
By: **Chairman, Health and Government Operations Committee (By**

Request - Departmental - Health and Mental Hygiene)

Introduced and read first time: February 17, 2005

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Health Care Commission - Powers and Certificate of Need**
 3 **Requirements**

4 FOR the purpose of authorizing the Maryland Health Care Commission to impose
 5 fines for failure to meet certain requirements and for certain violations; limiting
 6 the amount of the fine that may be assessed by the Commission; requiring the
 7 Commission to consider certain factors in determining the amount of certain
 8 fines assessed; repealing a certain obsolete requirement that the Governor
 9 designate certain health service areas; altering the types of capital expenditures
 10 by a hospital which require a certificate of need from the Commission before the
 11 capital expenditure may be made; providing for certain exceptions to the
 12 certificate of need requirement for hospitals under certain circumstances;
 13 altering certain definitions; and generally relating to authorizing the Maryland
 14 Health Care Commission to impose fines and altering certain certificate of need
 15 requirements.

16 BY repealing and reenacting, with amendments,
 17 Article - Health - General
 18 Section 19-109(a), 19-114(g) and (h), 19-116(b), 19-117, and 19-120(k), (l), (m),
 19 (n), and (o)
 20 Annotated Code of Maryland
 21 (2000 Replacement Volume and 2004 Supplement)

22 BY adding to
 23 Article - Health - General
 24 Section 19-109(d) and 19-120(l)
 25 Annotated Code of Maryland
 26 (2000 Replacement Volume and 2004 Supplement)

27 BY repealing
 28 Article - Health - General
 29 Section 19-114(f)
 30 Annotated Code of Maryland

1 (2000 Replacement Volume and 2004 Supplement)

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

4 **Article - Health - General**

5 19-109.

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

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

10 (2) Create committees from among its members;

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

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

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

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

24 (7) Subject to the limitations of this subtitle, exercise any other power
25 that is reasonably necessary to carry out the purposes of this subtitle, including:

26 (I) [adopting] ADOPTING regulations that set reasonable
27 deadlines for filing of information or reports required under this subtitle [and
28 impose]; AND

29 (II) IMPOSING reasonable [penalties for failure] FINES FOR:

30 1. FAILURE to file information or reports as required;

31 2. FAILURE TO OBTAIN COMMISSION APPROVAL BEFORE
32 INITIATING A HEALTH CARE PROJECT FOR WHICH COMMISSION APPROVAL IS
33 REQUIRED UNDER THIS SUBTITLE;

1 3. FAILURE TO MEET PERFORMANCE REQUIREMENTS FOR A
2 HEALTH CARE PROJECT FOR WHICH COMMISSION APPROVAL IS REQUIRED UNDER
3 THIS SUBTITLE;

4 4. VIOLATION OF TERMS OF A CERTIFICATE OF NEED; OR

5 5. ANY OTHER VIOLATION OF THIS SUBTITLE.

6 (D) (1) A FINE ASSESSED BY THE COMMISSION UNDER SUBSECTION (A) OF
7 THIS SECTION MAY NOT EXCEED \$ 1,000 PER VIOLATION FOR EACH DAY A VIOLATION
8 CONTINUES.

9 (2) THE COMMISSION SHALL CONSIDER THE FOLLOWING FACTORS IN
10 DETERMINING THE AMOUNT OF ANY FINE ASSESSED UNDER SUBSECTION (A) OF
11 THIS SECTION:

12 (I) THE WILLFULNESS OF THE CONDUCT THAT RESULTS IN A
13 VIOLATION;

14 (II) THE EXTENT OF ACTUAL OR POTENTIAL PUBLIC HARM CAUSED
15 BY THE VIOLATION;

16 (III) THE COST OF AUDITING OR INVESTIGATING THE VIOLATION;
17 AND

18 (IV) THE HISTORY OF PREVIOUS VIOLATIONS BY THE ENTITY THAT
19 ASSESSED A FINE UNDER SUBSECTION (A) OF THIS SECTION.

20 19-114.

