
By: **Senators Kasemeyer and Madden**
Introduced and read first time: February 5, 1998
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Facilities - Restrictions on Bed Capacity for Continuing Care -**
3 **Extensive Contracts**

4 FOR the purpose of prohibiting the Health Resources Planning Commission from
5 restricting the number of beds that a health care facility may have to serve
6 individuals with whom the health care facility has made a certain type of
7 contract; defining certain terms; and generally relating to restrictions on the
8 number of beds that a health care facility may have to serve individuals with
9 whom the health care facility has contracted to provide continuing care under
10 an extensive contract.

11 BY repealing and reenacting, without amendments,
12 Article 70B - Office on Aging
13 Section 7(c)
14 Annotated Code of Maryland
15 (1995 Replacement Volume and 1997 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article - Health - General
18 Section 19-101(f) and 19-115(h)
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 1997 Supplement)

21 BY adding to
22 Article - Health - General
23 Section 19-124
24 Annotated Code of Maryland
25 (1996 Replacement Volume and 1997 Supplement)

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

1

Article 70B - Office on Aging

2 7.

3 (c) (1) "Continuing care" means furnishing shelter and either medical and
4 nursing services or other health related benefits to an individual 60 years of age or
5 older not related by blood or marriage to the provider for the life of the individual or
6 for a period in excess of 1 year under a written agreement that requires a transfer of
7 assets or an entrance fee notwithstanding periodic charges.

8 (2) "Health related benefits" means, at a minimum, priority for nursing
9 home admission or assistance in the activities of daily living, exclusive of the
10 provision of meals.

11 (3) Medical and nursing services and other health related benefits may
12 be covered by the entrance fee, the periodic charges, or may be purchased, at the
13 option of the subscriber, for an additional fee.

14

Article - Health - General

15 19-101.

16 (f) (1) "Health care facility" means:

- 17 (i) A hospital, as defined in § 19-301 of this title;
- 18 (ii) A related institution, as defined in § 19-301 of this title;
- 19 (iii) An ambulatory surgical facility;
- 20 (iv) An inpatient facility that is organized primarily to help in the
21 rehabilitation of disabled individuals, through an integrated program of medical and
22 other services provided under competent professional supervision;
- 23 (v) A home health agency, as defined in § 19-401 of this title;
- 24 (vi) A hospice, as defined in § 19-901 of this title; and
- 25 (vii) Any other health institution, service, or program for which Part
26 I of this subtitle requires a certificate of need.

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

- 28 (i) A hospital or related institution that is operated, or is listed and
29 certified, by the First Church of Christ Scientist, Boston, Massachusetts;
- 30 (ii) For the purpose of providing an exemption from a certificate of
31 need under § 19-115 of this subtitle, a facility to provide comprehensive care
32 constructed by a provider of continuing care, as defined by Article 70B of the Code, if:

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

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

8 3. The facility is located on the campus of the continuing care
9 facility;

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

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

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

19 19-115.

20 (h) (1) A certificate of need is required before the bed capacity of a health
21 care facility is changed.

22 (2) This subsection does not apply to any increase or decrease in bed
23 capacity if:

24 (i) During a 2-year period the increase or decrease would not
25 exceed the lesser of 10 percent of the total bed capacity or 10 beds;

26 (ii) 1. The increase or decrease would change the bed capacity
27 for an existing medical service; and

28 2. A. The change would not increase total bed capacity;

29 B. The change is maintained for at least a 1-year period; and

30 C. At least 45 days prior to the change the hospital provides
31 written notice to the Commission describing the change and providing an updated
32 inventory of the hospital's licensed bed complement; or

33 (iii) 1. At least 45 days before increasing or decreasing bed
34 capacity, written notice of intent to change bed capacity is filed with the Commission;
35 and

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

3 A. Is pursuant to the consolidation or merger of 2 or more
4 health care facilities, or conversion of a health care facility or part of a facility to a
5 nonhealth-related use;

6 B. Is not inconsistent with the State health plan or the
7 institution-specific plan developed by the Commission;

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

10 D. Is in the public interest.

11 (3) Within 45 days of receiving notice, the Commission shall notify the
12 health care facility of its finding.

13 19-124.

14 (A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS
15 INDICATED.

16 (2) "CONTINUING CARE" HAS THE MEANING INDICATED IN ARTICLE 70B,
17 § 7 OF THE CODE.

18 (3) "EXTENSIVE CONTRACT" MEANS A CONTRACT THAT:

19 (I) INCLUDES SHELTER, RESIDENTIAL SERVICES AND AMENITIES,
20 AND LONG-TERM NURSING CARE; AND

21 (II) PROVIDES FOR NO INCREASE IN MONTHLY FEES OTHER THAN
22 PERIODIC ADJUSTMENTS FOR OPERATING COSTS AND INFLATION.

23 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR REGULATION,
24 THE COMMISSION MAY NOT RESTRICT THE NUMBER OF BEDS THAT A HEALTH CARE
25 FACILITY MAY HAVE TO SERVE INDIVIDUALS WITH WHOM THE HEALTH CARE
26 FACILITY HAS CONTRACTED TO PROVIDE CONTINUING CARE UNDER AN EXTENSIVE
27 CONTRACT.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 1998.