Unofficial Copy P1 2001 Regular Session 1lr0069 CF 1lr0185

By: Chairman, Finance Committee (Departmental - Health and Mental Hygiene)

Introduced and read first time: February 9, 2001

Assigned to: Rules

A BILL ENTITLED

1	AN A	ACT	concerning
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2	Department of Health and Mental Hygiene - Maryland Health Care 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
- provisions relating to establishment and operation of local health planning
- agencies; altering certain definitions; clarifying that the Commission may
- provide certain information to the Department of Health and Mental Hygiene
- 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

- 2 **SENATE BILL 786** 1 Annotated Code of Maryland 2 (2000 Replacement Volume) 3 BY renumbering Article - Health - General 4 5 Section 19-121 through 19-125.2 and 19-126 through 19-138, respectively to be Section 19-118 through 19-137, respectively 6 7 Annotated Code of Maryland (2000 Replacement Volume) 8 (As enacted by Section 1 of this Act) 9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 10 11 MARYLAND, That the Laws of Maryland read as follows: 12 **Article - Health - General** 13 1-101. 14 In this article the following words have the meanings indicated. (a) "County" means a county of this State and, unless expressly provided 15 (b) 16 otherwise, Baltimore City. 17 "Department" means the Department of Health and Mental Hygiene. (c) 18 (d) "Health officer" means, unless expressly provided otherwise, the Baltimore 19 City Commissioner of Health or the health officer of a county. "Includes" or "including" means includes or including by way of illustration 20 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: The Chief Medical Examiner; 26 (1) 27 The Deputy Chief Medical Examiner; (2) 28 (3) Any assistant medical examiner; or
- 30 "Person" means an individual, receiver, trustee, guardian, personal [(g)]31 representative, fiduciary, or representative of any kind and any partnership, firm,

Any deputy medical examiner.

32 association, corporation, or other entity.

(4)

