

HOUSE BILL 652

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2001 Regular Session
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By: **Chairman, Environmental Matters Committee (Departmental - Health
and Mental Hygiene)**

Introduced and read first time: February 7, 2001

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - Maryland Health Care**
3 **Commission - Modifications and Clarifications**

4 FOR the purpose of authorizing the Maryland Health Care Commission to adopt
5 regulations to establish certain deadlines for filing information and to impose
6 certain penalties in certain circumstances; making certain modifications to the
7 methodology for calculating user fees assessed payors; transferring certain
8 health planning functions to the Secretary of Health and Mental Hygiene;
9 repealing or transferring to the Secretary of Health and Mental Hygiene certain
10 provisions relating to establishment and operation of local health planning
11 agencies; altering certain definitions; clarifying that the Commission may
12 provide certain information to the Department of Health and Mental Hygiene
13 and local health departments; and generally relating to the Maryland Health
14 Care Commission.

15 BY repealing and reenacting, with amendments,
16 Article - Health - General
17 Section 1-101, 2-105, 19-109(a), 19-111, 19-114, 19-116(b), 19-121,
18 19-122(d)(4), 19-123(l)(2), 19-124(b)(1)(ii), 19-126(2), 19-127(a), (c)(3),
19 and (d), 19-134(f), and 19-135(a)(1) and (b)
20 Annotated Code of Maryland
21 (2000 Replacement Volume)

22 BY adding to
23 Article - Health - General
24 Section 2-401 to be under the new subtitle "Subtitle 4. Local Health Planning
25 Agencies"
26 Annotated Code of Maryland
27 (2000 Replacement Volume)

28 BY repealing
29 Article - Health - General
30 Section 19-118 through 19-120, inclusive

1 Annotated Code of Maryland
2 (2000 Replacement Volume)

3 BY renumbering
4 Article - Health - General
5 Section 19-121 through 19-125.2 and 19-126 through 19-138, respectively
6 to be Section 19-118 through 19-137, respectively
7 Annotated Code of Maryland
8 (2000 Replacement Volume)
9 (As enacted by Section 1 of this Act)

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

12 **Article - Health - General**

13 1-101.

14 (a) In this article the following words have the meanings indicated.

15 (b) "County" means a county of this State and, unless expressly provided
16 otherwise, Baltimore City.

17 (c) "Department" means the Department of Health and Mental Hygiene.

18 (d) "Health officer" means, unless expressly provided otherwise, the Baltimore
19 City Commissioner of Health or the health officer of a county.

20 (e) "Includes" or "including" means includes or including by way of illustration
21 and not by way of limitation.

22 (F) "LOCAL HEALTH PLANNING AGENCY" MEANS THE HEALTH DEPARTMENT
23 OF A JURISDICTION OR A BODY DESIGNATED BY THE LOCAL HEALTH DEPARTMENT
24 TO PERFORM HEALTH PLANNING FUNCTIONS.

25 [(f)] (G) "Medical examiner" means:

26 (1) The Chief Medical Examiner;

27 (2) The Deputy Chief Medical Examiner;

28 (3) Any assistant medical examiner; or

29 (4) Any deputy medical examiner.

30 [(g)] (H) "Person" means an individual, receiver, trustee, guardian, personal
31 representative, fiduciary, or representative of any kind and any partnership, firm,
32 association, corporation, or other entity.

1 [(h)] (I) "Physician" means an individual who is authorized under the
2 Maryland Medical Practice Act to practice medicine in this State.

3 [(i)] (J) "Secretary" means the Secretary of Health and Mental Hygiene.

4 [(j)] (K) "State" means:

5 (1) A state, possession, or territory of the United States;

6 (2) The District of Columbia; or

7 (3) The Commonwealth of Puerto Rico.

8 2-105.

9 (a) The Secretary shall establish general policy for, and adopt standards to
10 promote and guide the development of, the physical and mental hygiene services of
11 this State and its subdivisions.

12 (b) The Secretary is responsible for the health interests of the people of this
13 State and shall supervise generally the administration of the health laws of this State
14 and its subdivisions.

