

SENATE BILL 786

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

Introduced and read first time: February 9, 2001

Assigned to: Rules

Re-referred to: Finance, February 21, 2001

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2001

CHAPTER _____

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; altering the maximum
8 dollar amount of total fees that the Commission may assess in any fiscal year;
9 altering the manner in which the Commission determines the assessments of
10 total fees; transferring certain health planning functions to the Secretary of
11 Health and Mental Hygiene; repealing or transferring to the Secretary of Health
12 and Mental Hygiene certain provisions relating to establishment and operation
13 of local health planning agencies; altering certain definitions; clarifying that the
14 Commission may provide certain information to the Department of Health and
15 Mental Hygiene and local health departments; and generally relating to the
16 Maryland Health Care Commission.

17 BY repealing and reenacting, with amendments,
18 Article - Health - General
19 Section 1-101, 2-105, 19-109(a), 19-111, 19-114, 19-116(b), 19-121,
20 19-122(d)(4), 19-123(l)(2), 19-124(b)(1)(ii), 19-126(2), 19-127(a), (c)(3),
21 and (d), 19-134(f), and 19-135(a)(1) and (b)
22 Annotated Code of Maryland
23 (2000 Replacement Volume)

24 BY adding to

1 Article - Health - General
2 Section 2-401 to be under the new subtitle "Subtitle 4. Local Health Planning
3 Agencies"
4 Annotated Code of Maryland
5 (2000 Replacement Volume)

6 BY repealing
7 Article - Health - General
8 Section 19-118 through 19-120, inclusive
9 Annotated Code of Maryland
10 (2000 Replacement Volume)

11 BY renumbering
12 Article - Health - General
13 Section 19-121 through 19-125.2 and 19-126 through 19-138, respectively
14 to be Section 19-118 through 19-137, respectively
15 Annotated Code of Maryland
16 (2000 Replacement Volume)
17 (As enacted by Section 1 of this Act)

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

20 **Article - Health - General**

21 1-101.

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

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

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

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

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

30 (F) "LOCAL HEALTH PLANNING AGENCY" MEANS THE HEALTH DEPARTMENT
31 OF A JURISDICTION OR A BODY DESIGNATED BY THE LOCAL HEALTH DEPARTMENT
32 TO PERFORM HEALTH PLANNING FUNCTIONS.

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

34 (1) The Chief Medical Examiner;

1 (2) The Deputy Chief Medical Examiner;

2 (3) Any assistant medical examiner; or

3 (4) Any deputy medical examiner.

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

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

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

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

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

12 (2) The District of Columbia; or

13 (3) The Commonwealth of Puerto Rico.

14 2-105.

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

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

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

23 (1) A DESCRIPTION OF THE COMPONENTS THAT SHOULD COMPRISE THE
24 HEALTH CARE SYSTEM;

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

26 (3) IDENTIFICATION OF UNMET NEEDS AND EXCESS SERVICES FOR
27 FACILITIES AND SERVICES NOT REGULATED BY THE CERTIFICATE OF NEED
28 PROGRAM; AND

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

SUBTITLE 4. LOCAL HEALTH PLANNING AGENCIES.

2 2-401.

3 (A) A LOCAL HEALTH PLANNING AGENCY SHALL:

4 (1) DEVELOP A LOCAL HEALTH PLAN BY ASSESSING LOCAL HEALTH
5 NEEDS AND RESOURCES; AND

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

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

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

12 (2) MEET APPLICABLE PLANNING SPECIFICATIONS; AND

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

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

19 19-109.

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

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

24 (2) Create committees from among its members;

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

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

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

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

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

9 19-111.

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

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

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

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

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

19 (6) "Payor" means:

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

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

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

27 (1) All hospitals;

28 (2) All nursing homes;

29 (3) All payors; and

30 (4) All health care practitioners.

31 (c) (1) The total fees assessed by the Commission may not exceed ~~\$8,250,000~~
32 \$10,000,000 in any fiscal year.

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

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

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

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

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

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

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

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

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

(D) IN DETERMINING ASSESSMENTS OF THE TOTAL FEES, THE COMMISSION SHALL:

(1) USE A METHODOLOGY THAT ACCOUNTS FOR THE PORTION OF THE COMMISSION'S WORKLOAD ATTRIBUTABLE TO EACH INDUSTRY ASSESSED; AND

(2) RECALCULATE WORKLOAD DISTRIBUTION EVERY 4 YEARS.

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

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

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

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

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

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

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

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

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

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

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

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

14 (g) On or before May 30 of each year, the Insurance Commissioner shall notify
15 the Commission of the total premiums [collected] EARNED in the State for health
16 benefit plans of all payors in the State during the prior calendar year and each
17 payor's total premiums EARNED in the State for health benefit plans for the same
18 calendar year.

19 (h) The Commission shall:

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

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

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

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

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

34 (ii) Establish minimum and maximum assessments; and

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

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

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

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

9 (ii) Establish minimum and maximum assessments; and

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

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

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

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

17 19-114.

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

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

23 (i) Has two or more operating rooms;

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

26 (iii) Seeks reimbursement from payors as an ambulatory surgical
27 facility.