21 [(f) "Health service area" means an area of this State that the Governor
22 designates as appropriate for planning and developing of health services.]

23 [(g)] (F) "Local health planning [agency]" means the health department of a
24 jurisdiction or a body designated by the local health department to perform health
25 planning functions] DEPARTMENT" MEANS THE HEALTH DEPARTMENT IN A
26 JURISDICTION OR A BODY DESIGNATED BY THAT JURISDICTION TO PERFORM
27 HEALTH PLANNING FUNCTIONS.

28 [(h)] (G) "State health plan" means the State health plan for facilities and
29 services.

30 19-116.

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

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

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

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

4 (i) Impose a [penalty of not more than \$100 per day for each day
5 the violation continues after consideration of the willfulness and seriousness of the
6 withholding, as well as any past history of withholding of information] FINE IN
7 ACCORDANCE WITH § 19-109 OF THIS SUBTITLE;

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

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

12 (3) The Commission may send to the Department or a local health
13 planning agency any statistical or other information the Commission is authorized to
14 collect under paragraph (1) of this subsection.

15 19-117.

16 [(a) In accordance with criteria that the Commission sets, the Governor shall
17 designate health service areas in this State.

18 (b) After a 1-year period, the Governor may review or revise the boundaries of
19 a health service area or increase the number of health service areas, on the
20 Governor's initiative, at the request of the Commission, at the request of a local
21 government, or at the request of a local health planning agency. Revisions to
22 boundaries of health service areas shall be done in accordance with the criteria
23 established by the Commission and with the approval of the legislature.

24 (c) Within 45 days of receipt of the State health plan or a change in the State
25 health plan, the plan becomes effective unless the Governor notifies the Commission
26 of the Governor's intent to modify or revise the State health plan adopted by the
27 Commission.

28 19-120.

29 (k) (1) IN THIS SUBSECTION, A "HEALTH CARE FACILITY" DOES NOT
30 INCLUDE A HOSPITAL AS DEFINED IN § 19-301 OF THIS TITLE.

31 (2) A certificate of need is required before any of the following capital
32 expenditures are made by or on behalf of a health care facility:

33 (i) Any expenditure that, under generally accepted accounting
34 principles, is not properly chargeable as an operating or maintenance expense, if:

35 1. The expenditure is made as part of an acquisition,
36 improvement, or expansion, and, after adjustment for inflation [as provided in the

1 regulations of] CONSISTENT WITH REGULATIONS ADOPTED BY the Commission, the
2 total expenditure, including the cost of each study, survey, design, plan, working
3 drawing, specification, and other essential activity, is more than \$1,250,000;

4 2. The expenditure is made as part of a replacement of any
5 plant and equipment of the health care facility and is more than \$1,250,000 after
6 adjustment for inflation [as provided in the regulations of] CONSISTENT WITH
7 REGULATIONS ADOPTED BY the Commission;

8 3. The expenditure results in a substantial change in the bed
9 capacity of the health care facility; or

10 4. The expenditure results in the establishment of a new
11 medical service in a health care facility that would require a certificate of need under
12 subsection (i) of this section; or

13 (ii) Any expenditure that is made to lease or, by comparable
14 arrangement, obtain any plant or equipment for the health care facility, if:

15 1. The expenditure is made as part of an acquisition,
16 improvement, or expansion, and, after adjustment for inflation [as provided in the
17 rules and regulations of] CONSISTENT WITH REGULATIONS ADOPTED BY the
18 Commission, the total expenditure, including the cost of each study, survey, design,
19 plan, working drawing, specification, and other essential activity, is more than
20 \$1,250,000;

21 2. The expenditure is made as part of a replacement of any
22 plant and equipment and is more than \$1,250,000 after adjustment for inflation [as
23 provided in the regulations of] CONSISTENT WITH REGULATIONS ADOPTED BY the
24 Commission;

25 3. The expenditure results in a substantial change in the bed
26 capacity of the health care facility; or

27 4. The expenditure results in the establishment of a new
28 medical service in a health care facility that would require a certificate of need under
29 subsection (i) of this section.