15 (C) THE SECRETARY SHALL ADOPT AND REVISE AS NECESSARY A STATE
16 HEALTH IMPROVEMENT PLAN THAT INCLUDES THE FOLLOWING:

17 (1) A DESCRIPTION OF THE COMPONENTS THAT SHOULD COMPRISE THE
18 HEALTH CARE SYSTEM;

19 (2) THE GOALS AND POLICIES FOR MARYLAND'S HEALTH CARE SYSTEM;

20 (3) IDENTIFICATION OF UNMET NEEDS AND EXCESS SERVICES FOR
21 FACILITIES AND SERVICES NOT REGULATED BY THE CERTIFICATE OF NEED
22 PROGRAM; AND

23 (4) AN ASSESSMENT OF THE FINANCIAL RESOURCES REQUIRED AND
24 AVAILABLE FOR THE HEALTH CARE SYSTEM.

25 SUBTITLE 4. LOCAL HEALTH PLANNING AGENCIES

26 2-401.

27 (A) A LOCAL HEALTH PLANNING AGENCY SHALL:

28 (1) DEVELOP A LOCAL HEALTH PLAN BY ASSESSING LOCAL HEALTH
29 NEEDS AND RESOURCES; AND

30 (2) PROVIDE INPUT INTO THE DEVELOPMENT OF STATEWIDE CRITERIA
31 AND STANDARDS FOR CERTIFICATE OF NEED AND HEALTH PLANNING.

1 (B) THE DEPARTMENT MAY REQUIRE THAT IN DEVELOPING LOCAL HEALTH
2 PLANS, EACH LOCAL HEALTH PLANNING AGENCY:

3 (1) USE DATA COMPATIBLE WITH STATE DATA AND DATA USED BY
4 OTHER LOCAL HEALTH PLANNING AGENCIES;

5 (2) MEET APPLICABLE PLANNING SPECIFICATIONS; AND

6 (3) WORK WITH OTHER LOCAL HEALTH PLANNING AGENCIES TO
7 ENSURE CONSISTENCY AMONG LOCAL HEALTH PLANS.

8 (C) SUBJECT TO THE ANNUAL STATE BUDGET, THE DEPARTMENT SHALL
9 PROVIDE FUNDING TO LOCAL HEALTH PLANNING AGENCIES FOR IMPLEMENTATION
10 OF THE FUNCTIONS UNDER THIS SECTION AND ANY OTHER FUNCTIONS REQUIRED
11 BY THE DEPARTMENT OR THE MARYLAND HEALTH CARE COMMISSION.

12 19-109.

13 (a) In addition to the powers set forth elsewhere in this subtitle, the
14 Commission may:

15 (1) Adopt rules and regulations to carry out the provisions of this
16 subtitle;

17 (2) Create committees from among its members;

18 (3) Appoint advisory committees, which shall include consumers and
19 may include representatives of interested public or private organizations, to make
20 recommendations to the Commission on community-based services, long term care,
21 acute patient services, ambulatory surgical services, specialized health care services,
22 residential treatment centers for emotionally disturbed children and adolescents,
23 mental health and alcohol and drug abuse services, and any other topic or issue that
24 the Commission considers necessary;

25 (4) Apply for and accept any funds, property, or services from any person
26 or government agency;

27 (5) Make agreements with a grantor or payor of funds, property, or
28 services, including an agreement to make any study, plan, demonstration, or project;

29 (6) Publish and give out any information that relates to the financial
30 aspects of health care and is considered desirable in the public interest; and

31 (7) Subject to the limitations of this subtitle, exercise any other power
32 that is reasonably necessary to carry out the purposes of this subtitle, INCLUDING
33 ADOPTING REGULATIONS THAT SET REASONABLE DEADLINES FOR FILING OF
34 INFORMATION OR REPORTS REQUIRED UNDER THIS SUBTITLE AND IMPOSE
35 REASONABLE PENALTIES FOR FAILURE TO FILE INFORMATION OR REPORTS AS
36 REQUIRED.

