

SENATE BILL 485

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1998 Regular Session
8r1882
CF 8r1060

By: **Senators Teitelbaum, Sfikas, Boozer, Della, Van Hollen, Kasemeyer,
Derr, Hafer, and Miller**

Introduced and read first time: February 6, 1998

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health - Certificate of Need - Reformation of Regulation**

3 FOR the purpose of reforming health care certificate of need regulation by expanding
4 the circumstances when a certificate of need is not required; defining certain
5 terms; requiring the Secretary to adopt quality of care standards for certain
6 health care services; providing for the oversight and enforcement of quality of
7 care standards; providing that certain information submitted by a hospital is
8 confidential and not discoverable as evidence in a civil action; providing for a
9 delayed effective date for this Act; providing for the application of certain
10 provisions of this Act; and generally relating to certificate of need regulation.

11 BY adding to

12 Article - Health - General
13 Section 19-101(j), (k), and (l)
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1997 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article - Health - General
18 Section 19-115, 19-308, and 19-309
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 1997 Supplement)

21 Preamble

22 WHEREAS, It is unnecessary and burdensome to require certificate of need
23 regulation for certain new health care services when these services can be performed
24 within the scope of the existing health care facility's license and do not increase costs
25 to the health care system;

26 WHEREAS, It is unnecessary and burdensome to require certificate of need
27 regulation for the relocation of existing beds and services within a health care

1 facility's primary service area or the relocation of existing beds and services between
2 existing facilities operated under a multifacility provider;

3 WHEREAS, Cost containment of such services is already being achieved
4 through hospital rate regulation and managed care delivery systems and lower prices
5 to the consumer can be assured by requiring that certain savings accrue to the health
6 care system;

7 WHEREAS, Certain regulated services, including cardiac surgery, can be safely
8 provided in many community hospitals under the well-defined quality of care
9 standards approved by the American College of Cardiology and the American College
10 of Surgeons;

11 WHEREAS, Oversight of certain regulated services is more appropriately
12 focused on establishing and enforcing appropriate standards for quality of care;

13 WHEREAS, The regulation of cardiac surgery should be reoriented to focus on
14 establishing and enforcing appropriate standards for quality of care, which can then
15 serve as a model for a reorientation of the regulation of other health care services in
16 the future; and

17 WHEREAS, Certificate of need regulation of health care facilities is appropriate
18 and should be continued for major facility changes such as new health care facilities,
19 new hospital beds, and new operating rooms; now, therefore,

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

22 **Article - Health - General**

23 19-101.

24 (J) "MULTIFACILITY PROVIDER" MEANS A LEGAL ENTITY THAT:

25 (1) OWNS, DIRECTLY OR INDIRECTLY, AT LEAST 50% OF THE STOCK OR
26 OTHER CAPITAL OR MEMBERSHIP INTEREST IN MORE THAN ONE HEALTH CARE
27 FACILITY IN THE STATE; OR

28 (2) IS OWNED BY AN ENTITY THAT OWNS, DIRECTLY OR INDIRECTLY, AT
29 LEAST 50% OF THE STOCK OR OTHER CAPITAL OR MEMBERSHIP INTEREST IN MORE
30 THAN ONE HEALTH CARE FACILITY IN THE STATE.

31 (K) "PRIMARY SERVICE AREA" MEANS THE AREA, DEFINED BY ZIP CODE
32 AREAS, WITHIN WHICH PATIENTS ADMITTED TO A HOSPITAL OR RELATED
33 INSTITUTION RESIDE THAT COMPRISES THE FIRST 60% OF THE PATIENTS ADMITTED
34 TO THE HOSPITAL OR RELATED INSTITUTION DURING THE MOST RECENT 12-MONTH
35 PERIOD THAT:

36 (1) IS DETERMINED BY AGGREGATING ZIP CODE AREAS IN A SEQUENCE
37 BEGINNING WITH THE ZIP CODE AREA IN WHICH THE LARGEST NUMBER OF