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

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

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

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

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

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

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

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

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

12 (iv) An ambulatory surgical facility;

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

16 (vi) A home health agency, as defined in § 19-401 of this title;

17 (vii) A hospice, as defined in § 19-901 of this title; and

18 (viii) Any other health institution, service, or program for which this
19 Part II of this subtitle requires a certificate of need.

20 (2) "Health care facility" does not include:

21 (i) A hospital or related institution that is operated, or is listed and
22 certified, by the First Church of Christ Scientist, Boston, Massachusetts;

23 (ii) For the purpose of providing an exemption from a certificate of
24 need under [§ 19-123] § 19-120 of this subtitle, a facility to provide comprehensive
25 care constructed by a provider of continuing care, as defined by Article 70B of the
26 Code, if:

27 1. Except as provided under [§ 19-125.1] § 19-123 of this
28 subtitle, the facility is for the exclusive use of the provider's subscribers who have
29 executed continuing care agreements and paid entrance fees that are at least equal to
30 the lowest entrance fee charged for an independent living unit or an assisted living
31 unit before entering the continuing care community, regardless of the level of care
32 needed by the subscribers at the time of admission;

33 2. The facility is located on the campus of the continuing care
34 community; and

1 3. The number of comprehensive care nursing beds in the
2 community does not exceed:

3 A. 24 percent of the number of independent living units in a
4 community having less than 300 independent living units; or

5 B. 20 percent of the number of independent living units in a
6 community having 300 or more independent living units;

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

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

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

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

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

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

25 (H) "STATE HEALTH PLAN" MEANS THE STATE HEALTH PLAN FOR FACILITIES
26 AND SERVICES.

27 19-116.

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

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

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

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

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

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

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

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

11 [19-118.

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

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

17 (1) Full or conditional designation by the federal government by October
18 1, 1982;

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

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

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

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

27 (1) Assure broad citizen representation, including a board with a
28 consumer majority;

29 (2) Develop a local health plan by assessing local health needs and
30 resources, establishing local standards and criteria for service characteristics,
31 consistent with State specifications, and setting local goals and objectives for systems
32 development;

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

35 (4) Provide input into evidentiary hearings on the evaluation of
36 certificate of need applications from its area. Where no local health planning agency

1 is designated, the Commission shall seek the advice of the local county government of
2 the affected area.

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

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

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

10 (1) Use the population estimates that the Department prepares under §
11 4-218 of this article;

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

14 (3) Meet applicable planning specifications; and

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

17 [19-119.

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

22 [19-120.

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

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

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

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

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

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

3 (1) Sue and be sued;

4 (2) Make contracts;

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

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

8 (5) Elect officers and appoint agents, define their duties, and set their
9 compensation;

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

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

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

14 (d) (1) In addition to the duties set forth elsewhere in this Part II of this
15 subtitle, each local health planning agency created under this section shall submit
16 annually to the governing body of each county in the health service area a report on
17 the activities of the local health planning agency.

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

20 19-121.

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

23 (2) The plan shall include:

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

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

27 (iii) Identification of unmet needs, excess services, minimum access
28 criteria, and services to be regionalized;

29 (iv) An assessment of the financial resources required and available
30 for the health care system;]

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

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

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

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

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

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

14 (2) The standards:

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

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

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

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

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

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

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

1 19-122.

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

6 19-123.

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

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

13 (ii) The Commission finds that the closing:

14 1. Is in the public interest; and

15 2. Is not inconsistent with:

16 A. The State health plan; or

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

19 19-124.

20 (b) (1) A health maintenance organization or a health care facility that
21 either controls, directly or indirectly, or is controlled by a health maintenance
22 organization shall have a certificate of need before the health maintenance
23 organization or health care facility builds, develops, operates, purchases, or
24 participates in building, developing, operating, or establishing:

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

28 19-126.

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

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

1 19-127.

2 (a) If the Commission receives an application for a certificate of need for a
3 change in the bed capacity of a health care facility, as required under [§ 19-123] §
4 19-120 of this subtitle, or for a health care project that would create a new health care
5 service or abolish an existing health care service, the Commission shall give notice of
6 the filing by publication in the Maryland Register and give the following notice to:

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

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

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

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

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

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

22 (ii) Comply with State licensing standards; or

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

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

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

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

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

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

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

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

5 (ii) Preparation of a recommended decision for consideration by the
6 full Commission.

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

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

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

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

18 (i) The staff of the Commission;

19 (ii) Any applicant who has submitted a competing application;
20 [and]

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

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

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

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

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

35 (11) Any interested party who has submitted written comments under
36 paragraph (7) of this subsection may submit written exceptions to the proposed
37 decision and make oral argument to the Commission, in accordance with regulations

1 adopted by the Commission, before the Commission takes final action on the
2 application.

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

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

9 19-134.

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

13 19-135.

14 (a) (1) In order to more efficiently establish a medical care data base under
15 [§ 19-134] § 19-133 of this subtitle, the Commission shall establish standards for the
16 operation of one or more medical care electronic claims clearinghouses in Maryland
17 and may license those clearinghouses meeting those standards.

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

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

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