1 19-111.

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

3 (2) "Fund" means the Maryland Health Care Commission Fund.

4 (3) "Health benefit plan" has the meaning stated in § 15-201 of the
5 Insurance Article.

6 (4) "Health care practitioner" means any individual who is licensed,
7 certified, or otherwise authorized under the Health Occupations Article to provide
8 health care services.

9 (5) "Nursing home" means a related institution that is classified as a
10 nursing home.

11 (6) "Payor" means:

12 (i) A health insurer or nonprofit health service plan that holds a
13 certificate of authority and provides health insurance policies or contracts in the
14 State in accordance with this article or the Insurance Article; or

15 (ii) A health maintenance organization that holds a certificate of
16 authority in the State.

17 (b) Subject to the provisions of subsection (d) of this section, the Commission
18 shall assess a fee on:

19 (1) All hospitals;

20 (2) All nursing homes;

21 (3) All payors; and

22 (4) All health care practitioners.

23 (c) (1) The total fees assessed by the Commission may not exceed \$8,250,000
24 in any fiscal year.

25 (2) The fees assessed by the Commission shall be used exclusively to
26 cover the actual documented direct costs of fulfilling the statutory and regulatory
27 duties of the Commission in accordance with the provisions of this subtitle.

28 (3) The Commission shall pay all funds collected from the fees assessed
29 in accordance with this section into the Fund.

30 (4) The fees assessed may be expended only for purposes authorized by
31 the provisions of this subtitle.

32 (d) Of the total fees assessed by the Commission under this section in any
33 fiscal year, the Commission:

1 (1) In lieu of the application fees provided for in [§ 19-123] § 19-120 of
2 this subtitle, shall assess:

3 (i) Hospitals and special hospitals for an amount not exceeding
4 36% of the total amount assessed; and

5 (ii) Nursing homes for an amount not exceeding 5% of the total
6 amount assessed;

7 (2) Shall assess payors for an amount not exceeding 40% of the total
8 amount assessed; and

9 (3) Shall assess health care practitioners for an amount not exceeding
10 19% of the total amount assessed.

11 (e) (1) The fees assessed in accordance with this section on health care
12 practitioners shall be:

13 (i) Included in the licensing fee paid to the health care
14 practitioner's licensing board; and

15 (ii) Transferred by the health care practitioner's licensing board to
16 the Commission on a quarterly basis.

17 (2) The Commission may adopt regulations that waive the fee assessed
18 under this section for a specific class of health care practitioners.

19 (f) (1) There is a Maryland Health Care Commission Fund.

20 (2) The Fund is a special continuing, nonlapsing fund that is not subject
21 to § 7-302 of the State Finance and Procurement Article.

22 (3) The Treasurer shall separately hold, and the Comptroller shall
23 account for, the Fund.

24 (4) The Fund shall be invested and reinvested in the same manner as
25 other State funds.

26 (5) Any investment earnings shall be retained to the credit of the Fund.

27 (6) The Fund shall be subject to an audit by the office of legislative
28 audits as provided for in § 2-1220 of the State Government Article.

29 (7) This section may not be construed to prohibit the Fund from
30 receiving funds from any other source.

31 (8) The Fund shall be used only to provide funding for the Commission
32 and for the purposes authorized under this subtitle.

33 (g) On or before May 30 of each year, the Insurance Commissioner shall notify
34 the Commission of the total premiums [collected] EARNED in the State for health

1 benefit plans of all payors in the State during the prior calendar year and each
2 payor's total premiums EARNED in the State for health benefit plans for the same
3 calendar year.