1 ADMITTED PATIENTS RESIDE AND ENDING WITH THE ZIP CODE AREA IN WHICH THE
2 SMALLEST NUMBER OF ADMITTED PATIENTS RESIDE; AND

3 (2) INCLUDES ANY ADDITIONAL ZIP CODE AREAS:

4 (I) THAT ARE CONTIGUOUS TO THE ZIP CODE AREAS IN
5 PARAGRAPH (1) OF THIS SUBSECTION; AND

6 (II) FROM WHICH AT LEAST 50% OF THE ADMISSIONS OF
7 RESIDENTS IN THOSE ZIP CODE AREAS TO ALL HOSPITALS OR RELATED
8 INSTITUTIONS IN THE STATE WERE TO THAT HOSPITAL OR RELATED INSTITUTION.

9 (L) "SPECIAL SERVICES" MEAN HEALTH CARE SERVICES WHICH THE
10 SECRETARY DEEMS CRITICAL TO THE PATIENTS' LIFE OR HEALTH, INCLUDING BUT
11 NOT NECESSARILY LIMITED TO OPEN HEART SURGERY.

12 19-115.

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

14 (2) "Health care service" means any clinically-related patient service
15 including a medical service under paragraph (3) of this subsection.

16 (3) "Medical service" means:

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

18 1. Medicine, surgery, gynecology, addictions;

19 2. Obstetrics;

20 3. Pediatrics;

21 4. Psychiatry;

22 5. Rehabilitation;

23 6. Chronic care;

24 7. Comprehensive care;

25 8. Extended care;

26 9. Intermediate care; or

27 10. Residential treatment; or

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

1 (b) The Commission may set an application fee for a certificate of need for
2 facilities not assessed a user fee under § 19-122 of this subtitle.

3 (c) The Commission shall adopt rules and regulations for applying for and
4 issuing certificates of need.

5 (d) (1) The Commission may adopt, after October 1, 1983, new thresholds or
6 methods for determining the circumstances or minimum cost requirements under
7 which a certificate of need application must be filed. The Commission shall study
8 alternative approaches and recommend alternatives that will streamline the current
9 process, and provide incentives for management flexibility through the reduction of
10 instances in which applicants must file for a certificate of need.

11 (2) The Commission shall conduct this study and report to the General
12 Assembly by October 1, 1985.

13 (e) (1) A person shall have a certificate of need issued by the Commission
14 before the person develops, operates, or participates in any of the following health
15 care projects for which a certificate of need is required under this section.

16 (2) A certificate of need issued prior to January 13, 1987 may not be
17 rendered wholly or partially invalid solely because certain conditions have been
18 imposed, if an appeal concerning the certificate of need, challenging the power of the
19 Commission to impose certain conditions on a certificate of need, has not been noted
20 by an aggrieved party before January 13, 1987.

21 (f) A certificate of need is required before a new health care facility is built,
22 developed, or established.

23 (g) (1) A certificate of need is required before a health care facility is moved
24 to another site.

25 (2) This subsection does not apply if:

26 (i) The Commission adopts limits for relocations and the proposed
27 relocation does not exceed those limits; [or]

28 (ii) The relocation is the result of a partial or complete replacement
29 of an existing hospital or related institution, as defined in § 19-301 of this title, and
30 the relocation is to another part of the site or immediately adjacent to the site of the
31 existing hospital or related institution OR TO A SITE WITHIN THE PRIMARY SERVICE
32 AREA OF THE EXISTING MARYLAND HOSPITAL OR RELATED INSTITUTION; OR

33 (III) BEDS OR SERVICES ARE RELOCATED FROM A MARYLAND
34 HEALTH CARE FACILITY OTHER THAN A HOME HEALTH AGENCY OR HOSPICE TO
35 ANOTHER MARYLAND HEALTH CARE FACILITY OTHER THAN A HOME HEALTH
36 AGENCY OR HOSPICE THAT IS OWNED BY THE SAME MULTIFACILITY PROVIDER.

