

HOUSE BILL 994

Unofficial Copy
J3

1999 Regular Session
(9r1064)

ENROLLED BILL
-- Environmental Matters/Finance --

Introduced by **Delegates Hammen and Taylor**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Hospital Capacity and Cost Containment Act**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to ensure
4 that payments for certain hospital services provided in certain areas are reduced
5 by a certain percentage if the hospital does not provide certain data; providing for
6 a certain exception; providing that a certificate of need is not required before an
7 existing or previously approved, but unbuilt, health care facility is moved to
8 another site under certain circumstances; specifying that a certificate of need is
9 not required for changing the type or scope of health care services under certain
10 circumstances and for the reallocation of existing bed capacity under certain
11 circumstances; ~~increasing the capital expenditure limit for when a health care~~
12 ~~facility is required to obtain a certificate of need under certain circumstances;~~
13 providing that a hospital may not create a new health care service through the
14 relocation of beds from one county to another county, under certain
15 circumstances; repealing the requirement that certain health facilities do not
16 need a certificate of need when increasing or decreasing bed capacity under
17 certain circumstances; altering the requirements for when certain hospitals may

1 close under certain circumstances; establishing the classification of ~~critical~~
 2 ~~access~~ limited service hospitals for certain health care facilities; ~~establishing~~
 3 ~~certain operating standards for critical access hospitals~~ requiring the Secretary
 4 of Health and Mental Hygiene to adopt certain regulations; requiring the
 5 Secretary of the Department of Health and Mental Hygiene to make certain
 6 calculations relating to certain hospital's licensed bed capacity and to delicense
 7 certain excess beds by a certain date; requiring certain hospitals to include
 8 certain information in a certain report to the Health Services Cost Review
 9 Commission; altering certain notice requirements for when a person proposes to
 10 close or delicense certain hospitals; requiring certain notice requirements for
 11 when a person proposes to convert certain hospitals; altering the Maryland
 12 Hospital Bond Program to permit the Health Services Cost Review Commission
 13 to provide for the payment of all or any portion of the closing costs for certain
 14 hospitals that convert to ~~a critical access hospital~~ under certain circumstances;
 15 altering the Maryland Hospital Bond Program to clarify the method used for
 16 determining a hospital's bond indebtedness that will be included in the Program
 17 the amount of public body obligation that qualifies for payment under the
 18 Program; authorizing the Maryland Health and Higher Educational Facilities
 19 Authority to proceed against certain entities under certain circumstances;
 20 requiring the Maryland Institute for Emergency Medical Services System to
 21 develop certain protocols; repealing certain obsolete provisions requiring the
 22 Secretary to conduct a certain study; making certain technical and stylistic
 23 changes; defining certain terms; altering certain definitions; and generally
 24 relating to hospital capacity and cost containment.

25 *BY adding to*

26 Article - Health - General
 27 Section 15-103(b)(28)
 28 Annotated Code of Maryland
 29 (1994 Replacement Volume and 1998 Supplement)

30 BY repealing and reenacting, with amendments,

31 Article - Health - General
 32 Section 19-101(f), 19-115, 19-201, ~~19-221~~, 19-301, and 19-307(a)
 33 Annotated Code of Maryland
 34 (1996 Replacement Volume and 1998 Supplement)

35 BY adding to

36 Article - Health - General
 37 Section 19-307.1 and 19-307.2
 38 Annotated Code of Maryland
 39 (1996 Replacement Volume and 1998 Supplement)

40 ~~BY repealing and reenacting, without amendments,~~

41 ~~Article - Health - General~~
 42 ~~Section 19-3A-01 through 19-3A-06 and the subtitle "Subtitle 3A."~~

1 Freestanding Medical Facilities"
2 Annotated Code of Maryland
3 (1996 Replacement Volume and 1998 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article 43C - Maryland Health and Higher Education Facilities Authority
6 Section 16A
7 Annotated Code of Maryland
8 (1998 Replacement Volume)

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

11 **Article - Health - General**

12 15-103.

13 (b) (28) (I) THE DEPARTMENT SHALL ENSURE THAT PAYMENTS FOR
14 SERVICES PROVIDED BY A HOSPITAL LOCATED IN A CONTIGUOUS STATE OR IN THE
15 DISTRICT OF COLUMBIA TO AN ENROLLEE UNDER THE PROGRAM SHALL BE
16 REDUCED BY 20% IF THE HOSPITAL FAILS TO SUBMIT DISCHARGE DATA ON ALL
17 MARYLAND PATIENTS RECEIVING CARE IN THE HOSPITAL TO THE HEALTH
18 SERVICES COST REVIEW COMMISSION IN A FORM AND MANNER THE COMMISSION
19 SPECIFIES.

20 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO A
21 HOSPITAL THAT PRESENTLY PROVIDES DISCHARGE DATA TO THE PUBLIC IN A FORM
22 THE HEALTH SERVICES COST REVIEW COMMISSION DETERMINES IS SATISFACTORY.
23 19-101.

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

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

26 (II) A LIMITED SERVICE HOSPITAL, AS DEFINED IN § 19-301(E) OF
27 THIS TITLE;

28 [(ii)] (III) A related institution, as defined in § 19-301 of this title;

29 [(iii)] (IV) An ambulatory surgical facility;

30 [(iv)] (V) An inpatient facility that is organized primarily to help
31 in the rehabilitation of disabled individuals, through an integrated program of
32 medical and 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

1 [(vii)] (VIII) Any other health institution, service, or program for
 2 which Part 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.

27 19-115.

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

29 (2) "~~CRITICAL ACCESS LIMITED SERVICE HOSPITAL~~" MEANS A HEALTH
 30 CARE FACILITY THAT:

31 (I) IS LICENSED AS A HOSPITAL ON OR AFTER JANUARY 1, 1999;

32 (II) CHANGES THE TYPE OR SCOPE OF HEALTH CARE SERVICES
 33 OFFERED BY ELIMINATING THE FACILITY'S CAPABILITY TO ADMIT OR RETAIN
 34 PATIENTS FOR OVERNIGHT ~~ACUTE CARE~~ HOSPITALIZATION;

35 (III) RETAINS AN EMERGENCY ~~DEPARTMENT~~ OR URGENT CARE
 36 CENTER; AND

1 (IV) ~~COMPLIES WITH THE OPERATING STANDARDS PROVIDED IN~~
 2 ~~REGULATIONS ADOPTED BY THE SECRETARY UNDER § 19-307.1 OF THIS TITLE.~~

3 [(2)] (3) (I) "Health care service" means any [clinically-related]
 4 CLINICALLY RELATED patient service [including].

5 (II) "HEALTH CARE SERVICE" INCLUDES a medical service [under
 6 paragraph (3) of this subsection].

7 [(3)] (4) "Medical service" means:

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

9 1. Medicine, surgery, gynecology, addictions;

10 2. Obstetrics;

11 3. Pediatrics;

12 4. Psychiatry;

13 5. Rehabilitation;

14 6. Chronic care;

15 7. Comprehensive care;

16 8. Extended care;

17 9. Intermediate care; or

18 10. Residential treatment; or

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

22 (5) ~~"PRIMARY SERVICE AREA" MEANS:~~

23 (I) ~~THE STATE POSTAL ZIP CODES FROM WHICH THE FIRST 60~~
 24 ~~PERCENT OF A HOSPITAL'S PATIENT DISCHARGE ORIGINATE DURING THE MOST~~
 25 ~~RECENT 12 MONTH PERIOD, WHERE THE DISCHARGES FROM EACH ZIP CODE ARE~~
 26 ~~ORDERED FROM LARGEST TO SMALLEST NUMBER OF DISCHARGES;~~

27 (II) ~~POINT ZIP CODES PHYSICALLY WITHIN ANY OF THE ZIP CODES~~
 28 ~~DESIGNATED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH;~~

29 (III) ~~THE STATE ZIP CODES PHYSICALLY CONTIGUOUS TO ANY ZIP~~
 30 ~~CODES DESIGNATED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT PROVIDED 50~~
 31 ~~PERCENT OR MORE OF THE DISCHARGE TO THE HOSPITAL IN THE MOST RECENT~~
 32 ~~12 MONTH PERIOD; AND~~

1 (IV) ~~FOR A MERGED ASSET SYSTEM, THE ZIP CODES ARE~~
2 ~~TABULATED SEPARATELY FOR EACH HOSPITAL, AND ALL ZIP CODES IDENTIFIED FOR~~
3 ~~EITHER ARE INCLUDED IN THE PRIMARY SERVICE AREA OF THE MERGED ASSET~~
4 ~~SYSTEM.~~

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

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

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

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

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

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

25 (f) Except as provided in subsection (g)(2)(iii) of this section, a certificate of
26 need is required before a new health care facility is built, developed, or established.

