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By: **Delegates Hammen and Taylor**

Introduced and read first time: February 12, 1999

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Hospital Capacity and Cost Containment Act**

3 FOR the purpose of providing that a certificate of need is not required before an  
4 existing or previously approved, but unbuilt, health care facility is moved to  
5 another site under certain circumstances; specifying that a certificate of need is  
6 not required for changing the type or scope of health care services under certain  
7 circumstances and for the reallocation of existing bed capacity under certain  
8 circumstances; repealing the requirement that certain health facilities do not  
9 need a certificate of need when increasing or decreasing bed capacity under  
10 certain circumstances; altering the requirements for when certain hospitals may  
11 close under certain circumstances; establishing the classification of critical  
12 access hospitals for certain health care facilities; establishing certain operating  
13 standards for critical access hospitals; requiring the Secretary of the  
14 Department of Health and Mental Hygiene to make certain calculations relating  
15 to certain hospital's licensed bed capacity and to delicense certain excess beds by  
16 a certain date; altering certain notice requirements for when a person proposes  
17 to close or delicense certain hospitals; altering the Maryland Hospital Bond  
18 Program to permit the Health Services Cost Review Commission to provide for  
19 the payment of all or any portion of the closing costs for certain hospitals that  
20 convert to a critical access hospital; making certain technical and stylistic  
21 changes; defining certain terms; altering certain definitions; and generally  
22 relating to hospital capacity and cost containment.

23 BY repealing and reenacting, with amendments,  
24 Article - Health - General  
25 Section 19-115, 19-201, 19-221, 19-301, and 19-307(a)  
26 Annotated Code of Maryland  
27 (1996 Replacement Volume and 1998 Supplement)

28 BY adding to  
29 Article - Health - General  
30 Section 19-307.1 and 19-307.2  
31 Annotated Code of Maryland  
32 (1996 Replacement Volume and 1998 Supplement)

1 BY repealing and reenacting, without amendments,  
2 Article - Health - General  
3 Section 19-3A-01 through 19-3A-06 and the subtitle "Subtitle 3A.  
4 Freestanding Medical Facilities"  
5 Annotated Code of Maryland  
6 (1996 Replacement Volume and 1998 Supplement)

7 BY repealing and reenacting, with amendments,  
8 Article 43C - Maryland Health and Higher Education Facilities Authority  
9 Section 16A  
10 Annotated Code of Maryland  
11 (1998 Replacement Volume)

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 19-115.

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

17 (2) "CRITICAL ACCESS HOSPITAL" MEANS A HEALTH CARE FACILITY  
18 THAT:

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

20 (II) CHANGES THE TYPE OR SCOPE OF HEALTH CARE SERVICES  
21 OFFERED BY ELIMINATING THE FACILITY'S CAPABILITY TO ADMIT OR RETAIN  
22 PATIENTS FOR OVERNIGHT ACUTE CARE;

23 (III) RETAINS AN EMERGENCY DEPARTMENT; AND

24 (IV) COMPLIES WITH THE OPERATING STANDARDS PROVIDED IN §  
25 19-307.1 OF THIS TITLE.

26 [(2)] (3) (I) "Health care service" means any [clinically-related]  
27 CLINICALLY RELATED patient service [including].

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

30 [(3)] (4) "Medical service" means:

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

32 1. Medicine, surgery, gynecology, addictions;

33 2. Obstetrics;

- 1                                   3.     Pediatrics;
- 2                                   4.     Psychiatry;
- 3                                   5.     Rehabilitation;
- 4                                   6.     Chronic care;
- 5                                   7.     Comprehensive care;
- 6                                   8.     Extended care;
- 7                                   9.     Intermediate care; or
- 8                                   10.    Residential treatment; or

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

12                               (5)    "PRIMARY SERVICE AREA" MEANS:

13                               (I)    THE STATE POSTAL ZIP CODES FROM WHICH THE FIRST 60  
14 PERCENT OF A HOSPITAL'S PATIENT DISCHARGE ORIGINATE DURING THE MOST  
15 RECENT 12-MONTH PERIOD, WHERE THE DISCHARGES FROM EACH ZIP CODE ARE  
16 ORDERED FROM LARGEST TO SMALLEST NUMBER OF DISCHARGES;

17                               (II)   POINT ZIP CODES PHYSICALLY WITHIN ANY OF THE ZIP CODES  
18 DESIGNATED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH;

19                               (III)   THE STATE ZIP CODES PHYSICALLY CONTIGUOUS TO ANY ZIP  
20 CODES DESIGNATED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT PROVIDED 50  
21 PERCENT OR MORE OF THE DISCHARGE TO THE HOSPITAL IN THE MOST RECENT  
22 12-MONTH PERIOD; AND

23                               (IV)   FOR A MERGED ASSET SYSTEM, THE ZIP CODES ARE  
24 TABULATED SEPARATELY FOR EACH HOSPITAL, AND ALL ZIP CODES IDENTIFIED FOR  
25 EITHER ARE INCLUDED IN THE PRIMARY SERVICE AREA OF THE MERGED ASSET  
26 SYSTEM.

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

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

31       (d)    [(1)]   The Commission may adopt, after October 1, 1983, new thresholds or  
32 methods for determining the circumstances or minimum cost requirements under  
33 which a certificate of need application must be filed. [The Commission shall study  
34 alternative approaches and recommend alternatives that will streamline the current

1 process, and provide incentives for management flexibility through the reduction of  
2 instances in which applicants must file for a certificate of need.

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

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

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

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

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

17 (2) This subsection does not apply if:

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

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

24 (III) 1. THE RELOCATION IS TO:

25 A. ANOTHER AREA ON OR IMMEDIATELY ADJACENT TO THE  
26 SITE OF THE EXISTING HOSPITAL OR RELATED INSTITUTION; OR

27 B. A SITE WITHIN THE PRIMARY SERVICE AREA OF THE  
28 EXISTING HOSPITAL OR RELATED INSTITUTION; AND

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

31 [(iii)] (IV) The relocation involves moving a portion of a complement  
32 of comprehensive care beds previously approved by the Commission after January 1,  
33 1995 for use in a proposed new related institution, as defined in § 19-301 of this title,  
34 but unbuilt on October 1, 1998 if:

35 1. The comprehensive care beds that were originally  
36 approved by the Commission in a prior certificate of need review were approved for



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

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

5 D. Is in the public interest; AND

6 [(3)] 3. Within 45 days of receiving notice, the Commission shall notify  
7 the health care facility of its finding; OR

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

11 (I) FOR A HOSPITAL LOCATED IN A COUNTY WITH THREE OR MORE  
12 HOSPITALS, A CERTIFICATE OF NEED IS NOT REQUIRED BEFORE THE BED CAPACITY  
13 IS INCREASED OR DECREASED IF THE CHANGE:

14 (1) OCCURS ON OR AFTER JULY 1, 2000;

15 (2) IS BETWEEN HOSPITALS IN A MERGED ASSET SYSTEM LOCATED  
16 WITHIN THE SAME HEALTH SERVICE AREA;

17 (3) DOES NOT INVOLVE COMPREHENSIVE OR EXTENDED CARE BEDS;  
18 AND

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

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

23 (i) By a health care facility;

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

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

26 (2) This subsection does not apply if:

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

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

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

- 1 Establishment of a new medical service or elimination of  
2 an existing medical service;
  - 3 2. Establishment of an open heart surgery, organ transplant  
4 surgery, or burn or neonatal intensive health care service;
  - 5 3. Establishment of a home health program, hospice  
6 program, or freestanding ambulatory surgical center or facility; or
  - 7 4. Expansion of a comprehensive care, extended care,  
8 intermediate care, residential treatment, psychiatry, or rehabilitation medical  
9 service, except for an expansion related to an increase in total bed capacity in  
10 accordance with subsection (h)(2)(i) of this section; or
- 11 (iv) 1. At least 45 days before increasing or decreasing the  
12 volume of 1 or more health care services, written notice of intent to change the volume  
13 of health care services is filed with the Commission;
- 14 2. The Commission in its sole discretion finds that the  
15 proposed change:
    - 16 A. Is pursuant to the consolidation or merger of 2 or more  
17 health care facilities, [or] THE conversion of a health care facility or part of a facility  
18 to a nonhealth-related [use;] USE, OR THE CONVERSION OF A HOSPITAL TO A  
19 CRITICAL ACCESS HOSPITAL;
    - 20 B. Is not inconsistent with the State health plan or the  
21 institution-specific plan developed and adopted by the Commission;
    - 22 C. Will result in the delivery of more efficient and effective  
23 health care services; and
    - 24 D. Is in the public interest; and
  - 25 3. Within 45 days of receiving notice under item 1 of this  
26 subparagraph, the Commission shall notify the health care facility of its finding.
- 27 (3) Notwithstanding the provisions of paragraph (2) of this subsection, a  
28 certificate of need is required:
- 29 (i) Before an additional home health agency, branch office, or home  
30 health care service is established by an existing health care agency or facility;
  - 31 (ii) Before an existing home health agency or health care facility  
32 establishes a home health agency or home health care service at a location in the  
33 service area not included under a previous certificate of need or license;
  - 34 (iii) Before a transfer of ownership of any branch office of a home  
35 health agency or home health care service of an existing health care facility that  
36 separates the ownership of the branch office from the home health agency or home

1 health care service of an existing health care facility which established the branch  
2 office; or

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

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

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

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

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

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

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

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

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

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

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

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





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



1 (II) WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE OF INTENT TO  
2 CLOSE, THE COMMISSION, IN CONSULTATION WITH THE HOSPITAL, HOLDS A PUBLIC  
3 INFORMATIONAL HEARING IN THE COUNTY WHERE THE HOSPITAL IS LOCATED; OR

4 (2) (I) FOR A HOSPITAL LOCATED IN A COUNTY WITH FEWER THAN  
5 THREE HOSPITALS, AT LEAST 45 DAYS BEFORE THE CLOSING OR PARTIAL CLOSING  
6 OF THE HOSPITAL, A PERSON PROPOSING TO CLOSE ALL OR PART OF THE HOSPITAL  
7 FILES NOTICE OF THE PROPOSED CLOSING OR PARTIAL CLOSING WITH THE  
8 COMMISSION; AND

9 (II) THE COMMISSION FINDS THAT THE CLOSING:

10 1. IS IN THE PUBLIC INTEREST; AND

11 2. IS NOT INCONSISTENT WITH:

12 A. THE STATE HEALTH PLAN; OR

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

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

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

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

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

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

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

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

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

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

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

3 19-201.

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

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

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

7 (1) Any hospital; or

8 (2) Any related institution.

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

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

12 (ii) Emergency services;

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

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

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

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

18 (II) OUTPATIENT SERVICES PROVIDED AT A CRITICAL ACCESS  
19 HOSPITAL AS DEFINED IN § 19-301 OF THIS TITLE, EXCEPT FOR EMERGENCY  
20 SERVICES.

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

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

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

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

28 19-221.

29 (a) (1) Any person aggrieved by a final decision of the Commission under  
30 this subtitle may not appeal to the Board of Review but may take a direct judicial  
31 appeal.

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

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

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

8 (2) The Commission is a necessary party to an appeal at all levels of the  
9 appeal.

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

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

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

18 19-301.

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

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

22 (c) "Accredited residential treatment center" means a residential treatment  
23 center that is accredited by the Joint Commission on Accreditation of Healthcare  
24 Organizations.