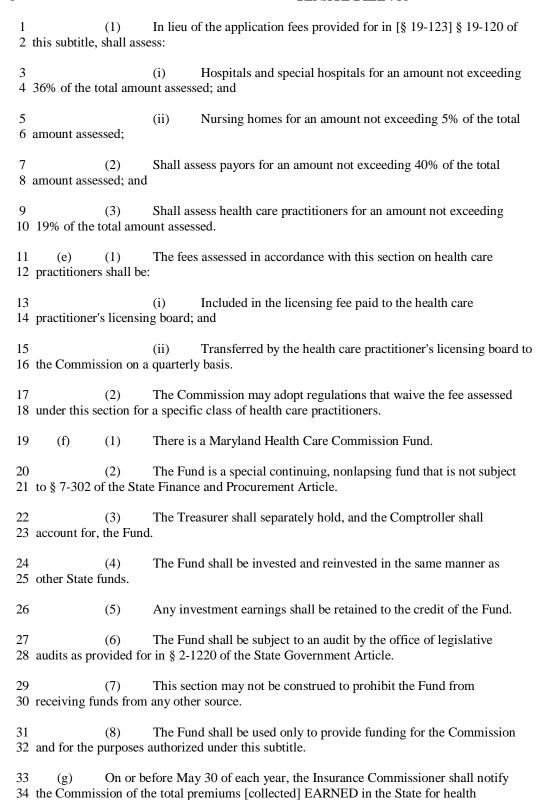
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1 [(h)](I) "Physician" means an individual who is authorized under the 2 Maryland Medical Practice Act to practice medicine in this State. "Secretary" means the Secretary of Health and Mental Hygiene. 3 [(i)](J) 4 "State" means: [(j)](K) 5 A state, possession, or territory of the United States; (1) The District of Columbia: or 6 (2) 7 The Commonwealth of Puerto Rico. (3) 8 2-105. (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 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. THE SECRETARY SHALL ADOPT AND REVISE AS NECESSARY A STATE 15 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 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. A LOCAL HEALTH PLANNING AGENCY SHALL: 27 (A) DEVELOP A LOCAL HEALTH PLAN BY ASSESSING LOCAL HEALTH 28 (1) 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: USE DATA COMPATIBLE WITH STATE DATA AND DATA USED BY (1)4 OTHER LOCAL HEALTH PLANNING AGENCIES; 5 (2) MEET APPLICABLE PLANNING SPECIFICATIONS; AND (3) WORK WITH OTHER LOCAL HEALTH PLANNING AGENCIES TO 6 7 ENSURE CONSISTENCY AMONG LOCAL HEALTH PLANS. 8 SUBJECT TO THE ANNUAL STATE BUDGET, THE DEPARTMENT SHALL (C) 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 In addition to the powers set forth elsewhere in this subtitle, the (a) 14 Commission may: 15 Adopt rules and regulations to carry out the provisions of this (1) 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 Apply for and accept any funds, property, or services from any person 26 or government agency; 27 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 Publish and give out any information that relates to the financial (6)30 aspects of health care and is considered desirable in the public interest; and
- Subject to the limitations of this subtitle, exercise any other power 31
- 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 5	Insurance Ar	(3) ticle.	"Health benefit plan" has the meaning stated in § 15-201 of the
	certified, or o		"Health care practitioner" means any individual who is licensed, authorized under the Health Occupations Article to provide
9 10	nursing hom	(5) ie.	"Nursing home" means a related institution that is classified as a
11		(6)	"Payor" means:
			(i) A health insurer or nonprofit health service plan that holds a y and provides health insurance policies or contracts in the with this article or the Insurance Article; or
15 16	authority in	the State.	(ii) A health maintenance organization that holds a certificate of
17 18	(b) shall assess a		to the provisions of subsection (d) of this section, the Commission
19		(1)	All hospitals;
20		(2)	All nursing homes;
21		(3)	All payors; and
22		(4)	All health care practitioners.
23 24	(c) in any fiscal	(1) year.	The total fees assessed by the Commission may not exceed \$8,250,000
			The fees assessed by the Commission shall be used exclusively to mented direct costs of fulfilling the statutory and regulatory sion in accordance with the provisions of this subtitle.
28 29	in accordance	(3) ce with th	The Commission shall pay all funds collected from the fees assessed is section into the Fund.
30 31	the provision	(4) ns of this	The fees assessed may be expended only for purposes authorized by subtitle.

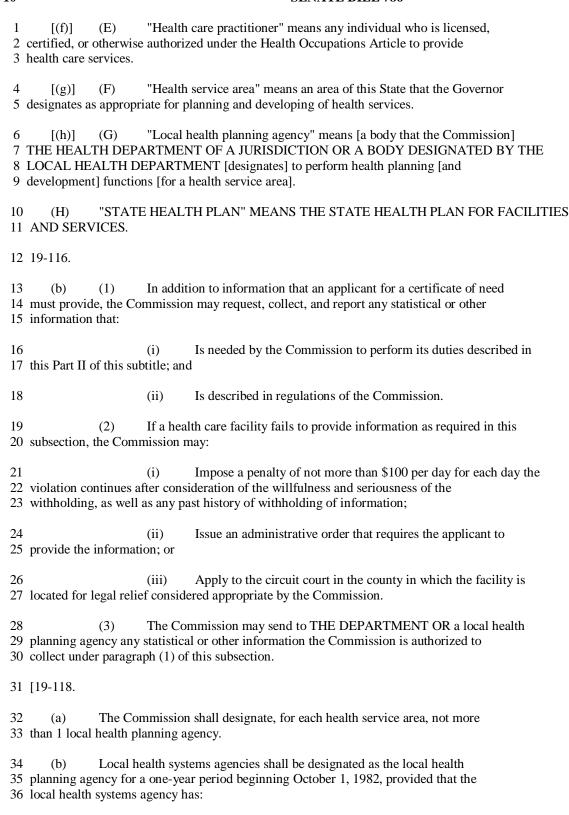
32 (d) Of the total fees assessed by the Commission under this section in any 33 fiscal year, the Commission:

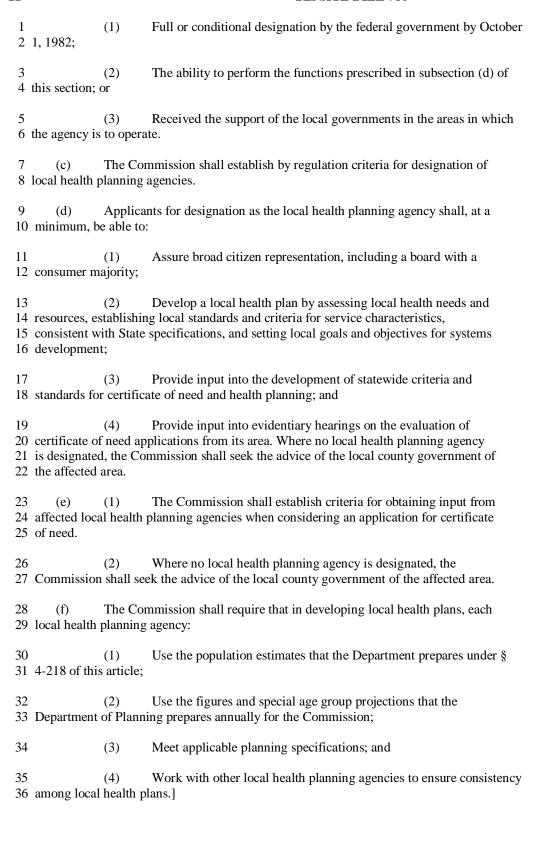


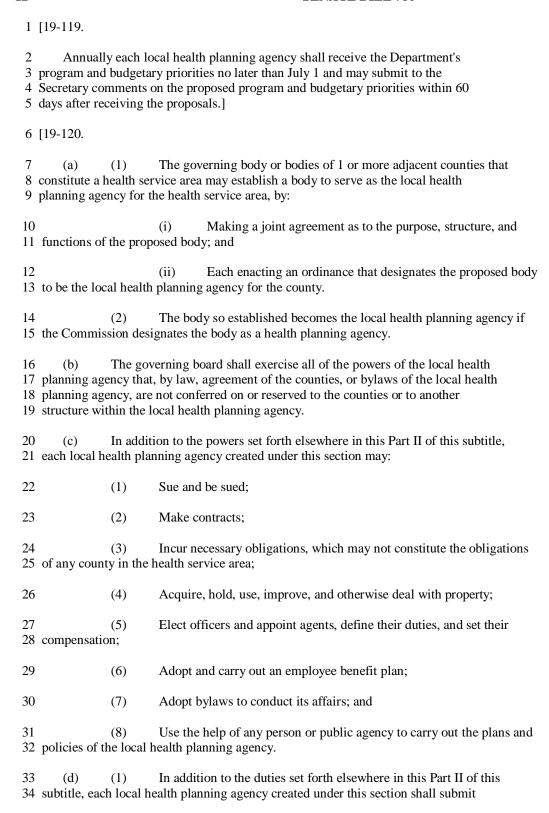
2	payor's total premiums EARNED in the State for health benefit plans for the same calendar year.				
4	(h) The Commission	shall:			
7 8	among each payor based on the EARNED in the State for healt	Assess fees on payors in a manner that apportions the total ed on payors under subsection (d)(2) of this section e ratio of each payor's total premiums [collected] th benefit plans to the total [collected] EARNED ted] EARNED in the State; and			
10 11	(ii) accordance with item (i) of this	On or before June 30 of each year, assess each payor a fee in is item;			
12	(2) (i)	Assess fees for each hospital equal to the sum of:			
		1. The amount equal to one-half of the total fees to be absection (d)(1)(i) of this section times the ratio of otal admissions of all hospitals; and			
		2. The amount equal to one-half of the total fees to be absection (d)(1)(i) of this section times the ratio of gross pital to total gross operating revenues of all hospitals;			
19	(ii)	Establish minimum and maximum assessments; and			
20 21	(iii) accordance with item (i) of thi	On or before June 30 of each year, assess each hospital a fee in is item; and			
22	(3) (i)	Assess fees for each nursing home equal to the sum of:			
		1. The amount equal to one-half of the total fees to be der subsection (d)(1)(ii) of this section times the ratio of ne to total admissions of all nursing homes; and			
28		2. The amount equal to one-half of the total fees to be der subsection (d)(1)(ii) of this section times the ratio of the nursing home to total gross operating revenues of all			
30	(ii)	Establish minimum and maximum assessments; and			
31 32	(iii) fee in accordance with item (i)	On or before June 30 of each year, assess each nursing home a of this item.			
33 34		efore September 1 of each year, each payor, hospital, and this section shall make payment to the Commission.			
35	(2) The Cor	nmission shall make provisions for partial payments			