30 [(2)] (3) A certificate of need is required before any equipment or plant is
31 donated to a health care facility, if a certificate of need would be required under
32 paragraph [(1)] (2) of this subsection for an expenditure by the health care facility to
33 acquire the equipment or plant directly.

34 [(3)] (4) A certificate of need is required before any equipment or plant is
35 transferred to a health care facility at less than fair market value if a certificate of
36 need would be required under paragraph [(1)] (2) of this subsection for the transfer at
37 fair market value.

1 [(4)] (5) A certificate of need is required before a person acquires a
2 health care facility if a certificate of need would be required under paragraph [(1)] (2)
3 of this subsection for the acquisition by or on behalf of the health care facility.

4 [(5)] (6) This subsection does not apply to:

5 (i) Site acquisition;

6 (ii) Acquisition of a health care facility if, at least 30 days before
7 making the contractual arrangement to acquire the facility, written notice of the
8 intent to make the arrangement is filed with the Commission and the Commission
9 [does not find] FINDS, within 30 days after the Commission receives notice, that the
10 health services or bed capacity of the facility will NOT be changed[, provided that, for
11 a merger with or acquisition of an existing general hospice, the purchaser of the
12 general hospice may only acquire the authority to provide home-based hospice
13 services in jurisdictions in which the seller of the general hospice is licensed to
14 provide home-based hospice services];

15 (iii) Acquisition of business or office equipment that is not directly
16 related to patient care;

17 (iv) Capital expenditures to the extent that they are directly related
18 to the acquisition and installation of major medical equipment;

19 (v) A capital expenditure made as part of a consolidation or merger
20 of 2 or more health care facilities, or conversion of a health care facility or part of a
21 facility to a nonhealth-related use if:

22 1. At least 45 days before an expenditure is made, written
23 notice of intent is filed with the Commission;

24 2. Within 45 days of receiving notice, the Commission in its
25 sole discretion finds that the proposed consolidation, merger, or conversion:

26 A. Is not inconsistent with the State health plan or the
27 institution-specific plan developed by the Commission as appropriate;

28 B. Will result in the delivery of more efficient and effective
29 health care services; and

30 C. Is in the public interest; and

31 3. Within 45 days of receiving notice, the Commission shall
32 notify the health care facility of its finding; OR

33 (vi) A capital expenditure by a nursing home for equipment,
34 construction, or renovation that:

35 1. Is not directly related to patient care; and

1 2. Is not directly related to any change in patient charges or
2 other rates[;].

3 [(vii) A capital expenditure by a hospital, as defined in § 19-301 of
4 this title, for equipment, construction, or renovation that:

5 1. Is not directly related to patient care; and

6 2. Does not increase patient charges or hospital rates;

7 (viii) A capital expenditure by a hospital as defined in § 19-301 of
8 this title, for a project in excess of \$1,250,000 for construction or renovation that:

9 1. May be related to patient care;

10 2. Does not require, over the entire period or schedule of debt
11 service associated with the project, a total cumulative increase in patient charges or
12 hospital rates of more than \$1,500,000 for the capital costs associated with the project
13 as determined by the Commission, after consultation with the Health Services Cost
14 Review Commission;

15 3. At least 45 days before the proposed expenditure is made,
16 the hospital notifies the Commission and within 45 days of receipt of the relevant
17 financial information, the Commission makes the financial determination required
18 under item 2 of this subparagraph; and

19 4. The relevant financial information to be submitted by the
20 hospital is defined in regulations adopted by the Commission, after consultation with
21 the Health Services Cost Review Commission; or

22 [(ix) A plant donated to a hospital as defined in § 19-301 of this title,
23 which does not require a cumulative increase in patient charges or hospital rates of
24 more than \$1,500,000 for capital costs associated with the donated plant as
25 determined by the Commission, after consultation with the Health Services Cost
26 Review Commission that:

27 1. At least 45 days before the proposed donation is made, the
28 hospital notifies the Commission and within 45 days of receipt of the relevant
29 financial information, the Commission makes the financial determination required
30 under this subparagraph; and

31 2. The relevant financial information to be submitted by the
32 hospital is defined in regulations adopted by the Commission after consultation with
33 the Health Services Cost Review Commission.]