37 (3) FOR PURPOSES OF THIS SUBSECTION, THE NUMBER OF HOSPITAL
38 BEDS ELIGIBLE FOR RELOCATION SHALL BE:

1 (I) FOR HOSPITALS WITH 100 OR MORE AUTHORIZED BEDS AS OF
2 JANUARY 1, 1997, 120% OF THE AVERAGE DAILY CENSUS FOR THE YEAR 1997; AND

3 (II) FOR HOSPITALS WITH FEWER THAN 100 AUTHORIZED BEDS AS
4 OF JANUARY 1, 1997, 130% OF THE AVERAGE DAILY CENSUS FOR THE YEAR 1997.

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

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

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

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

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

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

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

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

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

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

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

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

30 D. Is in the public interest.

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

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

- 1 (i) By a health care facility;
- 2 (ii) In space that is leased from a health care facility; or
- 3 (iii) In space that is on land leased from a health care facility.

4 (2) This subsection does not apply if:

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

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

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

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

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

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

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

22 (IV) 1. THE PROPOSED CHANGE WOULD ESTABLISH A NEW OPEN
23 HEART SURGERY SERVICE IF THE HEALTH SERVICES COST REVIEW COMMISSION
24 DETERMINES, AFTER TAKING INTO ACCOUNT ANY VOLUNTARY OR MANDATORY
25 ADJUSTMENTS IN HOSPITAL RATES, THAT THERE WILL BE A NET SAVING TO THE
26 HEALTH CARE SYSTEM AS A RESULT OF THE CHANGE IN SERVICE; AND

27 2. THE PROPOSED CHANGE IN THE MEDICAL SERVICE OR
28 OPEN HEART SURGERY SERVICE WOULD BE CONSISTENT WITH THE TYPE OF
29 HEALTH CARE FACILITY LICENSE ISSUED BY THE SECRETARY UNDER THIS TITLE TO
30 THE HEALTH CARE FACILITY AND THE PROPOSED CHANGE DOES NOT RESULT IN:

31 A. AN EXPANSION OF THE TOTAL NUMBER OF INPATIENT
32 BEDS IN THE FACILITY, EXCEPT FOR AN EXPANSION IN ACCORDANCE WITH
33 SUBSECTION (H)(2) OF THIS SECTION; OR

34 B. AN EXPANSION OF THE TOTAL NUMBER OF OPERATING
35 ROOMS IN THE FACILITY; OR

1 [(iv)] (V) 1. At least 45 days before increasing or decreasing the
2 volume of 1 or more health care services, written notice of intent to change the volume
3 of health care services is filed with the Commission;

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

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

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

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

13 D. Is in the public interest; and

14 3. Within 45 days of receiving notice under item 1 of this
15 subparagraph, the Commission shall notify the health care facility of its finding.

16 (3) Notwithstanding the provisions of paragraph (2) of this subsection, a
17 certificate of need is required:

18 (i) Before an additional home health agency, branch office, or home
19 health care service is established by an existing health care agency or facility;

20 (ii) Before an existing home health agency or health care facility
21 establishes a home health agency or home health care service at a location in the
22 service area not included under a previous certificate of need or license;

23 (iii) Before a transfer of ownership of any branch office of a home
24 health agency or home health care service of an existing health care facility that
25 separates the ownership of the branch office from the home health agency or home
26 health care service of an existing health care facility which established the branch
27 office; or

28 (iv) Before the expansion of a home health service or program by a
29 health care facility that:

30 1. Established the home health service or program without a
31 certificate of need between January 1, 1984 and July 1, 1984; and

32 2. During a 1-year period, the annual operating revenue of
33 the home health service or program would be greater than \$333,000 after an annual
34 adjustment for inflation, based on an appropriate index specified by the Commission.