1 2	(j) an interest pe	•		within 30 days of the payment due date may be subject to nined and collected by the Commission.
3	19-114.			
4 5	(a) indicated.	In this I	Part II of t	his subtitle the following words have the meanings
			ne or mor	atory surgical facility" means any center, service, office, re health care practitioners or a group practice, as the Occupations Article, that:
9			(i)	Has two or more operating rooms;
10 11	services to p	oatients v	(ii) who do no	Operates primarily for the purpose of providing surgical t require overnight hospitalization; and
12 13	facility.		(iii)	Seeks reimbursement from payors as an ambulatory surgical
16		f need re	up practio	poses of this subtitle, the office of one or more health care see with two operating rooms may be exempt from the ts under this subtitle if the Commission finds, in its
18 19	safety, and o	quality of	(i) the surgi	A second operating room is necessary to promote the efficiency cal services offered; and
	of need requiregulations a			The office meets the criteria for exemption from the certificate abulatory surgical facility in accordance with mmission.
23 24	(c) Commission			ed" means a certification of public need issued by the of this subtitle for a health care project.
25 26	[(d) Developmen			eans the National Health Planning and Resources blic 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;
				An inpatient facility that is organized primarily to help in the viduals, through an integrated program of medical and 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) Part II of this subtitle requires a	Any other health institution, service, or program for which this certificate of need.
5	(2) "Health o	are facility" does not include:
6 7	` '	A hospital or related institution that is operated, or is listed and Christ Scientist, Boston, Massachusetts;
10	need under [§ 19-123] § 19-120	For the purpose of providing an exemption from a certificate of of this subtitle, a facility to provide comprehensive of continuing care, as defined by Article 70B of the
14 15 16	subtitle, the facility is for the executed continuing care agree the lowest entrance fee charged	1. Except as provided under [§ 19-125.1] § 19-123 of this acclusive use of the provider's subscribers who have ments and paid entrance fees that are at least equal to for an independent living unit or an assisted living unit or acceptance care community, regardless of the level of care etime of admission;
18 19	community; and	2. The facility is located on the campus of the continuing care
20 21	community does not exceed:	3. The number of comprehensive care nursing beds in the
22 23	community having less than 30	A. 24 percent of the number of independent living units in a 0 independent living units; or
24 25	community having 300 or more	B. 20 percent of the number of independent living units in a eindependent living units;
		Except for a facility to provide kidney transplant services or tment facility, as defined by rule or regulation of the ealth and Human Services;
		Except for kidney transplant services or programs, the kidney ervices provided by or on behalf of a hospital or
		The office of one or more individuals licensed to practice ealth Occupations Article, for the purposes of