27 (g) (1) A certificate of need is required before an existing or previously
28 approved, but unbuilt, health care facility is moved to another site.

29 (2) This subsection does not apply if:

30 (i) The Commission adopts limits for relocations and the proposed
31 relocation does not exceed those limits;

32 (ii) The relocation is the result of a partial or complete replacement
33 of an existing hospital or related institution, as defined in § 19-301 of this title, and
34 the relocation is to another part of the site or immediately adjacent to the site of the
35 existing hospital or related institution; [or]

36 (III) 1. ~~THE RELOCATION IS TO:~~

1 A. ~~ANOTHER AREA ON OR IMMEDIATELY ADJACENT TO THE~~
2 ~~SITE OF THE EXISTING HOSPITAL OR RELATED INSTITUTION; OR~~

3 B. ~~A SITE WITHIN THE PRIMARY SERVICE AREA OF THE~~
4 ~~EXISTING HOSPITAL OR RELATED INSTITUTION; AND~~

5 ~~2. AT LEAST 45 DAYS PRIOR TO THE RELOCATION, NOTICE OF~~
6 ~~THE PROPOSED RELOCATION IS FILED WITH THE COMMISSION; OR~~

7 (III) SUBJECT TO THE PROVISIONS OF SUBSECTIONS (I) AND (J) OF
8 THIS SECTION, THE RELOCATION IS OF AN EXISTING HEALTH CARE FACILITY OWNED
9 OR CONTROLLED BY A MERGED ASSET SYSTEM AND IS TO:

10 1. A SITE WITHIN THE PRIMARY SERVICE AREA OF THE
11 HEALTH CARE FACILITY TO BE RELOCATED IF:

12 A. THE PROPOSED RELOCATION IS NOT ACROSS COUNTY
13 BOUNDARIES; AND

14 B. AT LEAST 45 DAYS PRIOR TO THE PROPOSED RELOCATION
15 NOTICE IS FILED WITH THE COMMISSION; OR

16 2. A SITE OUTSIDE THE PRIMARY SERVICE AREA OF THE
17 HEALTH CARE FACILITY TO BE RELOCATED BUT WITHIN THE PRIMARY SERVICE
18 AREA OF THE MERGED ASSET SYSTEM IF:

19 A. AT LEAST 45 DAYS PRIOR TO THE PROPOSED RELOCATION
20 NOTICE IS FILED WITH THE COMMISSION; AND

21 B. THE COMMISSION IN ITS SOLE DISCRETION, AND IN
22 ACCORDANCE WITH THE CRITERIA ADOPTED BY REGULATION, FINDS THAT THE
23 RELOCATION IS IN THE PUBLIC INTEREST, IS NOT INCONSISTENT WITH THE STATE
24 HEALTH PLAN, AND WILL RESULT IN THE MORE EFFICIENT AND EFFECTIVE
25 DELIVERY OF HEALTH CARE SERVICES; OR

26 3. FOR A LIMITED SERVICE HOSPITAL, A SITE WITHIN THE
27 IMMEDIATE AREA AS DEFINED IN REGULATION BY THE COMMISSION; OR

28 [(iii)] (IV) The relocation involves moving a portion of a complement
29 of comprehensive care beds previously approved by the Commission after January 1,
30 1995 for use in a proposed new related institution, as defined in § 19-301 of this title,
31 but unbuilt on October 1, 1998 if:

32 1. The comprehensive care beds that were originally
33 approved by the Commission in a prior certificate of need review were approved for
34 use in a proposed new related institution to be located in a municipal corporation
35 within Carroll County in which a related institution is not located;

1 C. Will result in the delivery of more efficient and effective
2 health care services; [and]

3 D. Is in the public interest; AND

4 [(3)] 3. Within 45 days of receiving notice, the Commission shall notify
5 the health care facility of its finding; OR

6 (IV) THE INCREASE OR DECREASE IN BED CAPACITY IS THE RESULT
7 OF THE ANNUAL LICENSED BED RECALCULATION PROVIDED UNDER § 19-307 OF THIS
8 TITLE.

9 (I) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, FOR
10 A HOSPITAL LOCATED IN A COUNTY WITH THREE OR MORE HOSPITALS, A
11 CERTIFICATE OF NEED IS NOT REQUIRED BEFORE THE BED CAPACITY IS INCREASED
12 OR DECREASED IF THE CHANGE:

13 ~~(+)~~ (I) OCCURS ON OR AFTER JULY 1, 2000;

14 ~~(=)~~ (II) IS BETWEEN HOSPITALS IN A MERGED ASSET SYSTEM LOCATED
15 WITHIN THE SAME HEALTH SERVICE AREA;

16 ~~(=)~~ (III) DOES NOT INVOLVE COMPREHENSIVE OR EXTENDED CARE
17 BEDS; AND

18 ~~(+)~~ (IV) DOES NOT OCCUR EARLIER THAN 45 DAYS AFTER A NOTICE OF
19 INTENT TO REALLOCATE BED CAPACITY IS FILED WITH THE COMMISSION.

20 (2) A HOSPITAL MAY NOT CREATE A NEW HEALTH CARE SERVICE
21 THROUGH THE RELOCATION OF BEDS FROM ONE COUNTY TO ANOTHER COUNTY
22 PURSUANT TO THIS SUBSECTION.

23 [(i)] (J) (1) A certificate of need is required before the type or scope of any
24 health care service is changed if the health care service is offered:

25 (i) By a health care facility;

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

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

28 (2) This subsection does not apply if:

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

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

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

3 1. Establishment of a new medical service or elimination of
4 an existing medical service;

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

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

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

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

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

18 A. Is pursuant to the consolidation or merger of 2 or more
19 health care facilities, [or] THE conversion of a health care facility or part of a facility
20 to a nonhealth-related [use;] USE, OR THE CONVERSION OF A HOSPITAL TO A
21 ~~CRITICAL ACCESS LIMITED SERVICE HOSPITAL OR TO ANOTHER HEALTH RELATED~~
22 ~~USE;~~

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

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

27 D. Is in the public interest; and

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

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

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

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

1 (iii) Before a transfer of ownership of any branch office of a home
2 health agency or home health care service of an existing health care facility that
3 separates the ownership of the branch office from the home health agency or home
4 health care service of an existing health care facility which established the branch
5 office; or

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

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

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

13 [(j)] (K) (1) A certificate of need is required before any of the following
14 capital expenditures are made by or on behalf of a health care facility:

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

17 1. The expenditure is made as part of an acquisition,
18 improvement, or expansion, and, after adjustment for inflation as provided in the
19 regulations of the Commission, the total expenditure, including the cost of each study,
20 survey, design, plan, working drawing, specification, and other essential activity, is
21 more than ~~\$1,250,000~~ ~~\$2,500,000~~ \$1,250,000;

22 2. The expenditure is made as part of a replacement of any
23 plant and equipment of the health care facility and is more than ~~\$1,250,000~~ ~~\$2,500,000~~
24 \$1,250,000 after adjustment for inflation as provided in the regulations of the
25 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; or

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

33 1. The expenditure is made as part of an acquisition,
34 improvement, or expansion, and, after adjustment for inflation as provided in the
35 rules and regulations of the Commission, the total expenditure, including the cost of
36 each study, survey, design, plan, working drawing, specification, and other essential
37 activity, is more than ~~\$1,250,000~~ ~~\$2,500,000~~ \$1,250,000;

1 2. The expenditure is made as part of a replacement of any
2 plant and equipment and is more than ~~\$1,250,000~~ ~~\$2,500,000~~ \$1,250,000 after
3 adjustment for inflation as provided in the regulations of the Commission;

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

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

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

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

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

20 (5) This subsection does not apply to:

21 (i) Site acquisition;