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

27 (1) 2 or more rooms;

28 (2) A direct exit to a thoroughfare or to a common element leading to a  
29 thoroughfare;

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

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

32 (i) Storage space for food and utensils;

33 (ii) A refrigerator;

- 1 (iii) A cook top; and
- 2 (iv) Adequate electrical capacity and outlets for small appliances.
- 3 (E) "CRITICAL ACCESS HOSPITAL" MEANS A HEALTH CARE FACILITY THAT:
- 4 (1) IS LICENSED AS A HOSPITAL ON OR AFTER JANUARY 1, 1999;
- 5 (2) CHANGES THE TYPE OR SCOPE OF HEALTH CARE SERVICES  
6 OFFERED BY ELIMINATING THE FACILITY'S CAPABILITY TO ADMIT OR RETAIN  
7 PATIENTS FOR OVERNIGHT ACUTE CARE;
- 8 (3) RETAINS AN EMERGENCY DEPARTMENT; AND
- 9 (4) COMPLIES WITH THE OPERATING STANDARDS PROVIDED IN §  
10 19-307.1 OF THIS TITLE.
- 11 [(e)] (F) (1) "Domiciliary care" means services that are provided to aged or  
12 disabled individuals in a protective, institutional or home-type environment.
- 13 (2) "Domiciliary care" includes:
- 14 (i) Shelter;
- 15 (ii) Housekeeping services;
- 16 (iii) Board;
- 17 (iv) Facilities and resources for daily living; and
- 18 (v) Personal surveillance or direction in the activities of daily  
19 living.
- 20 [(f)] (G) "Hospital" means an institution that:
- 21 (1) Has a group of at least 5 physicians who are organized as a medical  
22 staff for the institution;
- 23 (2) Maintains facilities to provide, under the supervision of the medical  
24 staff, diagnostic and treatment services for 2 or more unrelated individuals; and
- 25 (3) Admits or retains the individuals for overnight care.
- 26 [(g)] (H) "License" means a license issued by the Secretary:
- 27 (1) To operate a hospital in this State;
- 28 (2) To operate a related institution in this State; or
- 29 (3) To operate a residential treatment center in this State.

1     [(h)]   (I)     "Nonaccredited hospital" means a hospital not accredited by the Joint  
2 Commission on Accreditation of Healthcare Organizations.

3     [(i)]   (J)     "Nonaccredited residential treatment center" means a residential  
4 treatment center that is not accredited by the Joint Commission on Accreditation of  
5 Healthcare Organizations.

6     [(j)]   (K)     "Nursing care" means service for a patient that is:

7             (1)     Ordered by a physician; and

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

10    [(k)]   (L)     "Nursing facility" means a related institution that provides nursing  
11 care for 2 or more unrelated individuals.

12    [(l)]   (M)     "Person" includes this State or a county or municipal corporation.

13    [(m)]   (N)     (1)     "Personal care" means a service that an individual normally  
14 would perform personally, but for which the individual needs help from another  
15 because of advanced age, infirmity, or physical or mental limitation.

16             (2)     "Personal care" includes:

17                 (i)     Help in walking;

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

19                 (iii)   Help in bathing;

20                 (iv)    Help in dressing;

21                 (v)     Help in feeding; and

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

23    [(n)]   (O)     (1)     "Related institution" means an organized institution,  
24 environment, or home that:

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

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

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



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

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

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

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

10 19-307.

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

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

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

16 1. Defines a program of specialized services, such as  
17 obstetrics, mental health, tuberculosis, orthopedy, chronic disease, or communicable  
18 disease;

19 2. Admits only patients with medical or surgical needs  
20 within the program; and

21 3. Has the facilities for and provides those specialized  
22 services; [or]

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

25 (IV) AS A CRITICAL ACCESS HOSPITAL IF THE HEALTH CARE  
26 FACILITY:

27 1. IS LICENSED AS A HOSPITAL ON OR AFTER JANUARY 1,  
28 1999;

29 2. CHANGES THE TYPE OR SCOPE OF SERVICES OFFERED BY  
30 ELIMINATING THE CAPABILITY TO ADMIT OR RETAIN INDIVIDUALS FOR OVERNIGHT  
31 ACUTE CARE;

32 3. RETAINS AN EMERGENCY DEPARTMENT; AND

33 4. COMPLIES WITH THE OPERATING STANDARDS PROVIDED  
34 IN § 19-307.1 OF THIS TITLE.