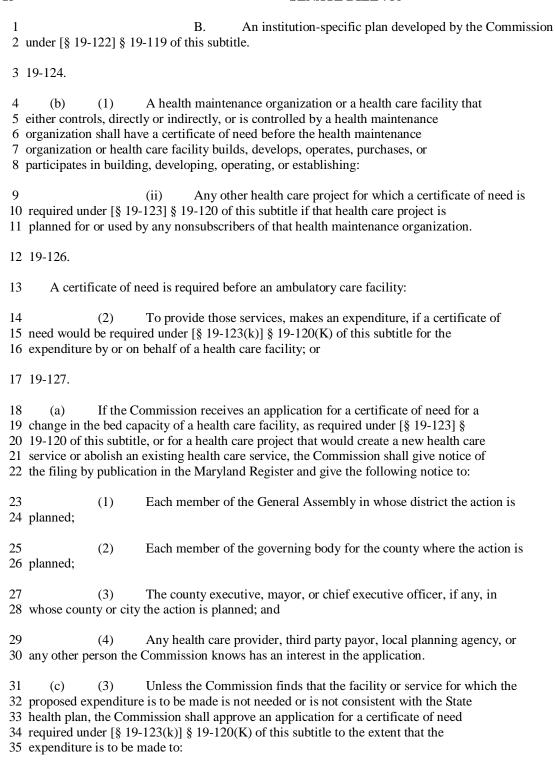






	annually to the governing body of each county in the health service area a report on the activities of the local health planning agency.				
3	(2) expenses of the local	(2) The report shall include an account of the funds, property, and ne local health planning agency in the preceding year.]			
5	19-121.				
6 7	(a) (1) Commission shall add			years, beginning no later than October 1, 1983, the plan [that includes local health plans].	
8	(2)	The plan	shall in	clude:	
9 10	care system;	[(i)	A descri	iption of the components that should comprise the health	
11		(ii)	The goa	als and policies for Maryland's health care system;	
12 13	criteria, and services	(iii) to be reg		cation of unmet needs, excess services, minimum access l;	
14 15	for the health care sy	(iv) stem;]	An asse	essment of the financial resources required and available	
16 17	of need review; and	[(v)]	(I)	The methodologies, standards, and criteria for certificate	
18 19	where appropriate.	[(vi)]	(II)	Priority for conversion of acute capacity to alternative uses	
20 21				dopt specifications for the development of local h the State health plan.]	
24	[(c)] Annually or upon petition by any person, the Commission shall review the State health plan and publish any changes in the plan that the Commission considers necessary, subject to the review and approval granted to the Governor under this subtitle.				
	[(d)] (C) public input, public h of the State health pla	earings,		n shall adopt rules and regulations that ensure broad ideration of local health plans in development	
29 30	[(e)] (D) with the State health	(1) plan that		mmission shall develop standards and policies consistent the certificate of need program.	
31	(2)	The stan	dards:		
32 33	health care; and	(i)	Shall ad	ldress the availability, accessibility, cost, and quality of	

