

SENATE BILL 786

Unofficial Copy  
P1

2001 Regular Session  
11r0069  
CF 11r0185

---

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 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.