

**Department of Legislative Services**  
Maryland General Assembly  
2003 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 732

(Senator Middleton, *et al.*)

Finance

Health and Government Operations

---

**Maryland Health Care Commission - Hospice Care**

---

This bill alters the certificate of need (CON) and licensure requirements for general hospice care programs. In general, the Maryland Health Care Commission (MHCC) may not issue a CON that authorizes a hospice program to provide home-based hospice services on a statewide basis.

The bill takes effect July 1, 2003.

---

**Fiscal Summary**

**State Effect:** The study and update of the State health plan could be handled with existing MHCC resources.

**Local Effect:** None.

**Small Business Effect:** Meaningful. Small business hospices that operate locally would not experience increased market competition from large firms that are capable of operating on a statewide basis.

---

**Analysis**

**Bill Summary:** The jurisdictions in which a purchaser of a hospice program may provide home-based hospice services are restricted to those in which the seller is licensed to provide home-based hospice services and provided home-based hospice services to a patient during the 12-month period ending December 31, 2001. Exceptions are made for: (1) a general hospice to provide home-based hospice services to a specific patient outside

an approved jurisdiction if MHCC approves the service provision; and (2) a general hospice that is hospital-based that had an affiliation agreement before April 5, 2003 with a health care facility or system to serve patients immediately upon discharge from the hospital, regardless of the jurisdiction in which the patient resides.

MHCC must conduct a study to clarify the existing status of CONs or determinations for hospice services in Maryland, and report the results of its study to the Senate Finance Committee and the House Health and Government Operations Committee by January 1, 2004. In addition, MHCC must begin a process for updating the State health plan's hospice chapter using data MHCC independently collects.

**Current Law:** A CON is the primary method for implementing the State Health Plan and is generally required for capital expenditures, additions, or modifications to existing facilities or services, and new services. The basis for approval of a CON is need, as determined in the State Health Plan. A hospice is one of the types of health care facilities that requires a CON to operate. In addition, a person must be licensed to operate a hospice care program in the State. To qualify for licensure to operate a hospice care program, an applicant and its medical director must be at least 18 years old and of reputable and responsible character.

**Background:** The CON process, employed in most states, is a cost-containment regulatory method that began in the early 1970s. CONs prohibit capital expenditures by hospitals and other health care institutions unless a governmental agency finds a need for the new health care services to be offered. Beginning in the 1980s, some states eliminated CON programs, while others modified the programs and continue to use them in combination with other regulatory programs.

In 1999 there were 33 hospices in Maryland. Hospices provide palliative care to terminally ill patients and supportive services to patients and their families 24 hours a day, both at home and in facility-based settings. Each hospice may serve clients in one or more jurisdictions depending on the terms its CON approval, or for an older agency, its grandfathering in the 1980s.

Since the enactment of the statute creating the former Maryland Health Resources Planning Commission in 1982, hospice care programs have been included in the definition of "health care facility" for the purposes of CON review requirements. Since virtually all hospice programs existing at that time had been created by hospitals or nursing homes as a facility-based medical service, statutory language was added at several junctures over the next several years to clarify that any geographic expansion (beyond their current jurisdictions) by an existing hospice required an additional CON.

Existing programs rushed to be “grandfathered” as these successive additions to licensure and CON law established additional requirements.

In its January 2001 report, *An Analysis and Evaluation of Certificate of Need Regulation in Maryland: Phase I, Final Report to the General Assembly*, MHCC recommended that Maryland maintain existing CON regulation for new or expanded hospice services. Analysis of utilization data indicated that available hospice services were meeting the needs for end-of-life care in Maryland. Retaining the authority to consider new hospice providers only when additional need warrants would help maintain the stability of this mission-driven, largely nonprofit provider network that is heavily dependent on volunteers and community donations.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene (Maryland Health Care Commission), Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2003  
ncs/jr Revised - Senate Third Reader - March 27, 2003  
Revised - Enrolled Bill - May 5, 2003

---

Analysis by: Susan D. John

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510