

---

**By: Delegate McHale**

Introduced and read first time: February 17, 1997

Assigned to: Environmental Matters

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Hospital Capacity and Cost Containment Act**

3 FOR the purpose of providing that a certificate of need is not required for the conversion  
4 of a hospital to a limited service hospital; providing that a certificate of need is not  
5 required to close a hospital or part of a hospital if the Health Resources Planning  
6 Commission holds a certain hearing and makes certain findings; requiring the  
7 Health Services Cost Review Commission to adopt certain regulations; establishing  
8 the classification of a limited service hospital for certain health care facilities;  
9 altering the number of days in which the Health Services Cost Review Commission  
10 must give the Health and Higher Educational Facilities Authority and the Health  
11 Services Cost Review Commission notice of a hospital's intent to close and must  
12 give the Authority notice of a petition for delicensure of a hospital; altering the  
13 requirement that the Health Resources Planning Commission and the Secretary of  
14 Health and Mental Hygiene give certain notice; authorizing the Authority to begin  
15 preparing certain plans before the Health Resources Planning Commission makes a  
16 certain determination under certain circumstances; defining certain terms;  
17 providing for the effective date of this Act; providing for the termination of certain  
18 provisions of this Act; and generally relating to certificate of need requirements for  
19 health care facilities, the classification of hospitals, and the Maryland Hospital  
20 Bond Program.

21 BY repealing and reenacting, with amendments,

22 Article - Health - General  
23 Section 19-115(a), (i), and (l), 19-201, 19-301, and 19-307(a)  
24 Annotated Code of Maryland  
25 (1996 Replacement Volume and 1996 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article 43C - Maryland Health and Higher Educational Facilities Authority  
28 Section 16A(d), (e), and (h)(4)  
29 Annotated Code of Maryland  
30 (1994 Replacement Volume and 1996 Supplement)

31 BY repealing and reenacting, with amendments,

32 Article - Health - General

2

1 Section 19-301  
2 Annotated Code of Maryland  
3 (1996 Replacement Volume and 1996 Supplement)  
4 (As enacted by Chapter 147 of the Acts of the General Assembly of 1996)

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

7 **Article - Health - General**

8 19-115.

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

10 (2) "Health care service" means any clinically-related patient service  
11 including a medical service under paragraph [(3)] (4) of this subsection.

12 (3) "LIMITED SERVICE HOSPITAL" MEANS A HEALTH CARE FACILITY  
13 THAT:

14 (I) WAS LICENSED AS A HOSPITAL ON OR AFTER JANUARY 1, 1997;  
15 AND

16 (II) CHANGED THE TYPE OR SCOPE OF SERVICES OFFERED BY  
17 ELIMINATING THE CAPABILITY TO ADMIT OR RETAIN INDIVIDUALS FOR  
18 OVERNIGHT ACUTE MEDICAL-SURGICAL CARE.

19 [(3)] (4) "Medical service" means:

20 (i) Any of the following categories of health care services:

21 1. Medicine, surgery, gynecology, addictions;

22 2. Obstetrics;

23 3. Pediatrics;

24 4. Psychiatry;

25 5. Rehabilitation;

26 6. Chronic care;

27 7. Comprehensive care;

28 8. Extended care;

29 9. Intermediate care; or

30 10. Residential treatment; or

31 (ii) Any subcategory of the rehabilitation, psychiatry, comprehensive  
32 care, or intermediate care categories of health care services for which need is projected in  
33 the State health plan.

3

1 (i) (1) A certificate of need is required before the type or scope of any health  
2 care service is changed if the health care service is offered:

3 (i) By a health care facility;

4 (ii) In space that is leased from a health care facility; or

5 (iii) In space that is on land leased from a health care facility.