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

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

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

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

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

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

- 1 A. Is not inconsistent with the State health plan or the
2 institution-specific plan developed by the Commission as appropriate;
- 3 B. Will result in the delivery of more efficient and effective
4 health care services; and
- 5 C. Is in the public interest; and
- 6 3. Within 45 days of receiving notice, the Commission shall
7 notify the health care facility of its finding;
- 8 (vi) A capital expenditure by a nursing home for equipment,
9 construction, or renovation that:
- 10 1. Is not directly related to patient care; and
- 11 2. Is not directly related to any change in patient charges or
12 other rates;
- 13 (vii) A capital expenditure by a hospital, as defined in § 19-301 of
14 this title, for equipment, construction, or renovation that:
- 15 1. Is not directly related to patient care; and
- 16 2. Does not increase patient charges or hospital rates;
- 17 (viii) A capital expenditure by a hospital as defined in § 19-301 of
18 this title, for a project in excess of ~~\$1,250,000~~ \$2,500,000 \$1,250,000 for construction or
19 renovation that:
- 20 1. May be related to patient care;
- 21 2. Does not require, over the entire period or schedule of debt
22 service associated with the project, a total cumulative increase in patient charges or
23 hospital rates of more than \$1,500,000 for the capital costs associated with the project
24 as determined by the Commission, after consultation with the Health Services Cost
25 Review Commission;
- 26 3. At least 45 days before the proposed expenditure is made,
27 the hospital notifies the Commission and within 45 days of receipt of the relevant
28 financial information, the Commission makes the financial determination required
29 under item 2 of this subparagraph; and
- 30 4. The relevant financial information to be submitted by the
31 hospital is defined in regulations promulgated by the Commission, after consultation
32 with the Health Services Cost Review Commission; or
- 33 (ix) A plant donated to a hospital as defined in § 19-301 of this title,
34 which does not require a cumulative increase in patient charges or hospital rates of
35 more than \$1,500,000 for capital costs associated with the donated plant as

1 determined by the Commission, after consultation with the Health Services Cost
2 Review Commission that:

3 1. At least 45 days before the proposed donation is made, the
4 hospital notifies the Commission and within 45 days of receipt of the relevant
5 financial information, the Commission makes the financial determination required
6 under this subparagraph; and

7 2. The relevant financial information to be submitted by the
8 hospital is defined in regulations promulgated by the Commission after consultation
9 with the Health Services Cost Review Commission.

10 (6) Paragraph (5)(vi), (vii), (viii), and (ix) of this subsection may not be
11 construed to permit a facility to offer a new health care service for which a certificate
12 of need is otherwise required.

13 (7) Subject to the notice requirements of paragraph (5)(ii) of this
14 subsection, a hospital may acquire a freestanding ambulatory surgical facility or
15 office of one or more health care practitioners or a group practice with one or more
16 operating rooms used primarily for the purpose of providing ambulatory surgical
17 services if the facility, office, or group practice:

18 (i) Has obtained a certificate of need;

19 (ii) Has obtained an exemption from certificate of need
20 requirements; or

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

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

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

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

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

35 (3) Within 45 days of receiving notice the Commission notifies the health
36 care facility of its findings.]

1 (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
2 AT LEAST 45 DAYS BEFORE THE CLOSING OR PARTIAL CLOSING OF A HOSPITAL,
3 INCLUDING A STATE HOSPITAL, A PERSON PROPOSING TO CLOSE ALL OR PART OF
4 THE HOSPITAL FILES NOTICE OF THE PROPOSED CLOSING OR PARTIAL CLOSING
5 WITH THE COMMISSION; AND

6 (II) WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE OF INTENT TO
7 CLOSE, THE ~~COMMISSION HOSPITAL~~, IN CONSULTATION WITH THE ~~HOSPITAL~~
8 ~~COMMISSION~~, HOLDS A PUBLIC INFORMATIONAL HEARING IN THE COUNTY WHERE
9 THE HOSPITAL IS LOCATED; OR

10 (2) (I) FOR A HOSPITAL LOCATED IN A COUNTY WITH FEWER THAN
11 THREE HOSPITALS, AT LEAST 45 DAYS BEFORE THE CLOSING OR PARTIAL CLOSING
12 OF THE HOSPITAL, A PERSON PROPOSING TO CLOSE ALL OR PART OF THE HOSPITAL
13 FILES NOTICE OF THE PROPOSED CLOSING OR PARTIAL CLOSING WITH THE
14 COMMISSION; AND

15 (II) THE COMMISSION FINDS THAT THE CLOSING:

16 1. IS IN THE PUBLIC INTEREST; AND

17 2. IS NOT INCONSISTENT WITH:

18 A. THE STATE HEALTH PLAN; OR

19 B. AN INSTITUTION-SPECIFIC PLAN DEVELOPED BY THE
20 COMMISSION UNDER § 19-114.1 OF THIS SUBTITLE.

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

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

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

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

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

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

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

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

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

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

9 19-201.

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

11 (b) "Commission" means the State Health Services Cost Review Commission.

12 (c) "Facility" means, whether operated for a profit or not:

13 (1) Any hospital; or

14 (2) Any related institution.

15 (d) (1) "Hospital services" means:

16 (i) Inpatient hospital services as enumerated in Medicare
17 Regulation 42 C.F.R. § 409.10, as amended;

18 (ii) Emergency services;

19 (iii) Outpatient services provided at the hospital; and

20 (iv) Identified physician services for which a facility has
21 Commission-approved rates on June 30, 1985.

22 (2) "Hospital services" does not include:

23 (I) [outpatient] OUTPATIENT renal dialysis services; OR

24 (II) OUTPATIENT SERVICES PROVIDED AT A ~~CRITICAL ACCESS~~
25 LIMITED SERVICE HOSPITAL AS DEFINED IN § 19-301 OF THIS TITLE, EXCEPT FOR
26 EMERGENCY SERVICES.

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

29 (i) A comprehensive care facility that is currently regulated by the
30 Commission; or

31 (ii) An intermediate care facility - mental retardation.

1 (2) "Related institution" includes any institution in paragraph (1) of this
2 subsection, as reclassified from time to time by law.

3 ~~19-221.~~

4 (a) (1) ~~Any person aggrieved by a final decision of the Commission under~~
5 ~~this subtitle may not appeal to the Board of Review but may take a direct judicial~~
6 ~~appeal.~~

7 (2) ~~The appeal shall be made as provided for judicial review of final~~
8 ~~decisions in the Administrative Procedure Act.~~

9 (B) ~~A FINAL DECISION OF THE COMMISSION ESTABLISHING RATES FOR A~~
10 ~~HOSPITAL FOLLOWING A RATE REVIEW MAY NOT BE STAYED PENDING AN APPEAL.~~

11 ~~[(b)]~~ (C) (1) ~~An appeal from a final decision of the Commission under this~~
12 ~~section shall be taken in the name of the person aggrieved as appellant and against~~
13 ~~the Commission as appellee.~~

14 (2) ~~The Commission is a necessary party to an appeal at all levels of the~~
15 ~~appeal.~~

16 (3) ~~The Commission may appeal any decision that affects any of its final~~
17 ~~decisions to a higher level for further review.~~

18 (4) ~~On grant of leave by the appropriate court, any aggrieved party or~~
19 ~~interested person may intervene or participate in an appeal at any level.~~

20 ~~[(c)]~~ (D) ~~Any person, government agency, or nonprofit health service plan that~~
21 ~~contracts with or pays a facility for health care services has standing to participate in~~
22 ~~Commission hearings and shall be allowed to appeal final decisions of the~~
23 ~~Commission.~~

24 ~~19-301.~~

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

26 (b) "Accredited hospital" means a hospital accredited by the Joint Commission
27 on Accreditation of Healthcare Organizations.

28 (c) "Accredited residential treatment center" means a residential treatment
29 center that is accredited by the Joint Commission on Accreditation of Healthcare
30 Organizations.

