
By: Delegate Nathan-Pulliam

Introduced and read first time: February 23, 1996

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Health Resources Planning Commission - Certificate of Need - Ambulatory**
3 **Primary Care Facilities**

4 FOR the purpose of requiring certain ambulatory primary care facilities to obtain a
5 certificate of need from the Health Resources Planning Commission under certain
6 circumstances; defining a certain term; altering a certain definition; providing for
7 the construction of this Act; providing for the application of this Act; and generally
8 relating to requiring certain ambulatory primary care facilities to obtain a certificate
9 of need.

10 BY repealing and reenacting, with amendments,
11 Article - Health - General
12 Section 19-101, 19-115(j)(7), and 19-118(f)
13 Annotated Code of Maryland
14 (1990 Replacement Volume and 1995 Supplement)

15 Preamble

16 WHEREAS, Preventive and primary health care services are essential to the
17 optimum health of Maryland's citizens; and

18 WHEREAS, The availability of preventive and primary health care services is
19 necessary to reduce the cost of health care for all Marylanders; and

20 WHEREAS, The health care delivery system is most efficient when health care
21 facilities are in the proper proportion to health care need; and

22 WHEREAS, The costs of building and maintaining health care facilities should be
23 targeted to locations where health care is not adequately available; and

24 WHEREAS, Duplicative health care facilities in any location create inefficiency in
25 health care expenditures; and

26 WHEREAS, Maryland's certificate of need program is nationally recognized as a
27 model for planning and distribution of health care facilities; and

1 WHEREAS, The Maryland Health Resources Planning Commission and the
2 Maryland Health Services Cost Review Commission have successfully controlled
3 hospital-based health care costs; and

4 WHEREAS, Changes in public policy and private industry are increasing the
5 significance of primary and preventive health care in controlling health care costs; now,
6 therefore,

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

9 **Article - Health - General**

10 19-101.

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

12 (B) "AMBULATORY PRIMARY CARE FACILITY" MEANS ANY CENTER, SERVICE,
13 OFFICE, FACILITY, OR OFFICE OF ONE OR MORE HEALTH CARE PRACTITIONERS OR
14 A GROUP PRACTICE, AS DEFINED IN § 1-301 OF THE HEALTH OCCUPATIONS ARTICLE,
15 THAT:

16 (1) IS NOT LICENSED AS A HOSPITAL OR A PART OF A HOSPITAL OR
17 NURSING HOME;

18 (2) HAS A SEPARATE STAFF FUNCTIONING UNDER THE DIRECTION OF A
19 CLINIC ADMINISTRATOR OR HEALTH OFFICER AND IS ORGANIZED TO PROVIDE
20 AMBULATORY PRIMARY HEALTH CARE SERVICES;

21 (3) OPERATES FOR THE PURPOSE OF PROVIDING PRIMARY HEALTH
22 CARE SERVICES TO PATIENTS NEEDING HEALTH CARE SERVICES THAT ADDRESS A
23 PATIENT'S GENERAL HEALTH NEEDS, INCLUDING THE COORDINATION OF CARE
24 FOR THE PREVENTION OF DISEASE, THE PROMOTION AND MAINTENANCE OF
25 HEALTH, THE TREATMENT OF ILLNESS, AND, WHEN APPROPRIATE, THE REFERRAL
26 TO SPECIALISTS FOR MORE INTENSIVE HEALTH CARE SERVICES;

27 (4) OPERATES FOR THE PURPOSE OF PROVIDING PRIMARY HEALTH
28 CARE SERVICES THAT INCLUDE DIAGNOSTIC, TREATMENT, CONSULTATIVE,
29 REFERRAL, AND PREVENTIVE HEALTH CARE SERVICES THAT ARE GENERALLY
30 RENDERED BY GENERAL PRACTITIONERS, FAMILY PRACTITIONERS, INTERNISTS,
31 OBSTETRICIANS, GYNECOLOGISTS, PEDIATRICIANS, AND MID-LEVEL
32 PRACTITIONERS, SUCH AS PHYSICIAN ASSISTANTS, NURSE CLINICIANS, AND NURSE
33 PRACTITIONERS;

34 (5) OPERATES AS AN INDEPENDENT PRACTICE ASSOCIATION SITE,
35 STAFF MODEL SITE, OR GROUP MODEL SITE OF A HEALTH MAINTENANCE
36 ORGANIZATION, MEDICAL SERVICES ORGANIZATION, MANAGED CARE
37 ORGANIZATION, OR PHYSICIAN/HOSPITAL ORGANIZATION; AND

38 (6) SEEKS REIMBURSEMENT FROM PAYORS AS AN INDIVIDUAL
39 PHYSICIAN OFFICE, GROUP PRACTICE, FEDERALLY QUALIFIED HEALTH CENTER,
40 MARYLAND QUALIFIED HEALTH CENTER, OR FREESTANDING CLINIC.