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

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

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

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

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

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

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

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

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

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

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

31 (2) A certificate of need is required before any equipment or plant is
32 donated to a health care facility, if a certificate of need would be required under
33 paragraph (1) of this subsection for an expenditure by the health care facility to
34 acquire the equipment or plant directly.

35 (3) A certificate of need is required before any equipment or plant is
36 transferred to a health care facility at less than fair market value if a certificate of
37 need would be required under paragraph (1) of this subsection for the transfer at fair
38 market value.

1 (4) A certificate of need is required before a person acquires a health care
2 facility if a certificate of need would be required under paragraph (1) of this
3 subsection for the acquisition by or on behalf of the health care facility.

4 (5) This subsection does not apply to:

5 (i) Site acquisition;

6 (ii) Acquisition of a health care facility if, at least 30 days before
7 making the contractual arrangement to acquire the facility, written notice of the
8 intent to make the arrangement is filed with the Commission and the Commission
9 does not find, within 30 days after the Commission receives notice, that the health
10 services or bed capacity of the facility will be changed;

11 (iii) Acquisition of business or office equipment that is not directly
12 related to patient care;

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

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

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

20 2. Within 45 days of receiving notice, the Commission in its
21 sole discretion finds that the proposed consolidation, merger, or conversion:

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

24 B. Will result in the delivery of more efficient and effective
25 health care services; and

26 C. Is in the public interest; and

27 3. Within 45 days of receiving notice, the Commission shall
28 notify the health care facility of its finding;

29 (vi) A capital expenditure by a nursing home for equipment,
30 construction, or renovation that:

31 1. Is not directly related to patient care; and

32 2. Is not directly related to any change in patient charges or
33 other rates;

34 (vii) A capital expenditure by a hospital, as defined in § 19-301 of
35 this title, for equipment, construction, or renovation that:

- 1 1. Is not directly related to patient care; and
- 2 2. Does not increase patient charges or hospital rates;
- 3 (viii) A capital expenditure by a hospital as defined in § 19-301 of
4 this title, for a project in excess of \$1,250,000 for construction or renovation that:
 - 5 1. May be related to patient care;
 - 6 2. Does not require, over the entire period or schedule of debt
7 service associated with the project, a total cumulative increase in patient charges or
8 hospital rates of more than \$1,500,000 for the capital costs associated with the project
9 as determined by the Commission, after consultation with the Health Services Cost
10 Review Commission;
 - 11 3. At least 45 days before the proposed expenditure is made,
12 the hospital notifies the Commission and within 45 days of receipt of the relevant
13 financial information, the Commission makes the financial determination required
14 under item 2 of this subparagraph; and
 - 15 4. The relevant financial information to be submitted by the
16 hospital is defined in regulations promulgated by the Commission, after consultation
17 with the Health Services Cost Review Commission; or
- 18 (ix) A plant donated to a hospital as defined in § 19-301 of this title,
19 which does not require a cumulative increase in patient charges or hospital rates of
20 more than \$1,500,000 for capital costs associated with the donated plant as
21 determined by the Commission, after consultation with the Health Services Cost
22 Review Commission that:
 - 23 1. At least 45 days before the proposed donation is made, the
24 hospital notifies the Commission and within 45 days of receipt of the relevant
25 financial information, the Commission makes the financial determination required
26 under this subparagraph; and
 - 27 2. The relevant financial information to be submitted by the
28 hospital is defined in regulations promulgated by the Commission after consultation
29 with the Health Services Cost Review Commission.
- 30 (6) Paragraph (5)(vi), (vii), (viii), and (ix) of this subsection may not be
31 construed to permit a facility to offer a new health care service for which a certificate
32 of need is otherwise required.
- 33 (7) Subject to the notice requirements of paragraph (5)(ii) of this
34 subsection, a hospital may acquire a freestanding ambulatory surgical facility or
35 office of one or more health care practitioners or a group practice with one or more
36 operating rooms used primarily for the purpose of providing ambulatory surgical
37 services if the facility, office, or group practice:
 - 38 (i) Has obtained a certificate of need;

1 (ii) Has obtained an exemption from certificate of need
2 requirements; or

3 (iii) Did not require a certificate of need in order to provide
4 ambulatory surgical services after June 1, 1995.

