

SENATE BILL 504

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1998 Regular Session
8r1606
CF 8r1605

By: **Senator Derr**

Introduced and read first time: February 6, 1998

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Home-Based Hospice Care - Deregulation**

3 FOR the purpose of specifying that a home-based hospice program is not a health
4 care facility; specifying that home-based hospice care is not a medical service;
5 exempting hospice facilities from certain certificate of need requirements; and
6 generally relating to the deregulation of home-based hospice care.

7 BY repealing and reenacting, with amendments,
8 Article - Health - General
9 Section 19-101(f), 19-115(a) and (i), and 19-906
10 Annotated Code of Maryland
11 (1996 Replacement Volume and 1997 Supplement)

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

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 FACILITY, as defined in § 19-901 of this title; and

1 (vii) Any other health institution, service, or program for which Part
2 I of this subtitle requires a certificate of need.

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

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

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

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

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

16 3. The facility is located on the campus of the continuing care
17 facility;

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

21 (iv) Except for kidney transplant services or programs, the kidney
22 disease treatment stations and services provided by or on behalf of a hospital or
23 related institution; [or]

24 (v) The office of one or more individuals licensed to practice
25 dentistry under Title 4 of the Health Occupations Article, for the purposes of
26 practicing dentistry; OR

27 (VI) A HOME-BASED HOSPICE CARE PROGRAM AS DEFINED IN §
28 19-901 OF THIS TITLE.

29 19-115.

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

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

33 (3) (I) "Medical service" means:

34 [(i)] 1. Any of the following categories of health care services:

35 [1.] A. Medicine, surgery, gynecology, addictions;

- 1 [2.] B. Obstetrics;
- 2 [3.] C. Pediatrics;
- 3 [4.] D. Psychiatry;
- 4 [5.] E. Rehabilitation;
- 5 [6.] F. Chronic care;
- 6 [7.] G. Comprehensive care;
- 7 [8.] H. Extended care;
- 8 [9.] I. Intermediate care; or
- 9 [10.] J. Residential treatment; or

10 [(ii)] 2. Any subcategory of the rehabilitation, psychiatry,
 11 comprehensive care, or intermediate care categories of health care services for which
 12 need is projected in the State health plan.

13 (II) "MEDICAL SERVICE" DOES NOT INCLUDE HOME-BASED
 14 HOSPICE CARE.

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

- 17 (i) By a health care facility;
- 18 (ii) In space that is leased from a health care facility; or
- 19 (iii) In space that is on land leased from a health care facility.

20 (2) This subsection does not apply if:

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

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

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

28 1. Establishment of a new medical service or elimination of
 29 an existing medical service;

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

1 3. Establishment of a home health program, hospice
2 [program] FACILITY AS DEFINED IN § 19-901 OF THIS TITLE, or freestanding
3 ambulatory surgical center or facility; or

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

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

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

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

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

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

20 D. Is in the public interest; and

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

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

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

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

30 (iii) Before a transfer of ownership of any branch office of a home
31 health agency or home health care service of an existing health care facility that
32 separates the ownership of the branch office from the home health agency or home
33 health care service of an existing health care facility which established the branch
34 office; or

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

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

3 2. During a 1-year period, the annual operating revenue of
4 the home health service or program would be greater than \$333,000 after an annual
5 adjustment for inflation, based on an appropriate index specified by the Commission.
6 19-906.

7 (a) To qualify for a license, an applicant and the hospice care program and its
8 medical director shall meet the requirements of this section.

9 (b) An applicant who is an individual, and any individual who is applying on
10 behalf of a corporation, association, or government agency shall be:

11 (1) At least 18 years old; and

12 (2) Of reputable and responsible character.

13 (c) [(1) Except for a limited licensee, the applicant shall have a certificate of
14 need, as required under Subtitle 1 of this title, for the hospice care program to be
15 operated.

16 (2)] The hospice care program to be operated and its medical director
17 shall meet the requirements that the Secretary adopts under this subtitle.

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