
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 relating to 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.

23 (b) (1) "Ambulatory surgical facility" means any center, service, office, facility,
24 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 to
28 patients who do not require overnight hospitalization; and

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

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

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

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

12 19-115.

13 (j) (1) A certificate of need is required before any of the following capital
14 expenditures are made by or on behalf of a health care facility:

15 (i) Any expenditure that, under generally accepted accounting
16 principles, is not properly chargeable as an operating or maintenance expense, if:

17 1. The expenditure is made as part of an acquisition,
18 improvement, or expansion, and, after adjustment for inflation as provided in the
19 regulations of the Commission, the total expenditure, including the cost of each study,
20 survey, design, plan, working drawing, specification, and other essential activity, is more
21 than \$1,250,000;

22 2. The expenditure is made as part of a replacement of any
23 plant and equipment of the health care facility and is more than \$1,250,000 after
24 adjustment for inflation as provided in the regulations of the Commission;

25 3. The expenditure results in a substantial change in the bed
26 capacity of the health care facility; or

27 4. The expenditure results in the establishment of a new
28 medical service in a health care facility that would require a certificate of need under
29 subsection (i) of this section; or

30 (ii) Any expenditure that is made to lease or, by comparable
31 arrangement, obtain any plant or equipment for the health care facility, if:

32 1. The expenditure is made as part of an acquisition,
33 improvement, or expansion, and, after adjustment for inflation as provided in the rules
34 and regulations of the Commission, the total expenditure, including the cost of each
35 study, survey, design, plan, working drawing, specification, and other essential activity, is
36 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 as
39 provided in the regulations of the Commission;

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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.

10 [(7)] (8) Nothing in this subsection may be construed to permit a hospital to
11 build or expand its ambulatory surgical capacity in any setting owned or controlled by the
12 hospital without obtaining a certificate of need from the Commission IF THE BUILDING
13 OR EXPANSION WOULD INCREASE THE SURGICAL CAPACITY OF THE STATE'S
14 HEALTH CARE SYSTEM.

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