

Chapter 415

(House Bill 646)

AN ACT concerning

**Maryland Health Care Commission – State Health Plan and Certificate of Need
for Hospital Capital Expenditures**

FOR the purpose of altering the frequency at which the Maryland Health Care Commission is required to adopt a State health plan; requiring the State health plan to be consistent with a certain contract; repealing a requirement that the Commission review the State health plan on a certain basis; requiring, annually or on petition by any person, the Commission to assess each State health plan chapter, make a certain determination, and establish a certain priority order and timeline in a certain manner; altering the circumstances under which a certificate of need is required before certain capital expenditures are made by or on behalf of a hospital; defining a certain term; making conforming and stylistic changes; and generally relating to the State health plan and certificates of need for hospitals.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–118(a) and (b) and 19–120(a) and (k)(1) and (6)(viii)

Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

19–118.

(a) (1) [At least every 5 years, beginning no later than October 1, 1983] **ON OR BEFORE OCTOBER 1 EACH YEAR**, the Commission shall adopt a State health plan.

(2) The plan shall [include]:

(i) **BE CONSISTENT WITH THE MARYLAND ALL PAYER MODEL CONTRACT;**

(ii) **(II) [The] INCLUDE** methodologies, standards, and criteria for certificate of need review; and

(iii) **(III) [Priority for] PRIORITIZE** conversion of acute capacity to alternative uses where appropriate.

(b) Annually or [upon] **ON** petition by any person, the Commission shall [review]:

(I) ASSESS EACH State health plan [and publish] CHAPTER;

(II) DETERMINE THE CHAPTER OR CHAPTERS OF THE STATE HEALTH PLAN THAT SHOULD BE REVIEWED AND REVISED;

(III) ESTABLISH, AT A PUBLIC MEETING, THE PRIORITY ORDER AND TIMELINE OF THE STATE HEALTH PLAN CHAPTER REVIEW AND REVISION; AND

(IV) PUBLISH any changes in the **STATE HEALTH** plan that the Commission considers necessary, subject to the review and approval granted to the Governor under this subtitle.

19–120.

(a) (1) In this section the following words have the meanings indicated.

(2) “Consolidation” and “merger” include increases and decreases in bed capacity or services among the components of an organization that:

(i) Operates more than one health care facility; or

(ii) Operates one or more health care facilities and holds an outstanding certificate of need to construct a health care facility.

(3) (i) “Health care service” means any clinically related patient service.

(ii) “Health care service” includes a medical service.

(4) “HOSPITAL CAPITAL THRESHOLD” MEANS THE LESSER OF:

(I) 25% OF THE HOSPITAL’S GROSS REGULATED CHARGES FOR THE IMMEDIATELY PRECEDING YEAR; OR

(II) \$50,000,000.

[(4)] (5) “Limited service hospital” means a health care facility that:

(i) Is licensed as a hospital on or after January 1, 1999;

(ii) Changes the type or scope of health care services offered by eliminating the facility’s capability to admit or retain patients for overnight hospitalization;

- (iii) Retains an emergency or urgent care center; and
- (iv) Complies with the regulations adopted by the Secretary under § 19–307.1 of this title.

[(5)] (6) “Medical service” means:

- (i) Any of the following categories of health care services:
 1. Medicine, surgery, gynecology, addictions;
 2. Obstetrics;
 3. Pediatrics;
 4. Psychiatry;
 5. Rehabilitation;
 6. Chronic care;
 7. Comprehensive care;
 8. Extended care;
 9. Intermediate care; or
 10. Residential treatment; or
- (ii) Any subcategory of the rehabilitation, psychiatry, comprehensive care, or intermediate care categories of health care services for which need is projected in the State health plan.

(k) (1) A certificate of need is required before any of the following capital expenditures are made by or on behalf of a hospital:

- (i) Any expenditure that, under generally accepted accounting principles, is not properly chargeable as an operating or maintenance expense, if:
 1. The expenditure is made as part of an acquisition, improvement, or expansion, and, after adjustment for inflation as provided in the regulations of the Commission, the total expenditure, including the cost of each study, survey, design, plan, working drawing, specification, and other essential activity, is more than **[\$10,000,000] THE HOSPITAL CAPITAL THRESHOLD**;

2. The expenditure is made as part of a replacement of any plant and equipment of the hospital and is more than **[\$10,000,000] THE HOSPITAL CAPITAL THRESHOLD** after adjustment for inflation as provided in the regulations of the Commission;

3. The expenditure results in a substantial change in the bed capacity of the hospital; or

4. The expenditure results in the establishment of a new medical service in a hospital that would require a certificate of need under subsection (i) of this section; or

(ii) Any expenditure that is made to lease or, by comparable arrangement, obtain any plant or equipment for the hospital, if:

1. The expenditure is made as part of an acquisition, improvement, or expansion, and **[, after adjustment for inflation as provided in the rules and regulations of the Commission,]** the total expenditure, including the cost of each study, survey, design, plan, working drawing, specification, and other essential activity, is more than **[\$10,000,000] THE HOSPITAL CAPITAL THRESHOLD**;

2. The expenditure is made as part of a replacement of any plant and equipment and is more than **[\$10,000,000] THE HOSPITAL CAPITAL THRESHOLD** after adjustment for inflation as provided in the regulations of the Commission;

3. The expenditure results in a substantial change in the bed capacity of the hospital; or

4. The expenditure results in the establishment of a new medical service in a hospital that would require a certificate of need under subsection (i) of this section.

(6) This subsection does not apply to:

(viii) A capital expenditure by a hospital, as defined in § 19–301 of this title, for a project in excess of **[\$10,000,000] THE HOSPITAL CAPITAL THRESHOLD AND IS** for construction or renovation that:

1. May be related to patient care;

2. Does not require, over the entire period or schedule of debt service associated with the project, a total cumulative increase in patient charges or hospital rates of more than \$1,500,000 for the capital costs associated with the project as determined by the Commission, after consultation with the Health Services Cost Review

Commission;

3. At least 45 days before the proposed expenditure is made, the hospital notifies the Commission;

4. A. Within 45 days of receipt of the relevant financial information, the Commission makes the financial determination required under item 2 of this item; or

B. The Commission has not made the financial determination required under item 2 of this item within 60 days of the receipt of the relevant financial information; and

5. The relevant financial information to be submitted by the hospital is defined in regulations adopted by the Commission, after consultation with the Health Services Cost Review Commission;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, May 13, 2019.