34 [(6)] (7) Paragraph [(5)(vi), (vii), (viii), and (ix)] (6)(VI) of this subsection
35 may not be construed to permit a facility to offer a new health care service for which
36 a certificate of need is otherwise required.

1 [(7) Subject to the notice requirements of paragraph (5)(ii) of this
2 subsection, a hospital may acquire a freestanding ambulatory surgical facility or
3 office of one or more health care practitioners or a group practice with one or more
4 operating rooms used primarily for the purpose of providing ambulatory surgical
5 services if the facility, office, or group practice:

6 (i) Has obtained a certificate of need;

7 (ii) Has obtained an exemption from certificate of need
8 requirements; or

9 (iii) Did not require a certificate of need in order to provide
10 ambulatory surgical services after June 1, 1995.

11 (8) Nothing in this subsection may be construed to permit a hospital to
12 build or expand its ambulatory surgical capacity in any setting owned or controlled by
13 the hospital without obtaining a certificate of need from the Commission if the
14 building or expansion would increase the surgical capacity of the State's health care
15 system.]

16 (L) (1) IN THIS SUBSECTION, "HOSPITAL" HAS THE MEANING STATED IN §
17 19-301 OF THIS TITLE.

18 (2) A CERTIFICATE OF NEED IS REQUIRED BEFORE ANY OF THE
19 FOLLOWING CAPITAL EXPENDITURES ARE MADE BY OR ON BEHALF OF A HOSPITAL:

20 (I) ANY EXPENDITURE THAT, UNDER GENERALLY ACCEPTED
21 ACCOUNTING PRINCIPLES, IS NOT PROPERLY CHARGEABLE AS AN OPERATING OR
22 MAINTENANCE EXPENSE, IF THE EXPENDITURE:

23 1. IS MADE AS PART OF AN ACQUISITION, IMPROVEMENT, OR
24 EXPANSION, AND, AFTER ADJUSTMENT FOR INFLATION CONSISTENT WITH
25 REGULATIONS ADOPTED BY THE COMMISSION, THE TOTAL EXPENDITURE,
26 INCLUDING THE COST OF EACH STUDY, SURVEY, DESIGN, PLAN, WORKING DRAWING,
27 SPECIFICATION, AND OTHER ESSENTIAL ACTIVITY, IS MORE THAN \$2,500,000;

28 2. IS MADE AS PART OF A REPLACEMENT OF ANY PLANT AND
29 EQUIPMENT OF THE HOSPITAL AND IS MORE THAN \$2,500,000, AFTER ADJUSTMENT
30 FOR INFLATION CONSISTENT WITH REGULATIONS ADOPTED BY THE COMMISSION;

31 3. RESULTS IN A SUBSTANTIAL CHANGE IN THE BED
32 CAPACITY OF THE HOSPITAL; OR

33 4. RESULTS IN THE ESTABLISHMENT OF A NEW MEDICAL
34 SERVICE IN A HOSPITAL THAT WOULD REQUIRE A CERTIFICATE OF NEED UNDER
35 SUBSECTION (I) OF THIS SECTION; OR

36 (II) ANY EXPENDITURE THAT IS MADE TO LEASE OR, BY
37 COMPARABLE ARRANGEMENT, OBTAIN ANY PLANT OR EQUIPMENT FOR THE
38 HOSPITAL, IF THE EXPENDITURE:

1 1. IS MADE AS PART OF AN ACQUISITION, IMPROVEMENT, OR
2 EXPANSION, AND AFTER ADJUSTMENT FOR INFLATION CONSISTENT WITH
3 REGULATIONS ADOPTED BY THE COMMISSION, THE TOTAL EXPENDITURE,
4 INCLUDING THE COST OF EACH STUDY, SURVEY, DESIGN, PLAN, WORKING DRAWING,
5 SPECIFICATION, AND OTHER ESSENTIAL ACTIVITY, IS MORE THAN \$2,500,000;