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

33 (1) 2 or more rooms;

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

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

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

3 (i) Storage space for food and utensils;

4 (ii) A refrigerator;

5 (iii) A cook top; and

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

7 (E) "~~CRITICAL ACCESS LIMITED SERVICE~~ HOSPITAL" MEANS A HEALTH CARE
8 FACILITY THAT:

9 (1) IS LICENSED AS A HOSPITAL ON OR AFTER JANUARY 1, 1999;

10 (2) CHANGES THE TYPE OR SCOPE OF HEALTH CARE SERVICES
11 OFFERED BY ELIMINATING THE FACILITY'S CAPABILITY TO ADMIT OR RETAIN
12 PATIENTS FOR OVERNIGHT ~~ACUTE CARE~~ HOSPITALIZATION;

13 (3) RETAINS AN EMERGENCY ~~DEPARTMENT~~ OR URGENT CARE CENTER;
14 AND

15 (4) COMPLIES WITH THE ~~OPERATING STANDARDS PROVIDED IN~~
16 REGULATIONS ADOPTED BY THE SECRETARY UNDER § 19-307.1 OF THIS TITLE.

17 [(e)] (F) (1) "Domiciliary care" means services that are provided to aged or
18 disabled 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
25 living.

26 [(f)] (G) "Hospital" means an institution that:

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

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

- 1 (3) Admits or retains the individuals for overnight care.
- 2 [(g)] (H) "License" means a license issued by the Secretary:
- 3 (1) To operate a hospital in this State;
- 4 (2) To operate a related institution in this State; or
- 5 (3) To operate a residential treatment center in this State.
- 6 [(h)] (I) "Nonaccredited hospital" means a hospital not accredited by the Joint
7 Commission on Accreditation of Healthcare Organizations.
- 8 [(i)] (J) "Nonaccredited residential treatment center" means a residential
9 treatment center that is not accredited by the Joint Commission on Accreditation of
10 Healthcare Organizations.
- 11 [(j)] (K) "Nursing care" means service for a patient that is:
- 12 (1) Ordered by a physician; and
- 13 (2) Provided or supervised by a registered or practical nurse who is
14 licensed to practice in this State.
- 15 [(k)] (L) "Nursing facility" means a related institution that provides nursing
16 care for 2 or more unrelated individuals.
- 17 [(l)] (M) "Person" includes this State or a county or municipal corporation.
- 18 [(m)] (N) (1) "Personal care" means a service that an individual normally
19 would perform personally, but for which the individual needs help from another
20 because of advanced age, infirmity, or physical or mental limitation.
- 21 (2) "Personal care" includes:
- 22 (i) Help in walking;
- 23 (ii) Help in getting in and out of bed;
- 24 (iii) Help in bathing;
- 25 (iv) Help in dressing;
- 26 (v) Help in feeding; and
- 27 (vi) General supervision and help in daily living.
- 28 [(n)] (O) (1) "Related institution" means an organized institution,
29 environment, or home that:

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

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

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

10 [(o)] (P) "Residential treatment center" means a psychiatric institution that
11 provides campus-based intensive and extensive evaluation and treatment of children
12 and adolescents with severe and chronic emotional disturbances who require a
13 self-contained therapeutic, educational, and recreational program in a residential
14 setting.

15 [(p)] (Q) "Unrelated individual" means anyone who is not:

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

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

19 19-307.

20 (a) (1) A hospital shall be classified:

21 (i) As a general hospital if the hospital at least has the facilities
22 and provides the services that are necessary for the general medical and surgical care
23 of patients;

24 (ii) As a special hospital if the hospital:

25 1. Defines a program of specialized services, such as
26 obstetrics, mental health, tuberculosis, orthopedy, chronic disease, or communicable
27 disease;

28 2. Admits only patients with medical or surgical needs
29 within the program; and

30 3. Has the facilities for and provides those specialized
31 services; [or]

32 (iii) As a special rehabilitation hospital if the hospital meets the
33 requirements of this subtitle and Subtitle 12 of this title; OR

34 (IV) AS A ~~CRITICAL ACCESS~~ LIMITED SERVICE HOSPITAL IF THE
35 HEALTH CARE FACILITY:

- 1 1. IS LICENSED AS A HOSPITAL ON OR AFTER JANUARY 1,
2 1999;
- 3 2. CHANGES THE TYPE OR SCOPE OF SERVICES OFFERED BY
4 ELIMINATING THE CAPABILITY TO ADMIT OR RETAIN INDIVIDUALS FOR OVERNIGHT
5 ~~ACUTE CARE HOSPITALIZATION~~;
- 6 3. RETAINS AN EMERGENCY ~~DEPARTMENT OR URGENT~~
7 CARE CENTER; AND
- 8 4. COMPLIES WITH THE ~~OPERATING STANDARDS PROVIDED~~
9 ~~IN REGULATIONS ADOPTED BY THE SECRETARY UNDER § 19-307.1 OF THIS TITLE.~~

10 (2) The Secretary may set, by rule or regulation, other reasonable
11 classifications for hospitals.

12 19-307.1.

13 ~~A CRITICAL ACCESS HOSPITAL SHALL MEET THE FOLLOWING OPERATING~~
14 ~~STANDARDS: THE DEPARTMENT SHALL ADOPT REGULATIONS FOR A LIMITED~~
15 ~~SERVICE HOSPITAL THAT INCLUDES~~ INCLUDE THE FOLLOWING STANDARDS:

16 (1) THE ~~CRITICAL ACCESS~~ LIMITED SERVICE HOSPITAL SHALL BE OPEN
17 24 HOURS A DAY, 7 DAYS A WEEK;

18 (2) THERE SHALL BE AT LEAST ONE PHYSICIAN ~~TRAINED~~
19 CREDENTIALLED IN EMERGENCY MEDICINE AT THE ~~CRITICAL ACCESS~~ LIMITED
20 SERVICE HOSPITAL AT ALL TIMES;

21 (3) A SUFFICIENT NUMBER OF REGISTERED NURSES AND OTHER
22 HEALTH PROFESSIONALS SHALL BE AVAILABLE AT THE ~~CRITICAL ACCESS~~ LIMITED
23 SERVICE HOSPITAL TO PROVIDE ADVANCED LIFE SUPPORT;

24 (4) BASIC X-RAY AND LABORATORY FACILITIES SHALL BE AVAILABLE AT
25 THE ~~CRITICAL ACCESS~~ LIMITED SERVICE HOSPITAL AND OPERABLE AT ALL TIMES BY
26 ONE RADIOLOGY TECHNICIAN AND ONE LABORATORY TECHNICIAN;

27 (5) RESUSCITATION EQUIPMENT, INCLUDING MONITOR,
28 DEFIBRILLATOR, CARDIAC MEDICATIONS, INTUBATION EQUIPMENT, AND
29 INTRAVENOUS LINE EQUIPMENT SHALL BE AVAILABLE AT THE ~~CRITICAL ACCESS~~
30 LIMITED SERVICE HOSPITAL AND OPERABLE AT ALL TIMES;

31 (6) STANDARD PROCEDURES IN ACCORDANCE WITH THE STATE
32 EMERGENCY MEDICAL SERVICES PLAN SHALL EXIST FOR THE IMMEDIATE
33 TRANSPORT OF INDIVIDUALS IN NEED OF HOSPITALIZATION OR OTHER MORE
34 DEFINITIVE CARE;

35 (7) A SPECIFIC DEFINED ROLE IN THE EMERGENCY MEDICAL SERVICES
36 SYSTEM WITH APPROPRIATE TELEPHONE COMMUNICATION SHALL EXIST;

1 (8) EMERGENCY SERVICES SHALL BE AVAILABLE TO ALL PERSONS
2 REGARDLESS OF ABILITY TO PAY; ~~AND~~

3 (9) ADOPTION, IMPLEMENTATION, AND ENFORCEMENT OF A POLICY
4 SHALL EXIST THAT REQUIRES, EXCEPT IN AN EMERGENCY LIFE-THREATENING
5 SITUATION WHERE IT IS NOT FEASIBLE OR PRACTICABLE, COMPLIANCE BY ALL
6 EMPLOYEES AND MEDICAL STAFF INVOLVED IN PATIENT CARE SERVICES WITH THE
7 CENTERS FOR DISEASE CONTROL'S GUIDELINES ON UNIVERSAL PRECAUTIONS; AND

8 (10) ANY OTHER STANDARD THAT THE SECRETARY DEEMS NECESSARY
9 TO ENSURE THE QUALITY OF THE SERVICES PROVIDED BY LIMITED LICENSE
10 HOSPITALS A LIMITED SERVICE HOSPITAL.

11 19-307.2.

12 (A) FOR A HOSPITAL CLASSIFIED AS A GENERAL HOSPITAL, THE SECRETARY
13 SHALL ANNUALLY CALCULATE THE HOSPITAL'S LICENSED BED CAPACITY.