6 (2) This subsection does not apply if:

7 (i) The Commission adopts limits for changes in health care services  
8 and the proposed change would not exceed those limits;

9 (ii) The proposed change and the annual operating revenue that would  
10 result from the addition is entirely associated with the use of medical equipment;

11 (iii) The proposed change would establish, increase, or decrease a  
12 health care service and the change would not result in the:

13 1. Establishment of a new medical service or elimination of an  
14 existing medical service;

15 2. Establishment of an open heart surgery, organ transplant  
16 surgery, or burn or neonatal intensive health care service;

17 3. Establishment of a home health program, hospice program,  
18 or freestanding ambulatory surgical center or facility; or

19 4. Expansion of a comprehensive care, extended care,  
20 intermediate care, residential treatment, psychiatry, or rehabilitation medical service,  
21 except for an expansion related to an increase in total bed capacity in accordance with  
22 subsection (h)(2)(i) of this section; or

23 (iv) 1. At least 45 days before increasing or decreasing the volume  
24 of 1 or more health care services, written notice of intent to change the volume of health  
25 care services is filed with the Commission;

26 2. The Commission in its sole discretion finds that the proposed  
27 change:

28 A. Is pursuant to the consolidation or merger of 2 or more  
29 health care facilities, [or] conversion of a health care facility or part of a facility to a  
30 nonhealth-related use, OR CONVERSION OF A HOSPITAL TO A LIMITED SERVICE  
31 HOSPITAL;

32 B. Is not inconsistent with the State health plan or the  
33 institution-specific plan developed and adopted by the Commission;

34 C. Will result in the delivery of more efficient and effective  
35 health care services; and

36 D. Is in the public interest; and



5

- 1 1. THE STATE HEALTH PLAN; OR
- 2 2. AN INSTITUTION-SPECIFIC PLAN DEVELOPED BY THE
- 3 COMMISSION.

4 19-201.

- 5 (a) In this subtitle the following words have the meanings indicated.
- 6 (b) "Commission" means the State Health Services Cost Review Commission.
- 7 (c) "Facility" means, whether operated for a profit or not:
  - 8 (1) Any hospital; or
  - 9 (2) Any related institution.
- 10 (d) (1) "Hospital services" means:
  - 11 (i) Inpatient hospital services as enumerated in Medicare Regulation
  - 12 42 C.F.R. § 409.10, as amended;
  - 13 (ii) Emergency services;
  - 14 (iii) Outpatient services provided at the hospital, AS DEFINED BY THE
  - 15 COMMISSION IN REGULATIONS; and
  - 16 (iv) Identified physician services for which a facility has
  - 17 Commission-approved rates on June 30, 1985.
- 18 (2) "Hospital services" does not include outpatient renal dialysis services.

19 (e) (1) "Related institution" means an institution that is licensed by the  
20 Department as:

- 21 (i) A comprehensive care facility that is currently regulated by the
  - 22 Commission; or
  - 23 (ii) An intermediate care facility -- mental retardation.
- 24 (2) "Related institution" includes any institution in paragraph (1) of this  
25 subsection, as reclassified from time to time by law.

26 19-307.

- 27 (a) (1) A hospital shall be classified:
  - 28 (i) As a general hospital if the hospital at least has the facilities and
  - 29 provides the services that are necessary for the general medical and surgical care of
  - 30 patients;
  - 31 (ii) As a special hospital if the hospital:
    - 32 1. Defines a program of specialized services, such as obstetrics,
    - 33 mental health, tuberculosis, orthopedy, chronic disease, or communicable disease;



7

1 AUTHORITY AND THE HEALTH SERVICES COST REVIEW COMMISSION WRITTEN  
2 NOTIFICATION OF THE DETERMINATION.

3 (2) FOR A HOSPITAL THAT IS THE SOLE PROVIDER OF ACUTE CARE  
4 SERVICES IN A COUNTY, THE HEALTH RESOURCES PLANNING COMMISSION SHALL,  
5 WITHIN 5 DAYS AFTER MAKING THE DETERMINATION, GIVE THE AUTHORITY AND  
6 THE HEALTH SERVICES COST REVIEW COMMISSION NOTIFICATION OF THE  
7 DETERMINATION OF WHETHER THE PROPOSED CLOSING IS:

8 (I) IN THE PUBLIC INTEREST; AND

9 (II) INCONSISTENT WITH:

10 1. THE STATE HEALTH PLAN; OR

11 2. AN INSTITUTION-SPECIFIC PLAN DEVELOPED BY THE  
12 HEALTH RESOURCES PLANNING COMMISSION.