4 (h) The Commission shall:

5 (1) (i) Assess fees on payors in a manner that apportions the total
6 amount of the fees to be assessed on payors under subsection (d)(2) of this section
7 among each payor based on the ratio of each payor's total premiums [collected]
8 EARNED in the State for health benefit plans to the total [collected] EARNED
9 premiums of all payors [collected] EARNED in the State; and

10 (ii) On or before June 30 of each year, assess each payor a fee in
11 accordance with item (i) of this item;

12 (2) (i) Assess fees for each hospital equal to the sum of:

13 1. The amount equal to one-half of the total fees to be
14 assessed on hospitals under subsection (d)(1)(i) of this section times the ratio of
15 admissions of the hospital to total admissions of all hospitals; and

16 2. The amount equal to one-half of the total fees to be
17 assessed on hospitals under subsection (d)(1)(i) of this section times the ratio of gross
18 operating revenue of each hospital to total gross operating revenues of all hospitals;

19 (ii) Establish minimum and maximum assessments; and

20 (iii) On or before June 30 of each year, assess each hospital a fee in
21 accordance with item (i) of this item; and

22 (3) (i) Assess fees for each nursing home equal to the sum of:

23 1. The amount equal to one-half of the total fees to be
24 assessed on nursing homes under subsection (d)(1)(ii) of this section times the ratio of
25 admissions of the nursing home to total admissions of all nursing homes; and

26 2. The amount equal to one-half of the total fees to be
27 assessed on nursing homes under subsection (d)(1)(ii) of this section times the ratio of
28 gross operating revenue of each nursing home to total gross operating revenues of all
29 nursing homes;

30 (ii) Establish minimum and maximum assessments; and

31 (iii) On or before June 30 of each year, assess each nursing home a
32 fee in accordance with item (i) of this item.

33 (i) (1) On or before September 1 of each year, each payor, hospital, and
34 nursing home assessed under this section shall make payment to the Commission.

35 (2) The Commission shall make provisions for partial payments.

1 (j) Any bill not paid within 30 days of the payment due date may be subject to
2 an interest penalty to be determined and collected by the Commission.

3 19-114.

4 (a) In this Part II of this subtitle the following words have the meanings
5 indicated.

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

9 (i) Has two or more operating rooms;

10 (ii) Operates primarily for the purpose of providing surgical
11 services to patients who do not require overnight hospitalization; and

12 (iii) Seeks reimbursement from payors as an ambulatory surgical
13 facility.

14 (2) For purposes of this subtitle, the office of one or more health care
15 practitioners or a group practice with two operating rooms may be exempt from the
16 certificate of need requirements under this subtitle if the Commission finds, in its
17 sole discretion, that:

18 (i) A second operating room is necessary to promote the efficiency,
19 safety, and quality of the surgical services offered; and

20 (ii) The office meets the criteria for exemption from the certificate
21 of need requirements as an ambulatory surgical facility in accordance with
22 regulations adopted by the Commission.

23 (c) "Certificate of need" means a certification of public need issued by the
24 Commission under this Part II of this subtitle for a health care project.

25 [(d) "Federal Act" means the National Health Planning and Resources
26 Development Act of 1974 (Public Law 93-641), as amended.]

27 [(e)] (D) (1) "Health care facility" means:

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

29 (ii) A limited service hospital, as defined in § 19-301(e) of this title;

30 (iii) A related institution, as defined in § 19-301 of this title;

31 (iv) An ambulatory surgical facility;

32 (v) An inpatient facility that is organized primarily to help in the
33 rehabilitation of disabled individuals, through an integrated program of medical and
34 other services provided under competent professional supervision;