14 ~~(B) (1) FOR HOSPITALS WITH 100 OR MORE AUTHORIZED BEDS AS OF~~
15 ~~JANUARY 1 OF THAT YEAR, THE ANNUAL LICENSED BED CAPACITY CALCULATION~~
16 ~~SHALL BE NO GREATER THAN 120 PERCENT OF THE AVERAGE DAILY CENSUS FOR~~
17 ~~THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE CALCULATION.~~

18 ~~(2) FOR HOSPITALS WITH FEWER THAN 100 AUTHORIZED BEDS AS OF~~
19 ~~JANUARY 1 OF THAT YEAR, THE ANNUAL LICENSED BED CAPACITY CALCULATION~~
20 ~~SHALL BE NO GREATER THAN 130 PERCENT OF THE AVERAGE DAILY CENSUS FOR~~
21 ~~THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE CALCULATION.~~

22 (B) THE ANNUAL LICENSED BED CALCULATION FOR EACH HOSPITAL SHALL
23 EQUAL 140 PERCENT OF THE AVERAGE DAILY CENSUS FOR THE 12-MONTH PERIOD
24 IMMEDIATELY PRECEDING THE CALCULATION.

25 (C) IF NECESSARY TO ADEQUATELY MEET DEMAND FOR SERVICES, A
26 HOSPITAL MAY EXCEED ITS LICENSED BED CAPACITY IF:

27 (1) ON AVERAGE FOR THE 12-MONTH PERIOD, THE HOSPITAL DOES NOT
28 EXCEED ITS LICENSED BED CAPACITY BASED ON THE ANNUAL CALCULATION; AND

29 (2) ~~THE HOSPITAL NOTIFIES THE COMMISSION WITHIN 15 DAYS OF~~
30 ~~EXCEEDING ITS LICENSED BED CAPACITY INCLUDES IN ITS MONTHLY REPORT TO~~
31 ~~THE HEALTH SERVICES COST REVIEW COMMISSION THE FOLLOWING INFORMATION:~~

32 ~~(I) THE NUMBER OF DAYS THE HOSPITAL EXCEEDED ITS~~
33 ~~LICENSED BED CAPACITY FOR THE MONTH; AND~~

34 ~~(I) THE NUMBER OF DAYS IN THE MONTH THE HOSPITAL~~
35 ~~EXCEEDED ITS LICENSED BED CAPACITY; AND~~

36 ~~(II) THE NUMBER OF BEDS THAT WERE EXCEEDED IN EXCESS ON~~
37 ~~EACH OF THOSE DAYS.~~

1 (D) BEFORE JULY 1, 2000 AND EACH JULY 1 THEREAFTER, THE SECRETARY
2 SHALL DELICENSE ANY LICENSED HOSPITAL BEDS DETERMINED TO BE EXCESS BED
3 CAPACITY UNDER SUBSECTION (B) OF THIS SECTION.

4 ~~Subtitle 3A. Freestanding Medical Facilities.~~

5 ~~19-3A-01.~~

6 ~~In this subtitle, "freestanding medical facility" means a facility:~~

7 (1) ~~In which medical and health services are provided;~~

8 (2) ~~That is physically separate from a hospital or hospital grounds; and~~

9 (3) ~~That is not an administrative part of a hospital or related institution,~~
10 ~~as defined in § 19-301 of this title.~~

11 ~~19-3A-02.~~

12 ~~The Department shall adopt regulations for certifying a freestanding medical~~
13 ~~facility that uses in its title or advertising the words "emergency", "urgent care", or~~
14 ~~parts of those words or other language indicating to the public that medical treatment~~
15 ~~for immediately life-threatening medical conditions is available at that freestanding~~
16 ~~medical facility, which shall include the following standards:~~

17 (1) ~~The freestanding medical facility shall be open 24 hours a day, 7 days~~
18 ~~a week;~~

19 (2) ~~There shall be at least 1 physician trained in emergency medicine at~~
20 ~~the facility at all times;~~

21 (3) ~~A sufficient number of registered nurses and other health~~
22 ~~professionals shall be available at the freestanding medical facility to provide~~
23 ~~advanced life support;~~

24 (4) ~~Basic X ray and laboratory facilities shall be available at the~~
25 ~~freestanding medical facility and operable at all times by 1 radiology technician and~~
26 ~~1 laboratory technician;~~

27 (5) ~~Resuscitation equipment, including monitor, defibrillator, cardiac~~
28 ~~medications, intubation equipment, and intravenous line equipment;~~

29 (6) ~~Standard procedures in accordance with the State Emergency~~
30 ~~Medical Services Plan shall exist for the immediate transport of individuals in need of~~
31 ~~hospitalization or other more definitive care;~~

32 (7) ~~Specific defined role in Emergency Medical Services System with~~
33 ~~appropriate telephone communication;~~

1 (8) Availability of emergency services to all persons regardless of ability
2 to pay;

3 (9) Adoption, implementation, and enforcement of a policy that requires,
4 except in an emergency life threatening situation where it is not feasible or
5 practicable, compliance by all employees and medical staff involved in patient care
6 services with the Centers for Disease Control's guidelines on universal precautions;
7 and

8 (10) Display of the notice developed under § 1-207 of the Health
9 Occupations Article at the entrance to the freestanding medical facility.

10 ~~19-3A-03.~~

11 (a) The Department shall issue a certificate to a freestanding medical facility
12 that meets the certification requirements under this section.

13 (b) A freestanding medical facility that uses in its title or advertising the
14 words "emergency", "urgent care", or parts of those words or other language
15 indicating to the public that medical treatment for immediately life threatening
16 medical conditions exist at that facility shall be certified by the Department before it
17 may operate in this State.

18 ~~19-3A-04.~~

19 The governing body of any county may adopt rules and regulations governing
20 freestanding medical facilities more restrictive than the regulations adopted by the
21 Department.

22 ~~19-3A-05.~~

23 (a) Except as provided in subsection (b) of this section, a person who violates
24 any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to
25 a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both.

26 (b) If a freestanding medical facility fails to comply with the requirements of §
27 19-3A-02(9) and (10) of this subtitle, the Department may impose a fine of up to \$500
28 per day per violation for each day a violation continues.

29 ~~19-3A-06.~~

30 The circuit court for a county in which a person is operating a freestanding
31 medical facility in violation of a provision of this subtitle may enjoin further operation
32 of the freestanding medical facility that violates this subtitle.

33 **Article 43C - Maryland Health and Higher Educational Facilities Authority**

34 16A.

35 (A) THIS SECTION APPLIES TO:

1 (1) THE CLOSURE OF A HOSPITAL UNDER § 19-115(L) OF THE HEALTH -
2 GENERAL ARTICLE;

3 (2) THE DELICENSURE OF A HOSPITAL UNDER § 19-325 OF THE HEALTH
4 - GENERAL ARTICLE; AND

5 ~~(3) THE CONVERSION OF A HOSPITAL TO A CRITICAL ACCESS HOSPITAL~~
6 ~~UNDER § 19-115 (J) OF THE HEALTH - GENERAL ARTICLE IF:~~

7 ~~(I) THE CONVERSION OCCURS BEFORE OCTOBER 1, 2002; AND~~

8 ~~(II) THE HOSPITAL CONVERTING TO A CRITICAL ACCESS HOSPITAL~~
9 ~~IS LOCATED IN A COUNTY WITH THREE OR MORE HOSPITALS.~~

10 (3) THE CONVERSION OF A HOSPITAL TO A LIMITED SERVICE HOSPITAL
11 UNDER § 19-115(J) OF THE HEALTH - GENERAL ARTICLE OR TO ANOTHER
12 HEALTH-RELATED USE IF:

13 (I) THE CONVERSION OCCURS BEFORE OCTOBER 1, 2002; AND

14 (II) THE HOSPITAL'S CAPABILITY TO ADMIT OR RETAIN PATIENTS
15 FOR OVERNIGHT ACUTE CARE HOSPITALIZATION IS ELIMINATED.

16 [(a)] (B) (1) In this [section,] SECTION the following terms have the
17 meanings indicated.