5 (8) Nothing in this subsection may be construed to permit a hospital to
6 build or expand its ambulatory surgical capacity in any setting owned or controlled by
7 the hospital without obtaining a certificate of need from the Commission if the
8 building or expansion would increase the surgical capacity of the State's health care
9 system.

10 (l) A certificate of need is not required to close any hospital or part of a
11 hospital as defined in § 19-301 of this title if:

12 (1) At least 45 days before closing, written notice of intent to close is filed
13 with the Commission;

14 (2) The Commission in its sole discretion finds that the proposed closing
15 is not inconsistent with the State health plan or the institution-specific plan
16 developed by the Commission and is in the public interest; and

17 (3) Within 45 days of receiving notice the Commission notifies the health
18 care facility of its findings.

19 (m) In this section the terms "consolidation" and "merger" include increases
20 and decreases in bed capacity or services among the components of an organization
21 which:

22 (1) Operates more than one health care facility; or

23 (2) Operates one or more health care facilities and holds an outstanding
24 certificate of need to construct a health care facility.

25 (n) (1) Notwithstanding any other provision of this section, the Commission
26 shall consider the special needs and circumstances of a county where a medical
27 service, as defined in this section, does not exist; and

28 (2) The Commission shall consider and may approve under this
29 subsection a certificate of need application to establish, build, operate, or participate
30 in a health care project to provide a new medical service in a county if the
31 Commission, in its sole discretion, finds that:

32 (i) The proposed medical service does not exist in the county that
33 the project would be located;

34 (ii) The proposed medical service is necessary to meet the health
35 care needs of the residents of that county;

1 (iii) The proposed medical service would have a positive impact on
2 the existing health care system;

3 (iv) The proposed medical service would result in the delivery of
4 more efficient and effective health care services to the residents of that county; and

5 (v) The application meets any other standards or regulations
6 established by the Commission to approve applications under this subsection.

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

9 **Article - Health - General**

10 19-308.

11 (a) The Secretary shall adopt reasonable rules and regulations that set
12 standards of services for related institutions, nonaccredited hospitals, and
13 nonaccredited residential treatment centers in the following areas:

14 (1) The care of patients;

15 (2) The medical supervision of patients;

16 (3) The physical environment;

17 (4) Disease control;

18 (5) Sanitation;

19 (6) Safety; and

20 (7) Dietary matters.

21 (B) (1) THE SECRETARY SHALL, IN CONSULTATION WITH HOSPITALS,
22 PHYSICIANS, INTERESTED COMMUNITY AND ADVOCACY GROUPS, AND
23 REPRESENTATIVES OF THE MARYLAND DEFENSE BAR AND PLAINTIFF'S BAR, ADOPT
24 REASONABLE REGULATIONS THAT SET QUALITY OF CARE STANDARDS FOR SPECIAL
25 SERVICES OFFERED BY ACCREDITED AND NONACCREDITED HOSPITALS.

26 (2) THE SECRETARY MAY ADOPT QUALITY OF CARE STANDARDS FOR
27 SPECIAL SERVICES WHICH ARE BASED ON EXISTING LICENSING, CERTIFICATION, OR
28 ACCREDITATION REQUIREMENTS, OR MAY ESTABLISH NEW REQUIREMENTS IF, IN
29 THE SECRETARY'S JUDGMENT, EXISTING LICENSING, CERTIFICATION, AND
30 ACCREDITATION REQUIREMENTS ARE INSUFFICIENT TO ASSURE QUALITY OF CARE
31 TO PATIENTS.