- 1 (vi) A home health agency, as defined in § 19-401 of this title;
- 2 (vii) A hospice, as defined in § 19-901 of this title; and
- 3 (viii) Any other health institution, service, or program for which this
4 Part II of this subtitle requires a certificate of need.
- 5 (2) "Health care facility" does not include:
- 6 (i) A hospital or related institution that is operated, or is listed and
7 certified, by the First Church of Christ Scientist, Boston, Massachusetts;
- 8 (ii) For the purpose of providing an exemption from a certificate of
9 need under [§ 19-123] § 19-120 of this subtitle, a facility to provide comprehensive
10 care constructed by a provider of continuing care, as defined by Article 70B of the
11 Code, if:
- 12 1. Except as provided under [§ 19-125.1] § 19-123 of this
13 subtitle, the facility is for the exclusive use of the provider's subscribers who have
14 executed continuing care agreements and paid entrance fees that are at least equal to
15 the lowest entrance fee charged for an independent living unit or an assisted living
16 unit before entering the continuing care community, regardless of the level of care
17 needed by the subscribers at the time of admission;
- 18 2. The facility is located on the campus of the continuing care
19 community; and
- 20 3. The number of comprehensive care nursing beds in the
21 community does not exceed:
- 22 A. 24 percent of the number of independent living units in a
23 community having less than 300 independent living units; or
- 24 B. 20 percent of the number of independent living units in a
25 community having 300 or more independent living units;
- 26 (iii) Except for a facility to provide kidney transplant services or
27 programs, a kidney disease treatment facility, as defined by rule or regulation of the
28 United States Department of Health and Human Services;
- 29 (iv) Except for kidney transplant services or programs, the kidney
30 disease treatment stations and services provided by or on behalf of a hospital or
31 related institution; or
- 32 (v) The office of one or more individuals licensed to practice
33 dentistry under Title 4 of the Health Occupations Article, for the purposes of
34 practicing dentistry.

1 [(f)] (E) "Health care practitioner" means any individual who is licensed,
2 certified, or otherwise authorized under the Health Occupations Article to provide
3 health care services.

4 [(g)] (F) "Health service area" means an area of this State that the Governor
5 designates as appropriate for planning and developing of health services.

6 [(h)] (G) "Local health planning agency" means [a body that the Commission]
7 THE HEALTH DEPARTMENT OF A JURISDICTION OR A BODY DESIGNATED BY THE
8 LOCAL HEALTH DEPARTMENT [designates] to perform health planning [and
9 development] functions [for a health service area].

10 (H) "STATE HEALTH PLAN" MEANS THE STATE HEALTH PLAN FOR FACILITIES
11 AND SERVICES.

12 19-116.

13 (b) (1) In addition to information that an applicant for a certificate of need
14 must provide, the Commission may request, collect, and report any statistical or other
15 information that:

16 (i) Is needed by the Commission to perform its duties described in
17 this Part II of this subtitle; and

18 (ii) Is described in regulations of the Commission.

19 (2) If a health care facility fails to provide information as required in this
20 subsection, the Commission may:

21 (i) Impose a penalty of not more than \$100 per day for each day the
22 violation continues after consideration of the willfulness and seriousness of the
23 withholding, as well as any past history of withholding of information;

24 (ii) Issue an administrative order that requires the applicant to
25 provide the information; or

26 (iii) Apply to the circuit court in the county in which the facility is
27 located for legal relief considered appropriate by the Commission.

28 (3) The Commission may send to THE DEPARTMENT OR a local health
29 planning agency any statistical or other information the Commission is authorized to
30 collect under paragraph (1) of this subsection.

31 [19-118.

32 (a) The Commission shall designate, for each health service area, not more
33 than 1 local health planning agency.

34 (b) Local health systems agencies shall be designated as the local health
35 planning agency for a one-year period beginning October 1, 1982, provided that the
36 local health systems agency has:

1 (1) Full or conditional designation by the federal government by October
2 1, 1982;

3 (2) The ability to perform the functions prescribed in subsection (d) of
4 this section; or

5 (3) Received the support of the local governments in the areas in which
6 the agency is to operate.

7 (c) The Commission shall establish by regulation criteria for designation of
8 local health planning agencies.

9 (d) Applicants for designation as the local health planning agency shall, at a
10 minimum, be able to:

11 (1) Assure broad citizen representation, including a board with a
12 consumer majority;

13 (2) Develop a local health plan by assessing local health needs and
14 resources, establishing local standards and criteria for service characteristics,
15 consistent with State specifications, and setting local goals and objectives for systems
16 development;

17 (3) Provide input into the development of statewide criteria and
18 standards for certificate of need and health planning; and

19 (4) Provide input into evidentiary hearings on the evaluation of
20 certificate of need applications from its area. Where no local health planning agency
21 is designated, the Commission shall seek the advice of the local county government of
22 the affected area.