18 [(1)] (2) "Closure costs" means the reasonable costs determined by the
19 Health Services Cost Review Commission to be incurred in connection with the
20 [closure or delicensure] CLOSURE, DELICENSURE, OR CONVERSION of a hospital,
21 including expenses of operating the hospital, payments to employees, employee
22 benefits, fees of consultants, insurance, security services, utilities, legal fees, capital
23 costs, costs of terminating contracts with vendors, suppliers of goods and services and
24 others, debt service, contingencies and other necessary or appropriate costs and
25 expenses.

26 [(2)] (3) (i) "Public body obligation" means any bond, note, evidence
27 of indebtedness or other obligation for the payment of borrowed money issued by the
28 Authority, THE STATE, ANY AGENCY, INSTRUMENTALITY, OR PUBLIC CORPORATION
29 OF THE STATE, any public body as defined in Article 31, § 9 of the Code, the Mayor
30 and City Council of Baltimore, or any municipal corporation subject to the provisions
31 of Article XI-E of the Maryland Constitution.

32 (ii) "Public body obligation" does not include any obligation, or
33 portion of any such obligation, if:

34 1. The principal of and interest on the obligation or such
35 portion thereof is:

36 A. Insured by an effective municipal bond insurance policy;
37 and

1 B. Issued on behalf of a hospital that voluntarily closed in
2 accordance with § 19-115(l) of the Health - General Article;

3 2. The proceeds of the obligation or such portion thereof were
4 used for the purpose of financing or refinancing a facility or part thereof which is used
5 primarily to provide outpatient services at a location other than the hospital; or

6 3. The proceeds of the obligation or such portion thereof were
7 used to finance or refinance a facility or part thereof which is primarily used by
8 physicians who are not employees of the hospital for the purpose of providing services
9 to nonhospital patients.

10 [(b)] (C) (1) The General Assembly finds that the failure to provide for the
11 payment of public body obligations of a [closed or delicensed] CLOSED, DELICENSED,
12 OR CONVERTED hospital could have a serious adverse effect on the ability of
13 Maryland health care facilities, and potentially the ability of the State and local
14 governments, to secure subsequent financing through the issuance of tax-exempt
15 bonds.

16 (2) The purpose of this section is to preserve the access of Maryland's
17 health care facilities to adequate financing by establishing a program to facilitate the
18 refinancing and payment of public body obligations of a [closed or delicensed]
19 CLOSED, DELICENSED, OR CONVERTED hospital.

20 [(c)] (D) The Maryland Hospital Bond Program is hereby created within the
21 Maryland Health and Higher Educational Facilities Authority. The Program shall
22 provide for the payment and refinancing of public body obligations of a hospital, as
23 defined in § 19-301 of the Health - General Article, if:

24 (1) The closure of a hospital is in accordance with § 19-115(l) of the
25 Health - General [Article or] ARTICLE, the delicensure of a hospital is in accordance
26 with § 19-325 of the Health - General [Article;] ARTICLE, OR THE CONVERSION OF A
27 HOSPITAL IS IN ACCORDANCE WITH ~~§ 19-115(j) OF THE HEALTH - GENERAL ARTICLE~~
28 SUBSECTION (A)(3) OF THIS SECTION;

29 (2) There are public body obligations issued on behalf of the hospital
30 outstanding; AND

31 (3) [The closure of the hospital is not the result of a merger or
32 consolidation with 1 or more other hospitals; and

33 (4) The hospital plan for [closure or delicensure] CLOSURE,
34 DELICENSURE, OR CONVERSION and the related financing or refinancing plan is
35 acceptable to the Secretary of Health and Mental Hygiene and the Authority.

36 [(d)] (E) (1) The Health Resources Planning Commission shall give:

37 (i) The Authority and the Health Services Cost Review
38 Commission written notification of the filing by a hospital with the Health Resources

1 Planning Commission of any written notice of intent to close under § 19-115(l) of the
2 Health - General Article; [or]

3 (II) THE AUTHORITY AND THE HEALTH SERVICES COST REVIEW
4 COMMISSION WRITTEN NOTIFICATION OF THE FILING BY A HOSPITAL WITH THE
5 HEALTH RESOURCES PLANNING COMMISSION OF ANY WRITTEN NOTICE OF INTENT
6 TO CONVERT UNDER ~~§ 19-115 (j) OF THE HEALTH - GENERAL ARTICLE SUBSECTION~~
7 (A)(3) OF THIS SECTION; OR

8 [(ii)] (III) The Authority written notification of the filing with the
9 Secretary of Health and Mental Hygiene of a petition for the delicensure of a hospital
10 under § 19-325 of the Health - General Article.

11 (2) The notice required by this subsection shall be given within [10] 5
12 days after the filing of the notice or petition.

13 [(e)] (F) [(1)] The Health Resources Planning Commission and the Secretary
14 of Health and Mental Hygiene shall give the Authority and the Health Services Cost
15 Review Commission written notification of:

16 (i) A determination by the Health Resources Planning Commission
17 to exempt a hospital closure from the certificate of need requirement pursuant to §
18 19-115(l) of the Health - General Article; or

19 (ii) A determination by the Secretary of Health and Mental Hygiene
20 to delicense a hospital pursuant to § 19-325 of the Health - General Article.]

21 (1) AFTER A DETERMINATION BY THE SECRETARY OF HEALTH AND
22 MENTAL HYGIENE TO DELICENSE A HOSPITAL IN ACCORDANCE WITH § 19-325 OF
23 THE HEALTH - GENERAL ARTICLE, THE SECRETARY SHALL GIVE THE AUTHORITY
24 AND THE HEALTH SERVICES COST REVIEW COMMISSION WRITTEN NOTIFICATION OF
25 THE DETERMINATION.

26 (2) FOR A HOSPITAL THAT IS LOCATED IN A COUNTY WITH THREE OR
27 ~~MORE THAN THREE~~ HOSPITALS, THE HEALTH RESOURCES PLANNING COMMISSION
28 SHALL PROVIDE THE AUTHORITY AND THE HEALTH SERVICES COST REVIEW
29 COMMISSION NOTIFICATION THAT THE HOSPITAL, IN CONSULTATION WITH THE
30 ~~HEALTH RESOURCES PLANNING COMMISSION, AND THE HOSPITAL~~ HELD A PUBLIC
31 INFORMATION HEARING IN THE COUNTY WHERE THE HOSPITAL IS LOCATED.

32 (3) FOR A HOSPITAL THAT IS LOCATED IN A COUNTY WITH FEWER THAN
33 THREE HOSPITALS, THE HEALTH RESOURCES PLANNING COMMISSION SHALL
34 PROVIDE THE AUTHORITY AND THE HEALTH SERVICES COST REVIEW COMMISSION
35 NOTIFICATION OF THE ~~DETERMINATION FINDING~~ BY THE HEALTH RESOURCES
36 PLANNING COMMISSION ON WHETHER THE PROPOSED CLOSING IS:

37 (I) IN THE PUBLIC INTEREST; AND

38 (II) NOT INCONSISTENT WITH:

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

4 (4) FOR A HOSPITAL THAT CONVERTS TO A CRITICAL ACCESS HOSPITAL
 5 ~~UNDER § 19-115(J) OF THE HEALTH GENERAL ARTICLE~~, THE HEALTH RESOURCES
 6 PLANNING COMMISSION SHALL PROVIDE THE AUTHORITY AND THE HEALTH
 7 SERVICES COST REVIEW COMMISSION NOTIFICATION OF THE ~~DETERMINATION~~
 8 FINDING BY THE HEALTH RESOURCES PLANNING COMMISSION ON WHETHER THE
 9 CONVERSION IS:

- 10 (I) IN THE PUBLIC INTEREST;
- 11 (II) WILL RESULT IN THE DELIVERY OF MORE EFFICIENT AND
- 12 EFFECTIVE HEALTH CARE SERVICES; AND
- 13 (III) NOT INCONSISTENT WITH:

- 14 1. THE STATE HEALTH PLAN; OR
- 15 2. AN INSTITUTION-SPECIFIC PLAN DEVELOPED BY THE
- 16 HEALTH RESOURCES PLANNING COMMISSION.

17 [(2)] (5) The Health Resources Planning Commission and the Secretary
 18 of Health and Mental Hygiene shall submit the written notification required in
 19 [paragraph (1)] PARAGRAPHS (1) THROUGH (4) of this subsection no later than 150
 20 days prior to the scheduled date of the hospital [closure or delicensure] CLOSURE,
 21 DELICENSURE, OR CONVERSION and shall include the name and location of the
 22 hospital, and the scheduled date of hospital [closure or delicensure] CLOSURE,
 23 DELICENSURE, OR CONVERSION.