13 [(2)] (3) The Health Resources Planning Commission and the Secretary of  
14 Health and Mental Hygiene shall submit the written notification required in [paragraph  
15 (1)] PARAGRAPHS (1) AND (2) of this subsection no later than 150 days prior to the  
16 scheduled date of the hospital closure or delicensure and shall include the name and  
17 location of the hospital, and the scheduled date of hospital closure or delicensure.

18 (h) (4) Upon the request of the Health Services Cost Review Commission, the  
19 Authority may begin preparing the plan or plans required by this subsection before:

20 (i) [The final determination by the Health Resources Planning  
21 Commission to exempt a hospital closure from the certificate of need requirement  
22 pursuant to § 19-115(l) of the Health - General Article] FOR A HOSPITAL THAT IS THE  
23 SOLE PROVIDER OF ACUTE CARE SERVICES IN A COUNTY, THE HEALTH RESOURCES  
24 PLANNING COMMISSION DETERMINES THAT THE PROPOSED CLOSING IS:

25 1. IN THE PUBLIC INTEREST; AND

26 2. NOT INCONSISTENT WITH:

27 A. THE STATE HEALTH PLAN; OR

28 B. AN INSTITUTION-SPECIFIC PLAN DEVELOPED BY THE  
29 HEALTH RESOURCES PLANNING COMMISSION;

30 (ii) Any final determination of delicensure by the Secretary of Health  
31 and Mental Hygiene pursuant to § 19-325 of the Health - General Article; or

32 (iii) Any final determination by the Health Services Cost Review  
33 Commission to provide for the payment of any closure costs of the hospital.

34 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
35 read as follows:

8

1           **Article - Health - General**

2 19-301.

3           (a) In this subtitle the following words have the meanings indicated.

4           (b) "Accredited hospital" means a hospital accredited by the Joint Commission on  
5 Accreditation of Hospitals.

6           (c) "Apartment unit" means any space, in a residential building, that is enclosed  
7 and self-contained and has a sanitary environment, if the space includes:

8                   (1) 2 or more rooms;

9                   (2) A direct exit to a thoroughfare or to a common element leading to a  
10 thoroughfare;

11                   (3) Facilities for living, sleeping, and eating; and

12                   (4) At least the following facilities for cooking:

13                           (i) Storage space for food and utensils;

14                           (ii) A refrigerator;

15                           (iii) A cook top; and

16                           (iv) Adequate electrical capacity and outlets for small appliances.

17           (d) (1) "Domiciliary care" means services that are provided to aged or disabled  
18 individuals in a protective, institutional or home-type environment.

19                   (2) "Domiciliary care" includes:

20                           (i) Shelter;

21                           (ii) Housekeeping services;

22                           (iii) Board;

23                           (iv) Facilities and resources for daily living; and

24                           (v) Personal surveillance or direction in the activities of daily living.

25           (e) "Hospital" means an institution that:

26                   (1) Has a group of at least 5 physicians who are organized as a medical staff  
27 for the institution;

28                   (2) Maintains facilities to provide, under the supervision of the medical  
29 staff, diagnostic and treatment services for 2 or more unrelated individuals; and

30                   (3) Admits or retains the individuals for overnight care.

31           (f) "License" means a license issued by the Secretary:

32                   (1) To operate a hospital in this State; or

9

1 (2) To operate a related institution in this State.