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

4 (i) Has two or more operating rooms;

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

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

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

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

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

18 (3) "AMBULATORY SURGICAL FACILITY" DOES NOT INCLUDE AN
19 AMBULATORY PRIMARY CARE FACILITY.

20 [(c)] (D) "Certificate of need" means a certification of public need issued by the
21 Commission under this subtitle for a health care project.

22 [(d)] (E) "Commission" means the State Health Resources Planning Commission.

23 [(e)] (F) "Federal Act" means the National Health Planning and Resources
24 Development Act of 1974 (Public Law 93-641), as amended.

25 [(f)] (G) (1) "Health care facility" means:

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

27 (ii) A related institution, as defined in § 19-301 of this title;

28 (iii) An ambulatory surgical facility;

29 (IV) AN AMBULATORY PRIMARY CARE FACILITY;

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

33 [(v)] (VI) A home health agency, as defined in § 19-401 of this title;

34 [(vi)] (VII) A hospice, as defined in § 19-901 of this title; and

35 [(vii)] (VIII) Any other health institution, service, or program for which
36 Part I of this subtitle requires a certificate of need.

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1 (2) "Health care facility" does not include:

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

4 (ii) For the purpose of providing an exemption from a certificate of
5 need under § 19-115 of this subtitle, a facility to provide comprehensive care constructed
6 by a provider of continuing care, as defined by Article 70B of the Code, if:

7 1. The facility is for the exclusive use of the provider's
8 subscribers who have executed continuing care agreements for the purpose of utilizing
9 independent living units or domiciliary care within the continuing care facility;

10 2. The number of comprehensive care nursing beds in the
11 facility does not exceed 20 percent of the number of independent living units at the
12 continuing care community; and

13 3. The facility is located on the campus of the continuing care
14 facility;

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

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

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

23 [(g)] (H) "Health care practitioner" means a person who is licensed, certified, or
24 otherwise authorized under the Health Occupations Article to provide medical services in
25 the ordinary course of business or practice of a profession.

26 [(h)] (I) "Health service area" means an area of this State that the Governor
27 designates as appropriate for planning and developing of health services.

28 [(i)] (J) "Local health planning agency" means a body that the Commission
29 designates to perform health planning and development functions for a health service
30 area.

31 19-115.

32 (j) (7) Nothing in this subsection may be construed to permit a hospital to build
33 or expand its ambulatory surgical capacity OR ITS AMBULATORY PRIMARY CARE
34 CAPACITY in any setting owned or controlled by the hospital without obtaining a
35 certificate of need from the Commission.

36 19-118.

37 (f) (1) If any party or interested person requests an evidentiary hearing with
38 respect to a certificate of need application for any health care facility other than an
39 ambulatory surgical facility OR AMBULATORY PRIMARY CARE FACILITY and the

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1 Commission, in accordance with criteria it has adopted by regulation, considers an
2 evidentiary hearing appropriate due to the magnitude of the impact that the proposed
3 project may have on the health care delivery system, the Commission or a committee of
4 the Commission shall hold the hearing in accordance with the contested case procedures
5 of the Administrative Procedure Act.

6 (2) Except as provided in this section or in regulations adopted by the
7 Commission to implement the provisions of this section, the review of an application for
8 a certificate of need for an ambulatory surgical facility OR AMBULATORY PRIMARY
9 CARE FACILITY is not subject to the contested case procedures of Title 10, Subtitle 2 of
10 the State Government Article.

11 SECTION 2. AND BE IT FURTHER ENACTED, That the changes made by this
12 Act to Title 19, Subtitle 1 of the Health - General Article do not apply to any person:

13 (1) Requiring a determination from the State Health Resources Planning
14 Commission of whether a certificate of need is required to build a new ambulatory
15 primary care facility or to expand existing ambulatory primary care capacity in any setting
16 that has requested or received the determination on or before June 30, 1996 and has
17 obligated not less than \$25,000 in reliance on that determination on or before June 30,
18 1996; or

19 (2) Certified by Medicare to receive reimbursement as an ambulatory
20 primary care facility on or before June 30, 1996.

21 SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act may be
22 construed to require any existing and operating ambulatory primary care facility to obtain
23 a certificate of need if the facility has previously requested and received a determination
24 from the State Health Resources Planning Commission that the facility is exempt from
25 the certificate of need requirements, unless the facility seeks to expand its primary care
26 capacity after July 1, 1996.

27 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 July 1, 1996.