24 [(f)] (G) (1) A hospital that intends to [close or] CLOSE, is scheduled to be
 25 [delicensed] DELICENSED, OR IS SCHEDULED TO CONVERT TO A CRITICAL ACCESS
 26 HOSPITAL shall provide the Authority and the Health Services Cost Review
 27 Commission with a written statement of any outstanding public body obligations
 28 issued on behalf of the hospital, which shall include:

- 29 (i) The name of each issuer of a public body obligation on behalf of
- 30 the hospital;
- 31 (ii) The outstanding principal amount of each public body
- 32 obligation and the due dates for payment or any mandatory redemption or purchase
- 33 thereof;
- 34 (iii) The due dates for the payment of interest on each public body
- 35 obligation and the interest rates; and

1 (iv) Any documents and information pertaining to the public body
 2 obligations as the Authority or the Health Services Cost Review Commission may
 3 request.

4 (2) The statement required in paragraph (1) of this subsection shall be
 5 filed by the hospital:

6 (i) In the case of closure pursuant to § 19-115(l) of the Health -
 7 General Article, within 10 days after the date of filing with the Health Resources
 8 Planning Commission of written notice of intent to close; [or]

9 (ii) In the case of delicensure pursuant to § 19-325 of the Health -
 10 General Article, at least 150 days prior to the scheduled date of [delicensure.]
 11 DELICENSURE; OR

12 (III) IN THE CASE OF CONVERSION PURSUANT TO ~~§ 19-115(j) OF THE~~
 13 ~~HEALTH GENERAL ARTICLE SUBSECTION (A)(3) OF THIS SECTION, AT LEAST 10 DAYS~~
 14 ~~AFTER THE DATE OF FILING WITH THE HEALTH RESOURCES PLANNING~~
 15 ~~COMMISSION OF WRITTEN NOTICE OF INTENT TO CONVERT TO A CRITICAL ASSESS~~
 16 ~~HOSPITAL.~~

17 [(g)] (H) (1) The Health Services Cost Review Commission may determine
 18 to provide for the payment of all or any portion of the closure costs of a hospital
 19 having outstanding public body obligations if the Health Services Cost Review
 20 Commission determines that payment of the closing costs is necessary or appropriate
 21 to:

22 (i) Encourage and assist the hospital to [close;] CLOSE OR
 23 CONVERT; or

24 (ii) Implement the program created by this section.

25 (2) In making the determinations under this subsection, the Health
 26 Services Cost Review Commission shall consider:

27 (i) The amount of the system-wide savings to the State health care
 28 system expected to result from the [closure or delicensure] CLOSURE, DELICENSURE,
 29 OR CONVERSION of the hospital over:

30 1. The period during which the fee to provide for the
 31 payment of the closure costs or any bonds or notes issued to finance the closure costs
 32 will be assessed; or

33 2. A period ending 5 years after the date of [closure or
 34 delicensure,] CLOSURE, DELICENSURE, OR CONVERSION whichever is the longer; and

35 (ii) The recommendations of the Health Resources Planning
 36 Commission and the Authority.

1 (3) Within 60 days after receiving the notice of closure or delicensure
2 required by subsection [(e),] (F), the Health Services Cost Review Commission shall:

3 (i) Determine whether to provide for the payment of all or any
4 portion of the closure costs of the hospital in accordance with this subsection; and

5 (ii) Give written notification of such determination to the Health
6 Resources Planning Commission and the Authority.

7 (4) The provisions of this subsection may not be construed to require the
8 Health Services Cost Review Commission to make provision for the payment of any
9 closure costs of a [closed or delicensed] CLOSED, DELICENSED, OR CONVERTED
10 hospital.

11 (5) In any suit, action or proceeding involving the validity or
12 enforceability of any bond or note issued to finance any closure costs or any security
13 for a bond or note, the determinations of the Health Services Cost Review
14 Commission under this subsection shall be conclusive and binding.

15 [(h)] (I) (1) Within 60 days after receiving the written statement required
16 by subsection [(f)] (G) of this section, the Authority shall prepare a schedule of
17 payments necessary to meet the public body obligations of the hospital.

18 (2) As soon as practicable after receipt of the notice of [closure or
19 delicensure] CLOSURE, DELICENSURE, OR CONVERSION required by subsection [(e)]
20 (F) and after consultation with the issuer of each public body obligation and the
21 Health Services Cost Review Commission, the Authority shall prepare a proposed
22 plan to finance, refinance or otherwise provide for the payment of public body
23 obligations. The proposed plan may include any tender, redemption, advance
24 refunding or other technique deemed appropriate by the Authority.

25 (3) As soon as practicable after receipt of written notification that the
26 Health Services Cost Review Commission has determined to provide for the payment
27 of any closure costs of a hospital pursuant to subsection [(g)] (H) of this section, the
28 Authority shall prepare a proposed plan to finance, refinance or otherwise provide for
29 the payment of the closure costs set forth in the notice.

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

33 (i) [The final determination by the Health Resources Planning
34 Commission to exempt a hospital closure from the certificate of need requirement
35 pursuant to § 19-115(l) of the Health - General Article] FOR A HOSPITAL THAT IS
36 LOCATED IN A COUNTY WITH FEWER THAN THREE HOSPITALS, THE HEALTH
37 RESOURCES PLANNING COMMISSION DETERMINES THAT THE PROPOSED CLOSING
38 IS:

39 1. IN THE PUBLIC INTEREST; AND

- 1 2. NOT INCONSISTENT WITH:
- 2 A. THE STATE HEALTH PLAN; OR
- 3 B. AN INSTITUTION-SPECIFIC PLAN DEVELOPED BY THE
- 4 HEALTH RESOURCES PLANNING COMMISSION.
- 5 (ii) Any final determination of delicensure by the Secretary of
- 6 Health and Mental Hygiene pursuant to § 19-325 of the Health - General Article; or
- 7 (iii) Any final determination by the Health Services Cost Review
- 8 Commission to provide for the payment of any closure costs of the hospital.
- 9 (5) The Authority shall promptly submit the schedule of payments and
- 10 the proposed plan or plans required by this subsection to the Health Services Cost
- 11 Review Commission.
- 12 [(i)] (J) (1) The Authority may issue negotiable bonds or notes for the
- 13 purpose of financing, refinancing or otherwise providing for the payment of public
- 14 body obligations or any closure costs of a hospital in accordance with any plan
- 15 developed pursuant to subsection [(h)] (I) of this section.
- 16 (2) The bonds or notes shall be payable from the fees provided pursuant
- 17 to subsection [(j)] (K) of this section or from other sources as may be provided in the
- 18 plan.
- 19 (3) The bonds or notes shall be authorized, sold, executed and delivered
- 20 as provided for in this article and shall have terms consistent with all existing
- 21 constitutional and legal requirements.
- 22 (4) In connection with the issuance of any bond or note, the Authority
- 23 may assign its rights under any loan, lease or other financing agreement between the
- 24 Authority or any other issuer of a public body obligation and the [closed or
- 25 delicensed] CLOSED, DELICENSED, OR CONVERTED hospital to the State or
- 26 appropriate agency in consideration for the payment of any public body obligation as
- 27 provided in this section.
- 28 [(j)] (K) (1) On the date of [closure or delicensure] CLOSURE,
- 29 DELICENSURE, OR CONVERSION of any hospital for which a financing or refinancing
- 30 plan has been developed in accordance with subsection [(h)] (I) of this section, the
- 31 Health Services Cost Review Commission shall assess a fee on all hospitals as
- 32 provided in § 19-207.2 of the Health - General Article in an amount sufficient to:
- 33 (i) Pay the principal and interest on any public body obligations, or
- 34 any bonds or notes issued by the Authority pursuant to subsection [(i)] (J) of this
- 35 section to finance or refinance public body obligations;
- 36 (ii) Pay any closure costs or the principal and interest on any bonds
- 37 or notes issued by the Authority pursuant to subsection [(i)] (J) of this section to
- 38 finance or refinance any closure costs;

1 (iii) Maintain any reserve required in the resolution, trust
2 agreement or other financing agreement securing public body obligations, bonds, or
3 notes;

4 (iv) Pay any required financing fees or other similar charges; and

5 (v) Maintain reserves deemed appropriate by the Authority to
6 ensure that the amounts provided in this subsection are satisfied in the event any
7 hospital defaults in paying the fees.