32 (3) THE SECRETARY SHALL ADOPT QUALITY OF CARE STANDARDS FOR
33 OPEN HEART SURGERY BY JANUARY 1, 1999.

1 (4) IN DEVELOPING QUALITY OF CARE STANDARDS FOR OPEN HEART
2 SURGERY, THE SECRETARY SHALL CONSIDER:

3 (I) THE "GUIDELINES AND INDICATIONS FOR CORONARY ARTERY
4 BYPASS GRAFT SURGERY" APPROVED BY THE AMERICAN COLLEGE OF CARDIOLOGY
5 AND THE AMERICAN HEART ASSOCIATION;

6 (II) THE "GUIDELINES FOR STANDARDS IN CARDIAC SURGERY"
7 APPROVED BY THE AMERICAN COLLEGE OF SURGEONS; AND

8 (III) ANY REVISIONS AND UPDATES OF THOSE DOCUMENTS.

9 (5) THE SECRETARY MAY REQUEST AND COLLECT ANY STATISTICAL OR
10 OTHER INFORMATION FROM ACCREDITED AND NONACCREDITED HOSPITALS WHICH
11 THE SECRETARY DEEMS TO BE NECESSARY FOR THE DEVELOPMENT OF QUALITY OF
12 CARE STANDARDS FOR SPECIAL SERVICES OR THE MONITORING OF THE DELIVERY
13 OF SPECIAL SERVICES.

14 (6) IF AN ACCREDITED OR NONACCREDITED HOSPITAL FAILS TO
15 PROVIDE ANY STATISTICAL OR OTHER INFORMATION REQUESTED BY THE
16 SECRETARY, THE SECRETARY MAY:

17 (I) ISSUE AN ADMINISTRATIVE ORDER THAT REQUIRES THE
18 HOSPITAL TO PROVIDE THE INFORMATION;

19 (II) IMPOSE A PENALTY OF NOT MORE THAN \$1,000 A DAY FOR EACH
20 DAY THE VIOLATION CONTINUES AFTER CONSIDERATION OF THE WILLFULNESS
21 AND SERIOUSNESS OF THE WITHHOLDING AND ANY PAST HISTORY OF
22 WITHHOLDING OF INFORMATION; OR

23 (III) APPLY TO THE CIRCUIT COURT IN THE COUNTY IN WHICH THE
24 HOSPITAL IS LOCATED FOR LEGAL RELIEF CONSIDERED APPROPRIATE BY THE
25 SECRETARY.

26 [(b)] (C) (1) To assure compliance with the standards adopted under this
27 subtitle, the Secretary shall have an inspection made:

28 (i) Of each related institution, each nonaccredited hospital, and
29 each nonaccredited residential treatment center for which a license is sought; and

30 (ii) Periodically of each related institution, each nonaccredited
31 hospital, and each nonaccredited residential treatment center for which a license has
32 been issued.

33 (2) An accredited hospital and an accredited residential treatment center
34 shall be subject to inspections under this subtitle by the Department for:

35 (i) A complaint investigation in accordance with § 19-309 of this
36 part; [or]

1 (ii) Reviewing compliance with a written progress report or other
2 documentation of corrective action in response to a focused survey submitted by the
3 hospital or residential treatment center to the Joint Commission on Accreditation of
4 Healthcare Organizations in response to a Type I finding that the hospital or
5 residential treatment center is only in partial compliance with the patient care
6 standards established by the Joint Commission on Accreditation of Healthcare
7 Organizations; OR

8 (III) REVIEWING COMPLIANCE WITH STANDARDS FOR SPECIAL
9 SERVICES UNDER SUBSECTION (B) OF THIS SECTION.

