Unofficial Copy J3 1996 Regular Session 6lr2430

By: Delegate Hammen Introduced and read first time: January 31, 1996 Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 Health Care Facilities - Certificate of Need

3 FOR the purpose of specifying that a hospital may acquire certain health care facilities or

- 4 group practices without obtaining a certificate of need under certain circumstances;
- 5 providing that a hospital may not build or expand its ambulatory surgical capacity in
- 6 certain settings without obtaining a certificate of need under certain circumstances;
- 7 providing for the effective date of this Act; and generally relatingto the
- 8 circumstances under which hospitals must obtain a certificate of need.

9 BY repealing and reenacting, without amendments,

- 10 Article Health General
- 11 Section 19-101(b)
- 12 Annotated Code of Maryland
- 13 (1990 Replacement Volume and 1995 Supplement)

14 BY repealing and reenacting, with amendments,

- 15 Article Health General
- 16 Section 19-115(j)
- 17 Annotated Code of Maryland
- 18 (1990 Replacement Volume and 1995 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

20 MARYLAND, That the Laws of Maryland read as follows:

21 Article - Health - General

22 19-101.

- (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 §
- 25 1-301 of the Health Occupations Article, that:
- 26 (i) Has two or more operating rooms;
- 27 (ii) Operates primarily for the purpose of providing surgical services to28 patients who do not require overnight hospitalization; and

HOUSE BILL 523

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1 2	(iii) Seeks reimbursement from payors as an ambulatory surgical facility.
5	(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:
7 8	(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.
12	19-115.
13 14	(j) (1) A certificate of need is required before any of the following capital expenditures are made by or on behalf of a health care facility:
15 16	(i) Any expenditure that, under generally accepted accounting principles, is not properly chargeable as an operating or maintenance expense, if:
19 20	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 \$1,250,000;
	2. The expenditure is made as part of a replacement of any plant and equipment of the health care facility and is more than \$1,250,000 after adjustment for inflation as provided in the regulations of the Commission;
25 26	3. The expenditure results in a substantial change in the bed capacity of the health care facility; or
	4. The expenditure results in the establishment of a new medical service in a health care facility that would require a certificate of need under subsection (i) of this section; or
30 31	(ii) Any expenditure that is made to lease or, by comparable arrangement, obtain any plant or equipment for the health care facility, if:
34 35	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 thecost of each study, survey, design, plan, working drawing, specification, and other essential activity, is more than \$1,250,000;
37	2. The expenditure is made as part of a replacement of any

- 38 plant and equipment and is more than \$1,250,000 after adjustment for inflation as39 provided in the regulations of the Commission;

HOUSE BILL 523

1 3. The expenditure results in a substantial change in he bed 2 capacity of the health care facility; or 3 4. The expenditure results in the establishment of a new 4 medical service in a health care facility that would require a certificate of need under 5 subsection (i) of this section. 6 (2) A certificate of need is required before any equipment or plant is 7 donated to a health care facility, if a certificate of need would be required under 8 paragraph (1) of this subsection for an expenditure by the health care facility to acquire 9 the equipment or plant directly. 10 (3) A certificate of need is required before any equipment or plant is 11 transferred to a health care facility at less than fair market value if a certificate of need 12 would be required under paragraph (1) of this subsection for the transfer at fair market 13 value. 14 (4) A certificate of need is required before a person acquires a health care 15 facility if a certificate of need would be required under paragraph (1)of this subsection 16 for the acquisition by or on behalf of the health care facility. 17

17 (5) This subsection does not apply to:

18 (i) Site acquisition;

(ii) Acquisition of a health care facility if, at least 30days before
making the contractual arrangement to acquire the facility, written notice of the intent to
make the arrangement is filed with the Commission and the Commission does not find,
within 30 days after the Commission receives notice, that the health services or bed
capacity of the facility will be changed;
(iii) Acquisition of business or office equipment that is not directly
related to patient care;

26 (iv) Capital expenditures to the extent that they are directly related to27 the acquisition and installation of major medical equipment;

(v) A capital expenditure made as part of a consolidation or merger of
2 or more health care facilities, or conversion of a health care facility or part of a facility
30 to a nonhealth-related use if:

31 1. At least 45 days before an expenditure is made, written32 notice of intent is filed with the Commission;

2. Within 45 days of receiving notice, the Commissionin its sole34 discretion finds that the proposed consolidation, merger, or conversion:

35A. Is not inconsistent with the State health plan or the36 institution-specific plan developed by the Commission as appropriate;

B. Will result in the delivery of more efficient and effective8 health care services; and

39 C. Is in the public interest; and

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HOUSE BILL 523

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13. Within 45 days of receiving notice, the Commissionshall2notify the health care facility of its finding;
3 (vi) A capital expenditure by a nursing home for equipment,4 construction, or renovation that:
5 1. Is not directly related to patient care; and
6 2. Is not directly related to any change in patient charges or 7 other rates;
8 (vii) A capital expenditure by a hospital, as defined in §19-301 of this 9 title, for equipment, construction, or renovation that:
10 1. Is not directly related to patient care; and
11 2. Does not increase patient charges or hospital rates;
12 (viii) A capital expenditure by a hospital as defined in §19-301 of this 13 title, for a project in excess of \$1,250,000 for construction or renovation that:
14 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 and within 45 days of receipt of the relevant financial information, the Commission makes the financial determination required under item 2 of this subparagraph; and
 4. The relevant financial information to be submitted by the hospital is defined in regulations promulgated by the Commission, afterconsultation with the Health Services Cost Review Commission; or
 (ix) A plant donated to a hospital as defined in § 19-301 of this title, which does not require a cumulative increase in patient charges or hospital rates of more than \$1,500,000 for capital costs associated with the donated plant as determined by the Commission, after consultation with the Health Services Cost Review Commission that:
 1. At least 45 days before the proposed donation is made, the hospital notifies the Commission and within 45 days of receipt of the relevant financial information, the Commission makes the financial determination required under this subparagraph; and
 2. The relevant financial information to be submitted by the hospital is defined in regulations promulgated by the Commission after consultation with the Health Services Cost Review Commission.

37 the Health Services Cost Review Commission.

1 (6) Paragraph (5)(vi), (vii), (viii), and (ix) of this subsection may not be 2 construed to permit a facility to offer a new health care service for which a certificate of 3 need is otherwise required.

4 (7) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO PROHIBIT A
5 HOSPITAL FROM ACQUIRING A FREESTANDING AMBULATORY SURGICAL FACILITY
6 OR PHYSICIAN GROUP PRACTICE WITHOUT OBTAINING A CERTIFICATE OF NEED
7 FROM THE COMMISSION IF THE FACILITY OR PRACTICE HAS OBTAINED A
8 CERTIFICATE OF NEED OR AN EXEMPTION FROM CERTIFICATE OF NEED
9 REQUIREMENTS.

[(7)] (8) Nothing in this subsection may be construed to permit a hospital to
 build or expand its ambulatory surgical capacity in any setting owned or controlled by the
 hospital without obtaining a certificate of need from the Commission IFTHE BUILDING
 OR EXPANSION WOULD INCREASE THE SURGICAL CAPACITY OF THE STATE'S
 HEALTH CARE SYSTEM.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 16 June 1, 1996.

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