8 (2) The fee assessed each hospital shall be equal to that portion of the
9 total fees required to be assessed that is equal to the ratio of the actual gross patient
10 revenues of the hospital to the total gross patient revenues of all hospitals,
11 determined as of the date or dates deemed appropriate by the Authority after
12 consultation with the Health Services Cost Review Commission.

13 (3) Each hospital shall pay the fee directly to the Authority, any trustee
14 for the holders of any bonds or notes issued by the Authority pursuant to subsection
15 [(i)] (J) of this section, or as otherwise directed by the Authority. The fee may be
16 assessed at any time necessary to meet the payment requirements of this subsection.

17 (4) The fees assessed may not be subject to supervision or regulation by
18 any department, commission, board, body or agency of this State. Any pledge of these
19 fees to any bonds or notes issued pursuant to this section or to any other public body
20 obligations, shall immediately subject such fees to the lien of the pledge without any
21 physical delivery or further act. The lien of the pledge shall be valid and binding
22 against all parties having claims of any kind in tort, contract or otherwise against the
23 Authority or any closed or delicensed hospital, irrespective of whether the parties
24 have notice.

25 (5) In the event the Health Services Cost Review Commission shall
26 terminate by law, the Secretary of Health and Mental Hygiene, in accordance with the
27 provisions of this subsection, shall impose a fee on all hospitals licensed pursuant to
28 § 19-318 of the Health - General Article.

29 ~~[(k)] (L) (1) Notwithstanding any other provision of this article, any~~
30 ~~action taken by the Authority to provide for the payment of public body obligations~~
31 ~~shall be for the purpose of maintaining the credit rating of this State, its agencies,~~
32 ~~instrumentalities, and political subdivisions, ensuring their access to the credit~~
33 ~~markets, and may not constitute any payment by or on behalf of a [closed or~~
34 ~~delicensed] CLOSED, DELICENSED, OR CONVERTED hospital. A hospital is not relieved~~
35 ~~of its obligations with respect to the payment of public body obligations. The~~
36 ~~Authority shall be subrogated to the rights of any holders or issuers of public body~~
37 ~~obligations, as if the payment or provision for payment had not been made.~~

38 (L) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
39 MEANINGS INDICATED.

1 (II) "AFFILIATE" MEANS ANY ENTITY THAT DIRECTLY OR
 2 INDIRECTLY, THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS
 3 CONTROLLED BY, OR IS UNDER THE COMMON CONTROL WITH ANOTHER PERSON.

4 (III) "CONTROLS", "CONTROLLING", "CONTROLLED BY", OR "UNDER
 5 COMMON CONTROL WITH" MEANS THE DIRECT OR INDIRECT POSSESSION OF THE
 6 POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICES
 7 POLICIES OF A PERSON, THROUGH OWNERSHIP OF VOTING SECURITIES OR
 8 MEMBERSHIP INTEREST OR OF SECURITIES, MEMBERSHIP INTEREST, OR
 9 SECURITIES CONVERTIBLE INTO VOTING SECURITIES, BY CONTRACT OTHER THAN A
 10 COMMERCIAL CONTRACT FOR GOODS OR NONMANAGEMENT SERVICES, OR
 11 OTHERWISE, WHETHER OR NOT THE POWER IS EXERCISED OR SOUGHT TO BE
 12 EXERCISED.

13 (IV) "VALUE" MEANS THE FAIR MARKET VALUE OF ANY PROPERTY
 14 TRANSFERRED OR RETAINED OR SERVICES PROVIDED.

15 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE
 16 AMOUNT OF ANY PUBLIC BODY OBLIGATION THAT QUALIFIES FOR PAYMENT UNDER
 17 THE MARYLAND HOSPITAL BOND PROGRAM ESTABLISHED UNDER SUBSECTION (A)(3)
 18 OF THIS SECTION SHALL BE REDUCED BY THE SUM OF:

19 (I) THE EXCESS, IF ANY, OF THE TOTAL VALUE OF ALL PROPERTY
 20 TRANSFERRED BY A CLOSED, DELICENSED, OR CONVERTED HOSPITAL TO ANY
 21 AFFILIATE OR TO ANY PERSON OR ENTITY HAVING AN INTEREST IN THE FACILITY
 22 AFTER THE CLOSURE, DELICENSURE, OR CONVERSION OF THE HOSPITAL OVER THE
 23 TOTAL VALUE OF ALL PROPERTY TRANSFERRED AND ALL SERVICES PROVIDED TO
 24 THE CLOSED, DELICENSED, OR CONVERTED HOSPITAL BY THE AFFILIATE OR OTHER
 25 PERSON OR ENTITY; AND

26 (II) THE TOTAL VALUE OF ALL PROPERTY TO BE RETAINED BY THE
 27 HOSPITAL OR ANY AFFILIATE FOLLOWING THE CLOSURE, DELICENSURE, OR
 28 CONVERSION OTHER THAN THE PROPERTY TO BE APPLIED TO THE PAYMENT OF
 29 CLOSURE COSTS APPROVED BY THE HEALTH SERVICES COST REVIEW COMMISSION.

30 (3) (I) THE AUTHORITY MAY DETERMINE THE VALUE OF ANY
 31 PROPERTY OR SERVICES BASED UPON AN APPRAISAL MADE BY AN INDEPENDENT
 32 PROFESSIONAL APPRAISER, THE REPORT OF AN INDEPENDENT CONSULTANT, OR
 33 ANY OTHER METHOD DEEMED APPROPRIATE BY THE AUTHORITY.

34 (II) THE COST OF PROCURING THE APPRAISER OR CONSULTANT
 35 EMPLOYED SHALL BE PAID BY THE CLOSED, DELICENSED, OR CONVERTED
 36 HOSPITAL.

37 (2) (4) The Authority may proceed against ~~THE CLOSED, DELICENSED,~~
 38 OR CONVERTED HOSPITAL OR any guaranty or other collateral securing the payment
 39 of public body obligations of a [closed or delicensed] CLOSED, DELICENSED, OR
 40 CONVERTED hospital which was provided by any entity associated with the hospital if
 41 such action is determined by the Authority to be:

1 (i) Necessary to protect the interests of the holders of the public
2 body obligations; or

3 (ii) Consistent with the public purpose of encouraging and assisting
4 the hospital to [close.] CLOSE OR CONVERT.

5 ~~(3)~~ (5) In making the determination required under paragraph (2) of
6 this subsection, the Authority shall consider:

7 (i) The circumstances under which the guaranty or other collateral
8 was provided; and

9 (ii) The recommendations of the Health Services Cost Review
10 Commission and the Health Resources Planning Commission.

11 ~~(4)~~ (6) Any amount realized by the Authority or any assignee of the
12 Authority in the enforcement of any claim against THE CLOSED, DELICENSED, OR
13 CONVERTED HOSPITAL OR a hospital for which a plan has been developed in
14 accordance with subsection [(h)] (I) of this section shall be applied to offset the
15 amount of the fee required to be assessed by the Health Services Cost Review
16 Commission pursuant to subsection [(j)] (K) of this section. The costs and expenses of
17 enforcing the claim, including any costs for maintaining the property prior to its
18 disposition, shall be deducted from this amount.

19 [(l)] (M) It is the purpose and intent of this section that the Health Services
20 Cost Review Commission, the Health Resources Planning Commission, and the
21 Authority consult with each other and take into account each others'
22 recommendations in making the determinations required to be made under this
23 section.

24 [(m)] (N) Notwithstanding any other provision of this section, in any suit,
25 action or proceeding involving the validity or enforceability of any bond or note or any
26 security for a bond or note, the determinations of the Authority under this section
27 shall be conclusive and binding.

28 [(n)] (O) The Health Services Cost Review Commission, the Health Resources
29 Planning Commission, or the Authority may waive any notice required to be given to
30 it under this section.

31 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Institute
32 for Emergency Medical Services System shall develop standard procedures in
33 accordance with the State Emergency Medical Services Plan for the transport of
34 individuals in need of emergency or urgent care to limited services hospitals.

35 SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take
36 effect October 1, 1999.