10 (3) In addition to other provisions of this subsection, an accredited
11 hospital shall be subject to inspections under this subtitle by the Department for
12 reviewing compliance with licensure requirements for risk management, utilization
13 review, and physician credentialing under § 19-319 of this subtitle.

14 (4) When conducting an inspection of an accredited hospital or
15 accredited residential treatment center, the Department shall use the current
16 applicable standards of the Joint Commission on Accreditation of Healthcare
17 Organizations AND ANY APPLICABLE STANDARDS FOR SPECIAL SERVICES ADOPTED
18 BY THE SECRETARY UNDER SUBSECTION (B) OF THIS SECTION.

19 (5) At least 2 inspections a year of each related institution shall be
20 unannounced.

21 (6) The part of a building that contains part of a hospital, residential
22 treatment center, or related institution and any outbuilding are considered part of the
23 facility and are subject to inspection to determine occupancy status for licensing
24 purposes.

25 (7) Subject to § 2-1246 of the State Government Article, during each
26 regular session of the General Assembly, the Department shall submit to the General
27 Assembly a report on the inspections.

28 (8) (i) An employee of the Department may not inform a hospital,
29 residential treatment center, or related institution of any proposed inspection activity,
30 unless the chief of the employee's division directs the employee to do so.

31 (ii) An employee who violates any provision of this paragraph is
32 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
33 imprisonment not exceeding 1 year or both.

34 (D) IF AN ACCREDITED OR NONACCREDITED HOSPITAL FAILS TO COMPLY
35 WITH REGULATIONS ADOPTED UNDER SUBSECTION (B) OF THIS SECTION, THE
36 SECRETARY MAY, IN ADDITION TO ANY OTHER PENALTIES UNDER THIS SUBTITLE:

37 (1) ISSUE AN ADMINISTRATIVE ORDER THAT REQUIRES COMPLIANCE
38 WITH REGULATIONS;

1 (2) IMPOSE A PENALTY OF NOT MORE THAN \$10,000 A DAY FOR EACH
2 DAY THE VIOLATION CONTINUES AFTER CONSIDERATION OF THE WILLFULNESS
3 AND SERIOUSNESS OF THE VIOLATION AND ANY PAST HISTORY OF VIOLATIONS;

4 (3) ISSUE AN ADMINISTRATIVE ORDER THAT PROHIBITS THE HOSPITAL
5 FROM ADMITTING DESIGNATED TYPES OF PATIENTS WHO, IN THE SECRETARY'S
6 JUDGMENT, ARE ADVERSELY AFFECTED BY THE FAILURE TO COMPLY WITH THE
7 REGULATIONS;

8 (4) ISSUE AN ADMINISTRATIVE ORDER THAT PROHIBITS THE HOSPITAL
9 FROM PROVIDING DESIGNATED TYPES OF SERVICES WHICH, IN THE SECRETARY'S
10 JUDGMENT, ARE ADVERSELY AFFECTED BY THE FAILURE TO COMPLY WITH THE
11 REGULATIONS; OR

12 (5) APPLY TO THE CIRCUIT COURT IN THE COUNTY IN WHICH THE
13 HOSPITAL IS LOCATED FOR LEGAL RELIEF CONSIDERED APPROPRIATE BY THE
14 SECRETARY.

15 [(c)] (E) (1) An accredited hospital or accredited residential treatment
16 center shall submit the survey findings of the Joint Commission on Accreditation of
17 Healthcare Organizations within 30 days of receipt by the hospital or the residential
18 treatment center to the Department.

19 (2) Except as provided in paragraph [(5)] (6) of this subsection, an
20 accredited hospital's or accredited residential treatment center's official accreditation
21 report and any summary of the report, written progress reports, or plans of correction
22 which are submitted to the Secretary are confidential and are not discoverable or
23 admissible as evidence in any civil action.