6 2. IS MADE AS PART OF A REPLACEMENT OF ANY PLANT AND
7 EQUIPMENT AND IS MORE THAN \$2,500,000, AFTER ADJUSTMENT FOR INFLATION
8 CONSISTENT WITH REGULATIONS ADOPTED BY THE COMMISSION;

9 3. RESULTS IN A SUBSTANTIAL CHANGE IN THE BED
10 CAPACITY OF THE HOSPITAL; OR

11 4. RESULTS IN THE ESTABLISHMENT OF A NEW MEDICAL
12 SERVICE IN A HOSPITAL THAT WOULD REQUIRE A CERTIFICATE OF NEED UNDER
13 SUBSECTION (I) OF THIS SECTION.

14 (3) A CERTIFICATE OF NEED IS REQUIRED BEFORE ANY EQUIPMENT OR
15 PLANT IS DONATED TO A HOSPITAL, IF A CERTIFICATE OF NEED WOULD BE
16 REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR AN EXPENDITURE BY
17 THE HOSPITAL TO ACQUIRE THE EQUIPMENT OR PLANT DIRECTLY.

18 (4) A CERTIFICATE OF NEED IS REQUIRED BEFORE ANY EQUIPMENT OR
19 PLANT IS TRANSFERRED TO A HOSPITAL AT LESS THAN FAIR MARKET VALUE IF A
20 CERTIFICATE OF NEED WOULD BE REQUIRED UNDER PARAGRAPH (2) OF THIS
21 SUBSECTION FOR THE TRANSFER AT FAIR MARKET VALUE.

22 (5) A CERTIFICATE OF NEED IS REQUIRED BEFORE A PERSON ACQUIRES
23 A HOSPITAL IF A CERTIFICATE OF NEED WOULD BE REQUIRED UNDER PARAGRAPH
24 (2) OF THIS SUBSECTION FOR THE ACQUISITION BY OR ON BEHALF OF A HOSPITAL.

25 (6) THIS SUBSECTION DOES NOT APPLY TO:

26 (I) SITE ACQUISITION;

27 (II) ACQUISITION OF A HOSPITAL IF, AT LEAST 30 DAYS BEFORE
28 MAKING THE CONTRACTUAL ARRANGEMENT TO ACQUIRE THE HOSPITAL, WRITTEN
29 NOTICE OF THE INTENT TO MAKE THE ARRANGEMENT IS FILED WITH THE
30 COMMISSION AND THE COMMISSION FINDS, WITHIN 30 DAYS AFTER THE
31 COMMISSION RECEIVES NOTICE, THAT THE HEALTH SERVICES OR BED CAPACITY OF
32 THE HOSPITAL WILL NOT BE CHANGED;

33 (III) ACQUISITION OF BUSINESS OR OFFICE EQUIPMENT THAT IS
34 NOT DIRECTLY RELATED TO PATIENT CARE;

35 (IV) CAPITAL EXPENDITURES TO THE EXTENT THAT THEY ARE
36 DIRECTLY RELATED TO THE ACQUISITION AND INSTALLATION OF MAJOR MEDICAL
37 EQUIPMENT;

1 (V) A CAPITAL EXPENDITURE MADE AS PART OF A CONSOLIDATION
2 OR MERGER OF TWO OR MORE HOSPITALS, OR CONVERSION OF A HOSPITAL OR PART
3 OF A HOSPITAL TO A NONHEALTH-RELATED USE IF:

4 1. AT LEAST 45 DAYS BEFORE AN EXPENDITURE IS MADE,
5 WRITTEN NOTICE OF INTENT IS FILED WITH THE COMMISSION;

6 2. WITHIN 45 DAYS OF RECEIVING NOTICE, THE
7 COMMISSION IN ITS SOLE DISCRETION FINDS THAT THE PROPOSED CONSOLIDATION,
8 MERGER, OR CONVERSION:

9 A. IS NOT INCONSISTENT WITH THE STATE HEALTH PLAN OR
10 THE INSTITUTION-SPECIFIC PLAN DEVELOPED BY THE COMMISSION AS
11 APPROPRIATE;

12 B. WILL RESULT IN THE DELIVERY OF MORE EFFICIENT AND
13 EFFECTIVE HEALTH CARE SERVICES; AND

14 C. IS IN THE PUBLIC INTEREST; AND

15 3. WITHIN 45 DAYS OF RECEIVING NOTICE, THE
16 COMMISSION SHALL NOTIFY THE HOSPITAL OF ITS FINDING;

17 (VI) CAPITAL EXPENDITURE BY A HOSPITAL FOR EQUIPMENT,
18 CONSTRUCTION, OR RENOVATION THAT:

19 1. IS NOT DIRECTLY RELATED TO PATIENT CARE; AND

20 2. DOES NOT INCREASE PATIENT CHARGES OR HOSPITAL
21 RATES;

22 (VII) A CAPITAL EXPENDITURE BY A HOSPITAL FOR A PROJECT IN
23 EXCESS OF \$2,500,000 FOR CONSTRUCTION OR RENOVATION THAT MAY BE RELATED
24 TO PATIENT CARE BUT DOES NOT REQUIRE, OVER THE ENTIRE PERIOD OR
25 SCHEDULE OF DEBT SERVICE ASSOCIATED WITH THE PROJECT, A TOTAL
26 CUMULATIVE INCREASE IN PATIENT CHARGES OR HOSPITAL RATES OF MORE THAN
27 \$1,500,000 FOR THE CAPITAL COSTS ASSOCIATED WITH THE PROJECT AS
28 DETERMINED BY THE COMMISSION, AFTER CONSULTATION WITH THE HEALTH
29 SERVICES COST REVIEW COMMISSION IF:

30 1. AT LEAST 45 DAYS BEFORE THE PROPOSED EXPENDITURE
31 IS MADE, THE HOSPITAL NOTIFIES THE COMMISSION AND WITHIN 45 DAYS OF
32 RECEIPT OF THE RELEVANT FINANCIAL INFORMATION, THE COMMISSION MAKES
33 THE FINANCIAL DETERMINATION REQUIRED UNDER ITEM 2 OF THIS
34 SUBPARAGRAPH; AND

35 2. THE RELEVANT FINANCIAL INFORMATION TO BE
36 SUBMITTED BY THE HOSPITAL IS CONSISTENT WITH THE REGULATIONS ADOPTED BY
37 THE COMMISSION, AFTER CONSULTATION WITH THE HEALTH SERVICES COST
38 REVIEW COMMISSION; OR

1 (VIII) A PLANT DONATED TO A HOSPITAL WHICH DOES NOT REQUIRE
2 A CUMULATIVE INCREASE IN PATIENT CHARGES OR HOSPITAL RATES OF MORE THAN
3 \$1,500,000 FOR CAPITAL COSTS ASSOCIATED WITH THE DONATED PLANT AS
4 DETERMINED BY THE COMMISSION, AFTER CONSULTATION WITH THE HEALTH
5 SERVICES COST REVIEW COMMISSION IF:

6 1. AT LEAST 45 DAYS BEFORE THE PROPOSED DONATION IS
7 MADE, THE HOSPITAL NOTIFIES THE COMMISSION AND WITHIN 45 DAYS OF RECEIPT
8 OF THE RELEVANT FINANCIAL INFORMATION, THE COMMISSION MAKES THE
9 FINANCIAL DETERMINATION REQUIRED UNDER THIS SUBPARAGRAPH; AND

10 2. THE RELEVANT FINANCIAL INFORMATION TO BE
11 SUBMITTED BY THE HOSPITAL IS CONSISTENT WITH REGULATIONS ADOPTED BY THE
12 COMMISSION AFTER CONSULTATION WITH THE HEALTH SERVICES COST REVIEW
13 COMMISSION.

