

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1385 (Chairman, Health and Government Operations Committee)
(By Request – Departmental – Health and Mental Hygiene)
Health and Government Operations

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

This departmental bill gives the Maryland Health Care Commission (MHCC) additional authority to regulate the Certificate of Need (CON) process and alters CON requirements for hospital capital expenditures.

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: General fund revenues would increase to the extent MHCC imposes fines on noncompliant entities. Any increase is expected to be minimal. MHCC could handle regulatory changes with existing budgeted resources.

Local Effect: None.

Small Business Effect: The Department of Health and Mental Hygiene has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill authorizes MHCC to impose a fine for: (1) failure to obtain MHCC approval before initiating a health care project for which MHCC approval is required; (2) failure to meet performance requirements for a health care project for which

MHCC approval is required; (3) violation of the terms of a CON; or (4) any other violation of CON regulation requirements. MHCC may assess a fine of up to \$1,000 per violation for each day a violation continues and must consider specified factors in determining the amount of any fine.

The bill changes the hospital capital expenditure threshold that requires a CON from \$1.25 million (adjusted for inflation) to \$2.5 million (adjusted for inflation). The bill specifies when a hospital is required to obtain a CON from MHCC for certain capital expenditures that are \$2.5 million or more and which result in capacity changes, acquisition, improvement, expansion, or replacement of equipment or facilities.

Current Law: MHCC must issue a CON before a health care facility may be built, developed, or established. A CON is also required for any new capital expenditure in a health care facility.

MHCC is permitted to impose reasonable penalties for failure to file information or reports with MHCC as required. If a health care facility fails to provide this information as required, MHCC may impose a penalty of not more than \$100 per day for each day a violation continues. A hospital must obtain a CON from MHCC for certain capital expenditures that are \$1.25 million or more (adjusted for inflation).

Background: Currently, when a health care facility has circumvented the statutory requirements governing the issuance of CONs, MHCC has no recourse other than seeking an injunction to close the facility during the CON application process. This bill provides intermediate penalties, such as imposing fines on a facility.

MHCC advises that a number of entities have recently received a CON to open a facility or offer a new service, but have not fulfilled the requirements under which the CON was granted. Further, some facilities have missed deadlines and MHCC has no authority to enforce the timely satisfaction of performance requirements.

Increasing the capital expenditure threshold for hospitals from \$1.25 million to \$2.5 million affords hospitals more flexibility in improving or updating health care services. Only large-scale hospital projects, such as adding a wing or renovating an emergency room, would require CON review, focusing MHCC's attention on more expensive projects with a larger system impact.

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 21, 2005
mam/jr

Analysis by: Susan D. John

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