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

3 19-307.1.

4 A CRITICAL ACCESS HOSPITAL SHALL MEET THE FOLLOWING OPERATING  
5 STANDARDS:

6 (1) THE CRITICAL ACCESS HOSPITAL SHALL BE OPEN 24 HOURS A DAY, 7  
7 DAYS A WEEK;

8 (2) THERE SHALL BE AT LEAST ONE PHYSICIAN TRAINED IN  
9 EMERGENCY MEDICINE AT THE CRITICAL ACCESS HOSPITAL AT ALL TIMES;

10 (3) A SUFFICIENT NUMBER OF REGISTERED NURSES AND OTHER  
11 HEALTH PROFESSIONALS SHALL BE AVAILABLE AT THE CRITICAL ACCESS HOSPITAL  
12 TO PROVIDE ADVANCED LIFE SUPPORT;

13 (4) BASIC X-RAY AND LABORATORY FACILITIES SHALL BE AVAILABLE AT  
14 THE CRITICAL ACCESS HOSPITAL AND OPERABLE AT ALL TIMES BY ONE RADIOLOGY  
15 TECHNICIAN AND ONE LABORATORY TECHNICIAN;

16 (5) RESUSCITATION EQUIPMENT, INCLUDING MONITOR,  
17 DEFIBRILLATOR, CARDIAC MEDICATIONS, INTUBATION EQUIPMENT, AND  
18 INTRAVENOUS LINE EQUIPMENT SHALL BE AVAILABLE AT THE CRITICAL ACCESS  
19 HOSPITAL AND OPERABLE AT ALL TIMES;

20 (6) STANDARD PROCEDURES IN ACCORDANCE WITH THE STATE  
21 EMERGENCY MEDICAL SERVICES PLAN SHALL EXIST FOR THE IMMEDIATE  
22 TRANSPORT OF INDIVIDUALS IN NEED OF HOSPITALIZATION OR OTHER MORE  
23 DEFINITIVE CARE;

24 (7) SPECIFIC DEFINED ROLE IN EMERGENCY MEDICAL SERVICES  
25 SYSTEM WITH APPROPRIATE TELEPHONE COMMUNICATION SHALL EXIST;

26 (8) EMERGENCY SERVICES SHALL BE AVAILABLE TO ALL PERSONS  
27 REGARDLESS OF ABILITY TO PAY; AND

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

33 19-307.2.

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

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

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

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

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

13 (2) THE HOSPITAL NOTIFIES THE COMMISSION WITHIN 15 DAYS OF  
14 EXCEEDING ITS LICENSED BED CAPACITY.

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

18 Subtitle 3A. Freestanding Medical Facilities.

19 19-3A-01.

20 In this subtitle, "freestanding medical facility" means a facility:

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

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

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

25 19-3A-02.

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

31 (1) The freestanding medical facility shall be open 24 hours a day, 7 days  
32 a week;

33 (2) There shall be at least 1 physician trained in emergency medicine at  
34 the facility at all times;

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

4 (4) Basic X-ray and laboratory facilities shall be available at the  
5 freestanding medical facility and operable at all times by 1 radiology technician and  
6 1 laboratory technician;

7 (5) Resuscitation equipment, including monitor, defibrillator, cardiac  
8 medications, intubation equipment, and intravenous line equipment;

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

12 (7) Specific defined role in Emergency Medical Services System with  
13 appropriate telephone communication;

14 (8) Availability of emergency services to all persons regardless of ability  
15 to pay;

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

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

23 19-3A-03.