1 2	(ii) Are to be reviewed and revised periodically to reflect new developments in health planning, delivery, and technology.
	(3) In adopting standards regarding cost, efficiency, cost-effectiveness, or financial feasibility, the Commission shall take into account the relevant methodologies of the Health Services Cost Review Commission.
	[(f)] (E) Annually, the Secretary shall make recommendations to the Commission on the plan. The Secretary may review and comment on State specifications to be used in the development of the State health plan.
11	[(g)] (F) All State agencies and departments, directly or indirectly involved with or responsible for any aspect of regulating, funding, or planning for the health care industry or persons involved in it, shall carry out their responsibilities in a manner consistent with the State health plan and available fiscal resources.
15	[(h)] (G) In carrying out their responsibilities under this Part II of this subtitle for hospitals, the Commission and the Secretary shall recognize, but may not apply, develop, or duplicate standards or requirements related to quality which have been adopted and enforced by national or State licensing or accrediting authorities.
19	[(i)] (H) The Commission shall transfer to the Department of Health and Mental Hygiene health planning functions and necessary staff resources for licensed entities in the State health plan that are not required to obtain a certificate of need or an exemption from the certificate of need program.
21	19-122.
24	(d) (4) A State health plan developed or adopted after the incorporation of the institution-specific plan into the State health plan shall include the criteria in subsection (b) of this section in addition to the criteria in [§ 19-121] § 19-118 of this subtitle.
26	19-123.
27 28	(l) A certificate of need is not required to close any hospital or part of a hospital as defined in § 19-301 of this title if:
31	(2) (i) For a hospital located in a county with fewer than three hospitals, at least 45 days before the closing or partial closing of the hospital, a person proposing to close all or part of the hospital files notice of the proposed closing or 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 2	federal, State, or local		Eliminate or prevent an imminent safety hazard, as defined by ding, or life safety codes or regulations;
3		(ii)	Comply with State licensing standards; or
	Title XVIII of the Soc approved under Title	ial Secur	Comply with accreditation standards for reimbursement under ity Act or under the State Medical Assistance Program the Social Security Act.
7 8	(d) (1) upon an application for		nmission alone shall have final nondelegable authority to act icate of need, except as provided in this subsection.
9 10	(2) an application for a co		oting members of the Commission shall be a quorum to act on of need.
11	(3)	After an	application is filed, the staff of the Commission:
12 13	days of the filing of the		Shall review the application for completeness within 10 working ation; and
14		(ii)	May request further information from the applicant.
15 16	(4) review of an applicat		nmission may delegate to a reviewer the responsibility for certificate of need, including:
19		ria it has ue to the	The holding of an evidentiary hearing if the Commission, in adopted by regulation, considers an evidentiary magnitude of the impact the proposed project may y system; and
21 22	full Commission.	(ii)	Preparation of a recommended decision for consideration by the
23 24	(5) reviewer for the appli		nmission shall designate a single Commissioner to act as a d any competing applications.
27 28	an application are sub	oplication omitted by	nmission shall delegate to its staff the responsibility for an an including, in the event that no written comments on y any interested party other than the staff of the of a recommended decision for consideration by the full
30 31	(7) application in accorda		erested party" may submit written comments on the procedural regulations adopted by the Commission.
32 33	(8) at a minimum:	The Con	nmission shall define the term "interested party" to include,
34		(i)	The staff of the Commission;

1 2	[and]	(ii)	Any applicant who has submitted a competing application;
3	be adversely affected		Any other person who can demonstrate that the person would cision of the Commission on the application; AND
5 6	REGION IN WHICH		A LOCAL HEALTH PLANNING AGENCY FOR A JURISDICTION OR OPOSED FACILITY OR SERVICE WILL BE LOCATED.
9		ny other n	ewer shall review the application, any written comments on naterials permitted by this section or by the present a recommended decision on the application to
13	adopted by the Comm	t oral arg nission, b	An applicant and any interested party may request the ument to the reviewer, in accordance with regulations efore the reviewer prepares a recommended decision on on by the full Commission.
15 16			The reviewer may grant, deny, or impose limitations on an esent oral argument to the reviewer.
19 20	decision and make or	subsectional argume	erested party who has submitted written comments under n may submit written exceptions to the proposed ent to the Commission, in accordance with regulations efore the Commission takes final action on the
24	on the basis of the rec	vote to ago	nmission shall, after determining that the recommended pprove, approve with conditions, or deny the application led decision, the record before the staff or the reviewer, if any, before the Commission.
26 27	(13) present and voting.	The deci	sion of the Commission shall be by a majority of the quorum
28	19-134.		
			ons of [§ 19-135] § 19-134 of this subtitle are fully te, the Commission may limit the data collection under
32	19-135.		
35	operation of one or m	of this sub ore medi	to more efficiently establish a medical care data base under bitle, the Commission shall establish standards for the cal care electronic claims clearinghouses in Maryland thouses 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.