2 (G) "LIMITED SERVICE HOSPITAL" MEANS A HEALTH CARE FACILITY THAT:

3 (1) WAS LICENSED AS A HOSPITAL ON OR AFTER JANUARY 1, 1997; AND

4 (2) CHANGED THE TYPE OR SCOPE OF SERVICES OFFERED BY  
5 ELIMINATING THE CAPABILITY TO ADMIT OR RETAIN INDIVIDUALS FOR  
6 OVERNIGHT ACUTE MEDICAL-SURGICAL CARE.

7 [(g)] (H) "Nonaccredited hospital" means a hospital not accredited by the Joint  
8 Commission on Accreditation of Hospitals.

9 [(h)] (I) "Nursing care" means service for a patient that is:

10 (1) Ordered by a physician; and

11 (2) Provided or supervised by a registered or practical nurse who is licensed  
12 to practice in this State.

13 [(i)] (J) "Nursing facility" means a related institution that provides nursing care  
14 for 2 or more unrelated individuals.

15 [(j)] (K) "Person" includes this State or a county or municipal corporation.

16 [(k)] (L) (1) "Personal care" means a service that an individual normally would  
17 perform personally, but for which the individual needs help from another because of  
18 advanced age, infirmity, or physical or mental limitation.

19 (2) "Personal care" includes:

20 (i) Help in walking;

21 (ii) Help in getting in and out of bed;

22 (iii) Help in bathing;

23 (iv) Help in dressing;

24 (v) Help in feeding; and

25 (vi) General supervision and help in daily living.

26 [(l)] (M) (1) "Related institution" means an organized institution, environment,  
27 or home that:

28 (i) Maintains conditions or facilities and equipment to provide  
29 domiciliary, personal, or nursing care for 2 or more unrelated individuals who are  
30 dependent on the administrator, operator, or proprietor for nursing care or the  
31 subsistence of daily living in a safe, sanitary, and healthful environment; and

32 (ii) Admits or retains the individuals for overnight care.

33 (2) "Related institution" does not include:

10

1 (i) An adult residential environment or home that is certified by the  
2 Department of Human Resources;

3 (ii) A nursing facility or visiting nurse service that is conducted only by  
4 or for adherents of a bona fide church or religious organization, in accordance with tenets  
5 and practices that include reliance on treatment by spiritual means alone for healing; or

6 (iii) Any sheltered housing for the elderly, as defined in Article 70B, §  
7 1 of the Code, that is certified by the Office on Aging, unless the housing provides for  
8 more than 15 individuals:

9 1. In one building that does not have more than one apartment  
10 unit; or

11 2. If there are apartment units in the building, in one apartment  
12 unit.

13 [(m)] (N) "Unrelated individual" means anyone who is not:

14 (1) A child, grandchild, parent, grandparent, sibling, stepparent, stepchild,  
15 or spouse of the proprietor; or

16 (2) An in-law of any of these individuals.

17 [(n)] (O) "Domiciliary care home" means any home that:

18 (1) Provides only domiciliary care to 2 or more unrelated individuals; and

19 (2) Is owned or operated to provide domiciliary care for compensation.

20 [(o)] (P) A "registration permit" means the authorization issued by the  
21 Department of Health and Mental Hygiene to provide domiciliary care to 2, 3, or 4  
22 unrelated individuals.

23 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
24 read as follows:

25 **Article - Health - General**

26 19-301.

27 (a) In this subtitle the following words have the meanings indicated.

28 (b) "Accredited hospital" means a hospital accredited by the Joint Commission on  
29 Accreditation of Hospitals.

30 (c) "Apartment unit" means any space, in a residential building, that is enclosed  
31 and self-contained and has a sanitary environment, if the space includes:

32 (1) 2 or more rooms;

33 (2) A direct exit to a thoroughfare or to a common element leading to a  
34 thoroughfare;

35 (3) Facilities for living, sleeping, and eating; and

11

1 (4) At least the following facilities for cooking:

2 (i) Storage space for food and utensils;

3 (ii) A refrigerator;

4 (iii) A cook top; and

5 (iv) Adequate electrical capacity and outlets for small appliances.