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

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

31 19-3A-04.

32 The governing body of any county may adopt rules and regulations governing  
33 freestanding medical facilities more restrictive than the regulations adopted by the  
34 Department.

1 19-3A-05.

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

5 (b) If a freestanding medical facility fails to comply with the requirements of §  
6 19-3A-02(9) and (10) of this subtitle, the Department may impose a fine of up to \$500  
7 per day per violation for each day a violation continues.

8 19-3A-06.

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

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

13 16A.

14 (A) THIS SECTION APPLIES TO:

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

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

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

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

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

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

26 [(1)] (2) "Closure costs" means the reasonable costs determined by the  
27 Health Services Cost Review Commission to be incurred in connection with the  
28 [closure or delicensure] CLOSURE, DELICENSURE, OR CONVERSION of a hospital,  
29 including expenses of operating the hospital, payments to employees, employee  
30 benefits, fees of consultants, insurance, security services, utilities, legal fees, capital  
31 costs, costs of terminating contracts with vendors, suppliers of goods and services and  
32 others, debt service, contingencies and other necessary or appropriate costs and  
33 expenses.

34 [(2)] (3) (i) "Public body obligation" means any bond, note, evidence  
35 of indebtedness or other obligation for the payment of borrowed money issued by the

1 Authority, any public body as defined in Article 31, § 9 of the Code, the Mayor and  
 2 City Council of Baltimore, or any municipal corporation subject to the provisions of  
 3 Article XI-E of the Maryland Constitution.

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

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

8 A. Insured by an effective municipal bond insurance policy;  
 9 and

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

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

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

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

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

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

33 (1) The closure of a hospital is in accordance with § 19-115(l) of the  
 34 Health - General [Article or] ARTICLE, the delicensure of a hospital is in accordance  
 35 with § 19-325 of the Health - General [Article;] ARTICLE, OR THE CONVERSION OF A  
 36 HOSPITAL IS IN ACCORDANCE WITH § 19-115(J) OF THE HEALTH - GENERAL ARTICLE;

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

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

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

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

7 (i) The Authority and the Health Services Cost Review  
8 Commission written notification of the filing by a hospital with the Health Resources  
9 Planning Commission of any written notice of intent to close under § 19-115(l) of the  
10 Health - General Article; [or]

11 (II) THE AUTHORITY AND THE HEALTH SERVICES COST REVIEW  
12 COMMISSION WRITTEN NOTIFICATION OF THE FILING BY A HOSPITAL WITH THE  
13 HEALTH RESOURCES PLANNING COMMISSION OF ANY WRITTEN NOTICE OF INTENT  
14 TO CONVERT UNDER § 19-115 (J) OF THE HEALTH - GENERAL ARTICLE; OR

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

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

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

23 (i) A determination by the Health Resources Planning Commission  
24 to exempt a hospital closure from the certificate of need requirement pursuant to §  
25 19-115(l) of the Health - General Article; or

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

28 (1) AFTER A DETERMINATION BY THE SECRETARY OF HEALTH AND  
29 MENTAL HYGIENE TO DELICENSE A HOSPITAL IN ACCORDANCE WITH § 19-325 OF  
30 THE HEALTH - GENERAL ARTICLE, THE SECRETARY SHALL GIVE THE AUTHORITY  
31 AND THE HEALTH SERVICES COST REVIEW COMMISSION WRITTEN NOTIFICATION OF  
32 THE DETERMINATION.

33 (2) FOR A HOSPITAL THAT IS LOCATED IN A COUNTY WITH MORE THAN  
34 THREE HOSPITALS, THE HEALTH RESOURCES PLANNING COMMISSION SHALL  
35 PROVIDE THE AUTHORITY AND THE HEALTH SERVICES COST REVIEW COMMISSION  
36 NOTIFICATION THAT THE HEALTH RESOURCES PLANNING COMMISSION AND THE  
37 HOSPITAL HELD A PUBLIC INFORMATION HEARING IN THE COUNTY WHERE THE  
38 HOSPITAL IS LOCATED.