14 (7) PARAGRAPH (6)(VI), (VII), AND (VIII) OF THIS SUBSECTION MAY NOT
15 BE CONSTRUED TO PERMIT A HOSPITAL TO OFFER A NEW HEALTH CARE SERVICE
16 FOR WHICH A CERTIFICATE OF NEED WOULD OTHERWISE BE REQUIRED.

17 (8) SUBJECT TO THE NOTICE REQUIREMENTS OF PARAGRAPH (6)(II) OF
18 THIS SUBSECTION, A HOSPITAL MAY ACQUIRE A FREESTANDING AMBULATORY
19 SURGICAL FACILITY OR OFFICE OF ONE OR MORE HEALTH CARE PRACTITIONERS OR
20 A GROUP PRACTICE WITH ONE OR MORE OPERATING ROOMS USED PRIMARILY FOR
21 THE PURPOSE OF PROVIDING AMBULATORY SURGICAL SERVICES IF THE FACILITY,
22 OFFICE, OR GROUP PRACTICE:

23 (I) HAS OBTAINED A CERTIFICATE OF NEED;

24 (II) HAS OBTAINED AN EXEMPTION FROM CERTIFICATE OF NEED
25 REQUIREMENTS; OR

26 (III) DID NOT REQUIRE A CERTIFICATE OF NEED IN ORDER TO
27 PROVIDE AMBULATORY SURGICAL SERVICES AFTER JUNE 1, 1995.

28 (9) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO PERMIT A
29 HOSPITAL TO BUILD OR EXPAND ITS AMBULATORY SURGICAL CAPACITY IN ANY
30 SETTING OWNED OR CONTROLLED BY THE HOSPITAL WITHOUT OBTAINING A
31 CERTIFICATE OF NEED FROM THE COMMISSION IF THE BUILDING OR EXPANSION
32 WOULD INCREASE THE SURGICAL CAPACITY OF THE STATE HEALTH CARE SYSTEM.

33 [(1)] (M) A certificate of need is not required to close any hospital or part of a
34 hospital as defined in § 19-301 of this title if:

35 (1) (i) Except as provided in paragraph (2) of this subsection, at least
36 45 days before the closing or partial closing of a hospital, including a State hospital, a
37 person proposing to close all or part of the hospital files notice of the proposed closing
38 or partial closing with the Commission; and

1 (ii) Within 30 days after receipt of the notice of intent to close, the
2 hospital, in consultation with the Commission, holds a public informational hearing
3 in the county where the hospital is located; or

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

8 (ii) The Commission finds that the closing:

9 1. Is in the public interest; and

10 2. Is not inconsistent with:

11 A. The State health plan; or

12 B. An institution-specific plan developed by the Commission
13 under § 19-119 of this subtitle.

14 [(m)] (N) In this section the terms "consolidation" and "merger" include
15 increases and decreases in bed capacity or services among the components of an
16 organization which:

17 (1) Operates more than one health care facility; or

18 (2) Operates one or more health care facilities and holds an outstanding
19 certificate of need to construct a health care facility.

20 [(n)] (O) (1) Notwithstanding any other provision of this section, the
21 Commission shall consider the special needs and circumstances of a county where a
22 medical service, as defined in this section, does not exist; and

23 (2) The Commission shall consider and may approve under this
24 subsection a certificate of need application to establish, build, operate, or participate
25 in a health care project to provide a new medical service in a county if the
26 Commission, in its sole discretion, finds that:

27 (i) The proposed medical service does not exist in the county that
28 the project would be located;

29 (ii) The proposed medical service is necessary to meet the health
30 care needs of the residents of that county;

31 (iii) The proposed medical service would have a positive impact on
32 the existing health care system;

33 (iv) The proposed medical service would result in the delivery of
34 more efficient and effective health care services to the residents of that county; and

1 (v) The application meets any other standards or regulations
2 established by the Commission to approve applications under this subsection.

3 [(o)] (P) The Commission may not issue a certificate of need or a
4 determination with respect to an acquisition that authorizes a general hospice to
5 provide home-based hospice services on a statewide basis.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect July 1, 2005.