23 (e) (1) The Commission shall establish criteria for obtaining input from
24 affected local health planning agencies when considering an application for certificate
25 of need.

26 (2) Where no local health planning agency is designated, the
27 Commission shall seek the advice of the local county government of the affected area.

28 (f) The Commission shall require that in developing local health plans, each
29 local health planning agency:

30 (1) Use the population estimates that the Department prepares under §
31 4-218 of this article;

32 (2) Use the figures and special age group projections that the
33 Department of Planning prepares annually for the Commission;

34 (3) Meet applicable planning specifications; and

35 (4) Work with other local health planning agencies to ensure consistency
36 among local health plans.]

1 [19-119.

2 Annually each local health planning agency shall receive the Department's
3 program and budgetary priorities no later than July 1 and may submit to the
4 Secretary comments on the proposed program and budgetary priorities within 60
5 days after receiving the proposals.]

6 [19-120.

7 (a) (1) The governing body or bodies of 1 or more adjacent counties that
8 constitute a health service area may establish a body to serve as the local health
9 planning agency for the health service area, by:

10 (i) Making a joint agreement as to the purpose, structure, and
11 functions of the proposed body; and

12 (ii) Each enacting an ordinance that designates the proposed body
13 to be the local health planning agency for the county.

14 (2) The body so established becomes the local health planning agency if
15 the Commission designates the body as a health planning agency.

16 (b) The governing board shall exercise all of the powers of the local health
17 planning agency that, by law, agreement of the counties, or bylaws of the local health
18 planning agency, are not conferred on or reserved to the counties or to another
19 structure within the local health planning agency.

20 (c) In addition to the powers set forth elsewhere in this Part II of this subtitle,
21 each local health planning agency created under this section may:

22 (1) Sue and be sued;

23 (2) Make contracts;

24 (3) Incur necessary obligations, which may not constitute the obligations
25 of any county in the health service area;

26 (4) Acquire, hold, use, improve, and otherwise deal with property;

27 (5) Elect officers and appoint agents, define their duties, and set their
28 compensation;

29 (6) Adopt and carry out an employee benefit plan;

30 (7) Adopt bylaws to conduct its affairs; and

31 (8) Use the help of any person or public agency to carry out the plans and
32 policies of the local health planning agency.

33 (d) (1) In addition to the duties set forth elsewhere in this Part II of this
34 subtitle, each local health planning agency created under this section shall submit

1 annually to the governing body of each county in the health service area a report on
2 the activities of the local health planning agency.

3 (2) The report shall include an account of the funds, property, and
4 expenses of the local health planning agency in the preceding year.]

5 19-121.

6 (a) (1) At least every 5 years, beginning no later than October 1, 1983, the
7 Commission shall adopt a State health plan [that includes local health plans].

8 (2) The plan shall include:

9 [(i) A description of the components that should comprise the health
10 care system;

11 [(ii) The goals and policies for Maryland's health care system;

12 [(iii) Identification of unmet needs, excess services, minimum access
13 criteria, and services to be regionalized;

14 [(iv) An assessment of the financial resources required and available
15 for the health care system;]

16 [(v)] (I) The methodologies, standards, and criteria for certificate
17 of need review; and

18 [(vi)] (II) Priority for conversion of acute capacity to alternative uses
19 where appropriate.

20 (b) [The Commission shall adopt specifications for the development of local
21 health plans and their coordination with the State health plan.]

22 [(c)] Annually or upon petition by any person, the Commission shall review the
23 State health plan and publish any changes in the plan that the Commission considers
24 necessary, subject to the review and approval granted to the Governor under this
25 subtitle.

26 [(d)] (C) The Commission shall adopt rules and regulations that ensure broad
27 public input, public hearings, and consideration of local health plans in development
28 of the State health plan.

29 [(e)] (D) (1) The Commission shall develop standards and policies consistent
30 with the State health plan that relate to the certificate of need program.

31 (2) The standards:

32 (i) Shall address the availability, accessibility, cost, and quality of
33 health care; and

1 (ii) Are to be reviewed and revised periodically to reflect new
2 developments in health planning, delivery, and technology.