1 (3) FOR A HOSPITAL THAT IS LOCATED IN A COUNTY WITH FEWER THAN  
 2 THREE HOSPITALS, THE HEALTH RESOURCES PLANNING COMMISSION SHALL  
 3 PROVIDE THE AUTHORITY AND THE HEALTH SERVICES COST REVIEW COMMISSION  
 4 NOTIFICATION OF THE DETERMINATION BY THE HEALTH RESOURCES PLANNING  
 5 COMMISSION ON WHETHER THE PROPOSED CLOSING IS:

6 (I) IN THE PUBLIC INTEREST; AND

7 (II) NOT INCONSISTENT WITH:

8 1. THE STATE HEALTH PLAN; OR

9 2. AN INSTITUTION-SPECIFIC PLAN DEVELOPED BY THE  
 10 HEALTH RESOURCES PLANNING COMMISSION.

11 (4) FOR A HOSPITAL THAT CONVERTS TO A CRITICAL ACCESS HOSPITAL  
 12 UNDER § 19-115(J) OF THE HEALTH - GENERAL ARTICLE, THE HEALTH RESOURCES  
 13 PLANNING COMMISSION SHALL PROVIDE THE AUTHORITY AND THE HEALTH  
 14 SERVICES COST REVIEW COMMISSION NOTIFICATION OF THE DETERMINATION BY  
 15 THE HEALTH RESOURCES PLANNING COMMISSION ON WHETHER THE CONVERSION  
 16 IS:

17 (I) IN THE PUBLIC INTEREST;

18 (II) WILL RESULT IN THE DELIVERY OF MORE EFFICIENT AND  
 19 EFFECTIVE HEALTH CARE SERVICES; AND

20 (III) NOT INCONSISTENT WITH:

21 1. THE STATE HEALTH PLAN; OR

22 2. AN INSTITUTION-SPECIFIC PLAN DEVELOPED BY THE  
 23 HEALTH RESOURCES PLANNING COMMISSION.

24 [(2)] (5) The Health Resources Planning Commission and the Secretary  
 25 of Health and Mental Hygiene shall submit the written notification required in  
 26 [paragraph (1)] PARAGRAPHS (1) THROUGH (4) of this subsection no later than 150  
 27 days prior to the scheduled date of the hospital [closure or delicensure] CLOSURE,  
 28 DELICENSURE, OR CONVERSION and shall include the name and location of the  
 29 hospital, and the scheduled date of hospital [closure or delicensure] CLOSURE,  
 30 DELICENSURE, OR CONVERSION.

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

36 (i) The name of each issuer of a public body obligation on behalf of  
 37 the hospital;



1 (ii) The outstanding principal amount of each public body  
2 obligation and the due dates for payment or any mandatory redemption or purchase  
3 thereof;

4 (iii) The due dates for the payment of interest on each public body  
5 obligation and the interest rates; and

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

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

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

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

17 (III) IN THE CASE OF CONVERSION PURSUANT TO § 19-115(J) OF THE  
18 HEALTH - GENERAL ARTICLE, AT LEAST 10 DAYS AFTER THE DATE OF FILING WITH  
19 THE HEALTH RESOURCES PLANNING COMMISSION OF WRITTEN NOTICE OF INTENT  
20 TO CONVERT TO A CRITICAL ASSESS HOSPITAL.

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

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

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

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

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

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



1 LOCATED IN A COUNTY WITH FEWER THAN THREE HOSPITALS, THE HEALTH  
2 RESOURCES PLANNING COMMISSION DETERMINES THAT THE PROPOSED CLOSING  
3 IS:

4 1. IN THE PUBLIC INTEREST; AND

5 2. NOT INCONSISTENT WITH:

6 A. THE STATE HEALTH PLAN; OR

7 B. AN INSTITUTION-SPECIFIC PLAN DEVELOPED BY THE  
8 HEALTH RESOURCES PLANNING COMMISSION.

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

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

13 (5) The Authority shall promptly submit the schedule of payments and  
14 the proposed plan or plans required by this subsection to the Health Services Cost  
15 Review Commission.

