
By: **Senator Frosh**
Introduced and read first time: February 5, 1999
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Certificate of Need - Open Heart Surgical Program - Suburban Maryland**
3 **Health Planning Area**

4 FOR the purpose of requiring the Health Resources Planning Commission to
5 establish certain application procedures for a new open heart surgical program
6 in certain jurisdictions; establishing certain procedures and standards relating
7 to obtaining a certificate of need for a new open heart surgical program;
8 providing for the termination of this Act; and generally relating to the
9 establishment of a new open heart surgical program.

10 BY repealing and reenacting, without amendments,
11 Article - Health - General
12 Section 19-101
13 Annotated Code of Maryland
14 (1996 Replacement Volume and 1998 Supplement)

15 BY adding to
16 Article - Health - General
17 Section 19-118.1
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1998 Supplement)

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

22 **Article - Health - General**

23 19-101.

24 (a) In Part I of this subtitle the following words have the meanings indicated.

25 (b) (1) "Ambulatory surgical facility" means any center, service, office,
26 facility, or office of one or more health care practitioners or a group practice, as
27 defined in § 1-301 of the Health Occupations Article, that:

- 1 (i) Has two or more operating rooms;
- 2 (ii) Operates primarily for the purpose of providing surgical
3 services to patients who do not require overnight hospitalization; and
- 4 (iii) Seeks reimbursement from payors as an ambulatory surgical
5 facility.
- 6 (2) For purposes of this subtitle, the office of one or more health care
7 practitioners or a group practice with two operating rooms may be exempt from the
8 certificate of need requirements under this subtitle if the Commission finds, in its
9 sole discretion, that:
- 10 (i) A second operating room is necessary to promote the efficiency,
11 safety, and quality of the surgical services offered; and
- 12 (ii) The office meets the criteria for exemption from the certificate
13 of need requirements as an ambulatory surgical facility in accordance with
14 regulations adopted by the Commission.
- 15 (c) "Certificate of need" means a certification of public need issued by the
16 Commission under this subtitle for a health care project.
- 17 (d) "Commission" means the State Health Resources Planning Commission.
- 18 (e) "Federal Act" means the National Health Planning and Resources
19 Development Act of 1974 (Public Law 93-641), as amended.
- 20 (f) (1) "Health care facility" means:
- 21 (i) A hospital, as defined in § 19-301 of this title;
- 22 (ii) A related institution, as defined in § 19-301 of this title;
- 23 (iii) An ambulatory surgical facility;
- 24 (iv) An inpatient facility that is organized primarily to help in the
25 rehabilitation of disabled individuals, through an integrated program of medical and
26 other services provided under competent professional supervision;
- 27 (v) A home health agency, as defined in § 19-401 of this title;
- 28 (vi) A hospice, as defined in § 19-901 of this title; and
- 29 (vii) Any other health institution, service, or program for which Part
30 I of this subtitle requires a certificate of need.
- 31 (2) "Health care facility" does not include:
- 32 (i) A hospital or related institution that is operated, or is listed and
33 certified, by the First Church of Christ Scientist, Boston, Massachusetts;

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

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

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

11 3. The facility is located on the campus of the continuing care
12 facility;

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

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

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

22 (g) "Health care practitioner" means a person who is licensed, certified, or
23 otherwise authorized under the Health Occupations Article to provide medical
24 services in the ordinary course of business or practice of a profession.

25 (h) "Health service area" means an area of this State that the Governor
26 designates as appropriate for planning and developing of health services.

27 (i) "Local health planning agency" means a body that the Commission
28 designates to perform health planning and development functions for a health service
29 area.

30 19-118.1.

31 (A) NOTWITHSTANDING THE PROVISIONS OF § 19-115 OF THIS SUBTITLE, OR
32 ANY REGULATIONS, POLICIES, OR DECISIONS OF THE COMMISSION, THE
33 COMMISSION SHALL INITIATE WITHIN 45 DAYS OF THE EFFECTIVE DATE OF THIS ACT
34 AN APPLICATION PROCESS FOR A NEW SURGICAL PROGRAM FOR OPEN HEART
35 SURGERY UNDER THE FOLLOWING CONDITIONS:

36 (1) THE NEW SURGICAL PROGRAM SHALL BE LOCATED IN THE HEALTH
37 PLANNING AREA ENCOMPASSING MONTGOMERY COUNTY, PRINCE GEORGE'S
38 COUNTY, OR SOUTHERN MARYLAND;

1 (2) THE COMMISSION'S NEED METHODOLOGY OR ASSESSMENT FOR THE
2 NECESSITY OF AN OPEN HEART SURGERY PROGRAM SHALL NOT APPLY TO THE
3 CREATION OF THIS PROGRAM; AND

4 (3) ALL OTHER PROVISIONS OF THE COMMISSION'S CERTIFICATE OF
5 NEED APPLICATION PROCESS, INCLUDING THE IMPACT ON OTHER PROVIDERS OF
6 THE SAME SERVICE IN THE REGION, SHALL APPLY TO THE CREATION OF THIS
7 PROGRAM.

8 (B) NOTWITHSTANDING THE PROVISIONS OF § 19-115 OF THIS SUBTITLE, THE
9 COMMISSION SHALL AWARD A CERTIFICATE OF NEED TO THE APPLICANT THAT
10 DEMONSTRATES ITS PROGRAM IS IN THE BEST INTEREST OF THE CITIZENS OF THE
11 APPLICABLE HEALTH PLANNING REGION AND THE STATE.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 June 1, 1999. It shall remain effective for a period of 3 years and, at the end of May
14 31, 2002, with no further action required by the General Assembly, this Act shall be
15 abrogated and of no further force and effect. A certificate of need issued to an
16 applicant pursuant to the action required by the Health Resources Planning
17 Commission under this Act shall remain in full force and effect, subject to the
18 provisions of the applicable laws and regulations, notwithstanding the termination of
19 the Act.