3 (3) In adopting standards regarding cost, efficiency, cost-effectiveness,
4 or financial feasibility, the Commission shall take into account the relevant
5 methodologies of the Health Services Cost Review Commission.

6 [(f)] (E) Annually, the Secretary shall make recommendations to the
7 Commission on the plan. The Secretary may review and comment on State
8 specifications to be used in the development of the State health plan.

9 [(g)] (F) All State agencies and departments, directly or indirectly involved
10 with or responsible for any aspect of regulating, funding, or planning for the health
11 care industry or persons involved in it, shall carry out their responsibilities in a
12 manner consistent with the State health plan and available fiscal resources.

13 [(h)] (G) In carrying out their responsibilities under this Part II of this subtitle
14 for hospitals, the Commission and the Secretary shall recognize, but may not apply,
15 develop, or duplicate standards or requirements related to quality which have been
16 adopted and enforced by national or State licensing or accrediting authorities.

17 [(i)] (H) The Commission shall transfer to the Department of Health and
18 Mental Hygiene health planning functions and necessary staff resources for licensed
19 entities in the State health plan that are not required to obtain a certificate of need or
20 an exemption from the certificate of need program.

21 19-122.

22 (d) (4) A State health plan developed or adopted after the incorporation of
23 the institution-specific plan into the State health plan shall include the criteria in
24 subsection (b) of this section in addition to the criteria in [§ 19-121] § 19-118 of this
25 subtitle.

26 19-123.

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

29 (2) (i) For a hospital located in a county with fewer than three
30 hospitals, at least 45 days before the closing or partial closing of the hospital, a person
31 proposing to close all or part of the hospital files notice of the proposed closing or
32 partial closing with the Commission; and

33 (ii) The Commission finds that the closing:

34 1. Is in the public interest; and

35 2. Is not inconsistent with:

36 A. The State health plan; or

1 B. An institution-specific plan developed by the Commission
2 under [§ 19-122] § 19-119 of this subtitle.

3 19-124.

4 (b) (1) A health maintenance organization or a health care facility that
5 either controls, directly or indirectly, or is controlled by a health maintenance
6 organization shall have a certificate of need before the health maintenance
7 organization or health care facility builds, develops, operates, purchases, or
8 participates in building, developing, operating, or establishing:

9 (ii) Any other health care project for which a certificate of need is
10 required under [§ 19-123] § 19-120 of this subtitle if that health care project is
11 planned for or used by any nonsubscribers of that health maintenance organization.

12 19-126.

13 A certificate of need is required before an ambulatory care facility:

14 (2) To provide those services, makes an expenditure, if a certificate of
15 need would be required under [§ 19-123(k)] § 19-120(K) of this subtitle for the
16 expenditure by or on behalf of a health care facility; or

17 19-127.

18 (a) If the Commission receives an application for a certificate of need for a
19 change in the bed capacity of a health care facility, as required under [§ 19-123] §
20 19-120 of this subtitle, or for a health care project that would create a new health care
21 service or abolish an existing health care service, the Commission shall give notice of
22 the filing by publication in the Maryland Register and give the following notice to:

23 (1) Each member of the General Assembly in whose district the action is
24 planned;

25 (2) Each member of the governing body for the county where the action is
26 planned;

27 (3) The county executive, mayor, or chief executive officer, if any, in
28 whose county or city the action is planned; and

29 (4) Any health care provider, third party payor, local planning agency, or
30 any other person the Commission knows has an interest in the application.

31 (c) (3) Unless the Commission finds that the facility or service for which the
32 proposed expenditure is to be made is not needed or is not consistent with the State
33 health plan, the Commission shall approve an application for a certificate of need
34 required under [§ 19-123(k)] § 19-120(K) of this subtitle to the extent that the
35 expenditure is to be made to:

1 (i) Eliminate or prevent an imminent safety hazard, as defined by
2 federal, State, or local fire, building, or life safety codes or regulations;

3 (ii) Comply with State licensing standards; or

4 (iii) Comply with accreditation standards for reimbursement under
5 Title XVIII of the Social Security Act or under the State Medical Assistance Program
6 approved under Title XIX of the Social Security Act.