6 (d) (1) "Domiciliary care" means services that are provided to aged or disabled  
7 individuals in a protective, institutional or home-type environment.

8 (2) "Domiciliary care" includes:

9 (i) Shelter;

10 (ii) Housekeeping services;

11 (iii) Board;

12 (iv) Facilities and resources for daily living; and

13 (v) Personal surveillance or direction in the activities of daily living.

14 (e) "Hospital" means an institution that:

15 (1) Has a group of at least 5 physicians who are organized as a medical staff  
16 for the institution;

17 (2) Maintains facilities to provide, under the supervision of the medical  
18 staff, diagnostic and treatment services for 2 or more unrelated individuals; and

19 (3) Admits or retains the individuals for overnight care.

20 (f) "License" means a license issued by the Secretary:

21 (1) To operate a hospital in this State; or

22 (2) To operate a related institution in this State.

23 (G) "LIMITED SERVICE HOSPITAL" MEANS A HEALTH CARE FACILITY THAT:

24 (1) WAS LICENSED AS A HOSPITAL ON OR AFTER JANUARY 1, 1997; AND

25 (2) CHANGED THE TYPE OR SCOPE OF SERVICES OFFERED BY  
26 ELIMINATING THE CAPABILITY TO ADMIT OR RETAIN INDIVIDUALS FOR  
27 OVERNIGHT ACUTE MEDICAL-SURGICAL CARE.

28 [(g)] (H) "Nonaccredited hospital" means a hospital not accredited by the Joint  
29 Commission on Accreditation of Hospitals.

30 [(h)] (I) "Nursing care" means service for a patient that is:

31 (1) Ordered by a physician; and

12

1 (2) Provided or supervised by a registered or practical nurse who is licensed  
2 to practice in this State.

3 [(i)] (J) "Nursing facility" means a related institution that provides nursing care  
4 for 2 or more unrelated individuals.

5 [(j)] (K) "Person" includes this State or a county or municipal corporation.

6 [(k)] (L) (1) "Personal care" means a service that an individual normally would  
7 perform personally, but for which the individual needs help from another because of  
8 advanced age, infirmity, or physical or mental limitation.

9 (2) "Personal care" includes:

10 (i) Help in walking;

11 (ii) Help in getting in and out of bed;

12 (iii) Help in bathing;

13 (iv) Help in dressing;

14 (v) Help in feeding; and

15 (vi) General supervision and help in daily living.

16 [(l)] (M) (1) "Related institution" means an organized institution, environment,  
17 or home that:

18 (i) Maintains conditions or facilities and equipment to provide  
19 domiciliary, personal, or nursing care for 2 or more unrelated individuals who are  
20 dependent on the administrator, operator, or proprietor for nursing care or the  
21 subsistence of daily living in a safe, sanitary, and healthful environment; and

22 (ii) Admits or retains the individuals for overnight care.

23 (2) "Related institution" does not include a nursing facility or visiting nurse  
24 service that is conducted only by or for adherents of a bona fide church or religious  
25 organization, in accordance with tenets and practices that include reliance on treatment  
26 by spiritual means alone for healing.

27 [(m)] (N) "Unrelated individual" means anyone who is not:

28 (1) A child, grandchild, parent, grandparent, sibling, stepparent, stepchild,  
29 or spouse of the proprietor; or

30 (2) An in-law of any of these individuals.

31 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
32 take effect June 1, 1997 and shall remain in effect until the abrogation of § 19-301 of the  
33 Health - General Article, as enacted by Chapter 147 of the Acts of the General Assembly  
34 of 1996.

35 SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall  
36 take effect at that time when Section 2 of this Act no longer has any force or effect.

1           SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions  
2 of Sections 4 and 5 of this Act, this Act shall take effect June 1, 1997.