16 [(i)] (J) (1) The Authority may issue negotiable bonds or notes for the  
17 purpose of financing, refinancing or otherwise providing for the payment of public  
18 body obligations or any closure costs of a hospital in accordance with any plan  
19 developed pursuant to subsection [(h)] (I) of this section.

20 (2) The bonds or notes shall be payable from the fees provided pursuant  
21 to subsection [(j)] (K) of this section or from other sources as may be provided in the  
22 plan.

23 (3) The bonds or notes shall be authorized, sold, executed and delivered  
24 as provided for in this article and shall have terms consistent with all existing  
25 constitutional and legal requirements.

26 (4) In connection with the issuance of any bond or note, the Authority  
27 may assign its rights under any loan, lease or other financing agreement between the  
28 Authority or any other issuer of a public body obligation and the [closed or  
29 delicensed] CLOSED, DELICENSED, OR CONVERTED hospital to the State or  
30 appropriate agency in consideration for the payment of any public body obligation as  
31 provided in this section.

32 [(j)] (K) (1) On the date of [closure or delicensure] CLOSURE,  
33 DELICENSURE, OR CONVERSION of any hospital for which a financing or refinancing  
34 plan has been developed in accordance with subsection [(h)] (I) of this section, the  
35 Health Services Cost Review Commission shall assess a fee on all hospitals as  
36 provided in § 19-207.2 of the Health - General Article in an amount sufficient to:

1 (i) Pay the principal and interest on any public body obligations, or  
2 any bonds or notes issued by the Authority pursuant to subsection [(i)] (J) of this  
3 section to finance or refinance public body obligations;

4 (ii) Pay any closure costs or the principal and interest on any bonds  
5 or notes issued by the Authority pursuant to subsection [(i)] (J) of this section to  
6 finance or refinance any closure costs;

7 (iii) Maintain any reserve required in the resolution, trust  
8 agreement or other financing agreement securing public body obligations, bonds, or  
9 notes;

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

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

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

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

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

31 (5) In the event the Health Services Cost Review Commission shall  
32 terminate by law, the Secretary of Health and Mental Hygiene, in accordance with the  
33 provisions of this subsection, shall impose a fee on all hospitals licensed pursuant to  
34 § 19-318 of the Health - General Article.

35 [(k)] (L) (1) Notwithstanding any other provision of this article, any  
36 action taken by the Authority to provide for the payment of public body obligations  
37 shall be for the purpose of maintaining the credit rating of this State, its agencies,  
38 instrumentalities, and political subdivisions, ensuring their access to the credit  
39 markets, and may not constitute any payment by or on behalf of a [closed or  
40 delicensed] CLOSED, DELICENSED, OR CONVERTED hospital. A hospital is not relieved  
41 of its obligations with respect to the payment of public body obligations. The

1 Authority shall be subrogated to the rights of any holders or issuers of public body  
2 obligations, as if the payment or provision for payment had not been made.

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

7 (i) Necessary to protect the interests of the holders of the public  
8 body obligations; or

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

11 (3) In making the determination required under paragraph (2) of this  
12 subsection, the Authority shall consider:

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

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

17 (4) Any amount realized by the Authority or any assignee of the  
18 Authority in the enforcement of any claim against a hospital for which a plan has  
19 been developed in accordance with subsection [(h)] (I) of this section shall be applied  
20 to offset the amount of the fee required to be assessed by the Health Services Cost  
21 Review Commission pursuant to subsection [(j)] (K) of this section. The costs and  
22 expenses of enforcing the claim, including any costs for maintaining the property  
23 prior to its disposition, shall be deducted from this amount.

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

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

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

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