7 (d) (1) The Commission alone shall have final nondelegable authority to act
8 upon an application for a certificate of need, except as provided in this subsection.

9 (2) Seven voting members of the Commission shall be a quorum to act on
10 an application for a certificate of need.

11 (3) After an application is filed, the staff of the Commission:

12 (i) Shall review the application for completeness within 10 working
13 days of the filing of the application; and

14 (ii) May request further information from the applicant.

15 (4) The Commission may delegate to a reviewer the responsibility for
16 review of an application for a certificate of need, including:

17 (i) The holding of an evidentiary hearing if the Commission, in
18 accordance with criteria it has adopted by regulation, considers an evidentiary
19 hearing appropriate due to the magnitude of the impact the proposed project may
20 have on the health care delivery system; and

21 (ii) Preparation of a recommended decision for consideration by the
22 full Commission.

23 (5) The Commission shall designate a single Commissioner to act as a
24 reviewer for the application and any competing applications.

25 (6) The Commission shall delegate to its staff the responsibility for an
26 initial review of an application, including, in the event that no written comments on
27 an application are submitted by any interested party other than the staff of the
28 Commission, the preparation of a recommended decision for consideration by the full
29 Commission.

30 (7) Any "interested party" may submit written comments on the
31 application in accordance with procedural regulations adopted by the Commission.

32 (8) The Commission shall define the term "interested party" to include,
33 at a minimum:

34 (i) The staff of the Commission;

1 (ii) Any applicant who has submitted a competing application;
2 [and]

3 (iii) Any other person who can demonstrate that the person would
4 be adversely affected by the decision of the Commission on the application; AND

5 (IV) A LOCAL HEALTH PLANNING AGENCY FOR A JURISDICTION OR
6 REGION IN WHICH THE PROPOSED FACILITY OR SERVICE WILL BE LOCATED.

7 (9) The reviewer shall review the application, any written comments on
8 the application, and any other materials permitted by this section or by the
9 Commission's regulations, and present a recommended decision on the application to
10 the full Commission.

11 (10) (i) An applicant and any interested party may request the
12 opportunity to present oral argument to the reviewer, in accordance with regulations
13 adopted by the Commission, before the reviewer prepares a recommended decision on
14 the application for consideration by the full Commission.

15 (ii) The reviewer may grant, deny, or impose limitations on an
16 interested party's request to present oral argument to the reviewer.

17 (11) Any interested party who has submitted written comments under
18 paragraph (7) of this subsection may submit written exceptions to the proposed
19 decision and make oral argument to the Commission, in accordance with regulations
20 adopted by the Commission, before the Commission takes final action on the
21 application.

22 (12) The Commission shall, after determining that the recommended
23 decision is complete, vote to approve, approve with conditions, or deny the application
24 on the basis of the recommended decision, the record before the staff or the reviewer,
25 and exceptions and arguments, if any, before the Commission.

26 (13) The decision of the Commission shall be by a majority of the quorum
27 present and voting.

28 19-134.

29 (f) Until the provisions of [§ 19-135] § 19-134 of this subtitle are fully
30 implemented, where appropriate, the Commission may limit the data collection under
31 this section.

32 19-135.

33 (a) (1) In order to more efficiently establish a medical care data base under
34 [§ 19-134] § 19-133 of this subtitle, the Commission shall establish standards for the
35 operation of one or more medical care electronic claims clearinghouses in Maryland
36 and may license those clearinghouses meeting those standards.

1 (b) The Commission may collect the medical care claims information
2 submitted to any licensed claims clearinghouse for use in the data base established
3 under [§ 19-134] § 19-133 of this subtitle.

4 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 19-121
5 through 19-125.2 and 19-126 through 19-138, respectively, of Article - Health -
6 General of the Annotated Code of Maryland be renumbered to be Section(s) 19-118
7 through 19-137, respectively.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 July 1, 2001.