programs, a kidney disease treatment facility, as defined by rule or regulation of the United States Department of Health and Human Services;

(iv) Except for kidney transplant services or programs, the kidney disease treatment stations and services provided by or on behalf of a hospital or related institution; or

(v) The office of one or more individuals licensed to practice dentistry under Title 4 of the Health Occupations Article, for the purposes of practicing dentistry.

(e) “Health care practitioner” means any individual who is licensed, certified, or otherwise authorized under the Health Occupations Article to provide health care services.

(f) “Health service area” means an area of this State that the Governor designates as appropriate for planning and developing of health services.

(g) “Local health planning agency” means the health department of a jurisdiction or a body designated by the local health department to perform health planning functions.

(h) “State health plan” means the State health plan for facilities and services.

[19–131.

(a) On or before July 1, 2008, the Commission, in consultation with the Health Services Cost Review Commission and the Department of Health and Mental Hygiene, shall propose emergency regulations to establish a review process to approve facilities in the State that may seek licensure as a freestanding medical facility, as provided in Subtitle 3A of this title.

(b) The regulations shall include:

(1) A process to identify areas of the State in which a freestanding medical facility could meet health care service delivery needs;

(2) A process for submitting and acting on applications;

(3) Criteria for evaluating and approving applications, including:

(i) Documentation that the proposed freestanding medical facility will meet the licensure requirements of Subtitle 3A of this title;

(ii) The efficiency and effectiveness of the proposed freestanding medical facility in meeting the health care needs of the health planning region;

(iii) The types of equipment and level of staffing specified, in relation to the services the freestanding medical facility proposes to provide; and

(Over)

(iv) Costs to both public and private payers; and

(4) Appropriate notice and opportunity for a hearing and judicial review, in accordance with the Administrative Procedure Act.

(c) A facility that is approved under this section to seek licensure as a freestanding medical facility shall provide to the Commission information, as specified by the Commission, on the configuration, location, operation, and utilization, including patient-level utilization, of the freestanding medical facility.

(d) A freestanding medical facility pilot project is exempt from the review process in subsections (a) and (b) of this section.】;

in line 14, strike “FREESTANDING MEDICAL FACILITIES AND FREESTANDING” and substitute “:

1. FREESTANDING”;

in line 15, strike “LICENSED” and substitute “AUTHORIZED”; and in the same line, strike the semicolon and substitute “PRIOR TO JANUARY 1, 2008; AND

2. A FREESTANDING MEDICAL FACILITY ISSUED A CERTIFICATE OF NEED BY THE MARYLAND HEALTH CARE COMMISSION AFTER JULY 1, 2015;”.

On page 3, strike beginning with “A” in line 10 down through “A” in line 11 and substitute “:

(1) A”;

in line 12, strike “ESTABLISHED UNDER § 19-3A-07” and substitute “AUTHORIZED UNDER SUBTITLE 3A”; in the same line, after “TITLE” insert “PRIOR TO JANUARY 1, 2008; AND”

(2) A FREESTANDING MEDICAL FACILITY ISSUED A CERTIFICATE OF NEED BY THE MARYLAND HEALTH CARE COMMISSION AFTER JULY 1, 2015”;

and after line 12, insert:

“19-3A-03.

(a) The Department shall issue a license to a freestanding medical facility that:

(1) Meets the licensure requirements under this subtitle; and

(2) [Receives] AFTER JULY 1, 2015, RECEIVES A CERTIFICATE OF NEED [approval] from the Maryland Health Care Commission ISSUED under [the regulations required under § 19-131] § 19-120 of this title.

(b) A freestanding medical facility that uses in its title or advertising the word “emergency” or other language indicating to the public that medical treatment for immediately life-threatening medical conditions exist at that facility shall be licensed by the Department before it may operate in this State.

(c) Notwithstanding subsection (a)(2) of this section, the Department may not require a freestanding medical facility pilot project to be approved by the Maryland Health Care Commission as a condition of licensure.”.

On page 5, strike beginning with “A” in line 12 down through “AT” in line 15; in line 17, after “TITLE” insert “FOR EMERGENCY SERVICES PROVIDED AT:”

(Over)

(1) A FREESTANDING MEDICAL FACILITY PILOT PROJECT AUTHORIZED UNDER THIS SUBTITLE PRIOR TO JANUARY 1, 2008; AND

(2) A FREESTANDING MEDICAL FACILITY ISSUED A CERTIFICATE OF NEED BY THE MARYLAND HEALTH CARE COMMISSION AFTER JULY 1, 2015”;

in line 19, after “that” insert “emergency”; in the same line, after “by” insert “a”; in the same line, strike “facilities and” and substitute “facility issued a certificate of need by the Maryland Health Care Commission after July 1, 2015, and by”; in line 20, after “projects” insert “authorized under § 19-3A-07 of the Health - General Article, as enacted by Section 1 of this Act, prior to January 1, 2008,”; in line 25, strike “freestanding medical facilities and”; in line 28, after “That” insert “:”

(a) (1) The Maryland Health Care Commission, in consultation with the Health Services Cost Review Commission, shall conduct a study of the effect of the rates established for freestanding medical facility pilot projects by the Health Services Cost Review Commission under § 19-211(c) of the Health – General Article, as enacted by Section 1 of this Act.

(2) The study shall review the effect of the rates for a period of 2 full years after the rates become effective.

(3) On or before December 31, 2014, the Maryland Health Care Commission shall report the results of its study, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee.

(b) The Maryland Health Care Commission shall consider the data in the report required under subsection (a) of this section and other pertinent data in

establishing review criteria and standards for issuing a certificate of need required to establish a freestanding medical facility in the State after July 1, 2015.

(c) After July 1, 2015, a freestanding medical facility may not be established in the State without a certificate of need issued by the Maryland Health Care Commission.

SECTION 5. AND BE IT FURTHER ENACTED, That the Health Services Cost Review Commission shall set rates that apply to all payors, effective October 1, 2010, for emergency services provided at a freestanding medical facility pilot project described in § 19-3A-07(b)(2) of the Health – General Article, as enacted by Section 1 of this Act, in a manner that does not result in a fiscal impact on the fiscal year 2011 State budget.

SECTION 6. AND BE IT FURTHER ENACTED, That the Health Services Cost Review Commission shall set rates that apply to all payors, effective July 1, 2011, for emergency services provided at:

(1) a freestanding medical facility other than a freestanding medical facility pilot project; and

(2) a freestanding medical facility pilot project described in § 19-3A-07(b)(1) of the Health – General Article, as enacted by Section 1 of this Act.

SECTION 7. AND BE IT FURTHER ENACTED, That”;

and in line 29, strike “July” and substitute “June”.