24 (3) ANY STATISTICAL OR OTHER INFORMATION SUBMITTED BY A
25 HOSPITAL UNDER SUBSECTION (B) OF THIS SECTION IN CONNECTION WITH
26 STANDARDS FOR SPECIAL SERVICES IS CONFIDENTIAL AND IS NOT DISCOVERABLE
27 OR ADMISSIBLE AS EVIDENCE IN ANY CIVIL ACTION.

28 [(3)] (4) The Secretary shall refer any request for public inspection of a
29 survey report made by the Joint Commission on Accreditation of Healthcare
30 Organizations for an accredited hospital or accredited residential treatment center
31 directly to the hospital or residential treatment center.

32 [(4)] (5) Upon the written request of any person, within 15 working
33 days, the accredited hospital or accredited residential treatment center shall make
34 available for public inspection the most recent accreditation letter and any Type I
35 recommendations if the Joint Commission on Accreditation of Healthcare
36 Organizations has made a final decision on any appeal by the hospital or residential
37 treatment center of the Type I recommendations.

38 [(5)] (6) If information is released in accordance with paragraph [(4)] (5)
39 of this subsection, that information is no longer confidential, but is not discoverable or
40 admissible in any civil action.

1 [(6)] (7) An accreditation report, including any summary of the report
2 and any information contained in the report, disclosed by a hospital or residential
3 treatment center, the Joint Commission on the Accreditation of Healthcare
4 Organizations, or the Department is not admissible or discoverable in any civil action.

5 [(7)] (8) If an accredited hospital or accredited residential treatment
6 center willfully fails to comply with the provisions of this subsection, the Secretary
7 may impose a penalty not to exceed \$1,000 a day for each day the violation continues.
8 19-309.

9 (a) Notwithstanding any other provisions of this subtitle, each hospital or
10 residential treatment center shall be open to inspections by the Department to
11 investigate and resolve any complaint concerning patient care, safety, medical and
12 nursing supervision, physical environment, sanitation or dietary matters.

13 (b) (1) To resolve expeditiously a complaint that alleges the existence of any
14 nonlife-threatening deficiency, the Department may refer the complaint directly to
15 the hospital or residential treatment center.

16 (2) If appropriate, issues relating to the practice of medicine or the
17 licensure or conduct of a health professional shall be referred to the hospital or the
18 residential treatment center and may be referred to the appropriate licensure board
19 for resolution.

20 (3) If the Department determines that the hospital or residential
21 treatment center has not satisfactorily addressed the referred complaint or where the
22 complaint alleges the existence of a life-threatening deficiency, the Department shall
23 conduct an independent investigation. When conducting its independent
24 investigation, the Department shall use:

25 (i) For an accredited hospital or accredited residential treatment
26 center, the current applicable standards of review of the Joint Commission on
27 Accreditation of Healthcare Organizations AND ANY APPLICABLE STANDARDS FOR
28 SPECIAL SERVICES ADOPTED BY THE SECRETARY UNDER § 19-308(B) OF THIS
29 SUBTITLE;

30 (ii) For a nonaccredited hospital or nonaccredited residential
31 treatment center, the standards adopted by the Secretary under this subtitle;

32 (iii) For an accredited or nonaccredited hospital that is a facility as
33 defined under § 19-319.2 of this subtitle, the requirements of §§ 10-701 through
34 10-709 of this article; and

35 (iv) For an accredited or nonaccredited residential treatment center,
36 the requirements of §§ 10-701 through 10-709 of this article.

37 SECTION 3. AND BE IT FURTHER ENACTED, That the changes made by this
38 Act to Title 19, Subtitle 1 of the Health - General Article do not apply to ambulatory
39 surgical facilities established pursuant to a determination by the Maryland Health

1 Resources Planning Commission as to whether a certificate of need is required to
2 build a new ambulatory surgical facility, if the facility requested or received the
3 determination on or before February 13, 1995.

4 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 and Section 3 of
5 this Act shall take effect January 1, 1999.

6 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
7 take effect July 1, 1998.