

# HOUSE BILL 715

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HB 558/08 – HGO

9lr2733

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By: **Delegate Bromwell**

Introduced and read first time: February 10, 2009

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Home Health – Certificate of Need**

3 FOR the purpose of repealing the requirement that a certificate of need be obtained for  
4 a home health agency and for certain services provided by a home health agency  
5 within the scope of its home health agency license; altering certain definitions;  
6 and generally relating to home health and certificate of need.

7 BY repealing and reenacting, without amendments,  
8 Article – Health – General  
9 Section 19–114(a) and (c), 19–120(a)(1), and 19–404(a)  
10 Annotated Code of Maryland  
11 (2005 Replacement Volume and 2008 Supplement)

12 BY repealing and reenacting, with amendments,  
13 Article – Health – General  
14 Section 19–114(d), 19–120(a)(3) and (j), and 19–406  
15 Annotated Code of Maryland  
16 (2005 Replacement Volume and 2008 Supplement)

17 BY repealing  
18 Article – Health – General  
19 Section 19–404(d)  
20 Annotated Code of Maryland  
21 (2005 Replacement Volume and 2008 Supplement)

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

24 **Article – Health – General**

25 19–114.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

5 (d) (1) “Health care facility” means:

6 (i) A hospital, as defined in § 19–301 of this title;

7 (ii) A limited service hospital, as defined in § 19–301 of this  
8 title;

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

10 (iv) An ambulatory surgical facility;

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

14 [(vi) A home health agency, as defined in § 19–401 of this title;]

15 [(vii)] **(VI)** A hospice, as defined in § 19–901 of this title; and

16 [(viii)] **(VII)** Any other health institution, service, or program for  
17 which this Part II of this subtitle requires a certificate of need.

18 (2) “Health care facility” does not include:

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

21 (ii) For the purpose of providing an exemption from a certificate  
22 of need under § 19–120 of this subtitle, a facility to provide comprehensive care  
23 constructed by a provider of continuing care, as defined in § 10–401 of the Human  
24 Services Article, if:

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



1 (iii) In space that is on land leased from a health care facility.

2 (2) This subsection does not apply if:

3 (i) The Commission adopts limits for changes in health care  
4 services and the proposed change would not exceed those limits;

5 (ii) The proposed change and the annual operating revenue that  
6 would result from the addition is entirely associated with the use of medical  
7 equipment;

8 (iii) The proposed change would establish, increase, or decrease  
9 a health care service and the change would not result in the:

10 1. Establishment of a new medical service or elimination  
11 of an existing medical service;

12 2. Establishment of an open heart surgery, organ  
13 transplant surgery, or burn or neonatal intensive health care service;

14 3. Establishment of a [home health program,] hospice  
15 program[,] or freestanding ambulatory surgical center or facility; or

16 4. Expansion of a comprehensive care, extended care,  
17 intermediate care, residential treatment, psychiatry, or rehabilitation medical service,  
18 except for an expansion related to an increase in total bed capacity in accordance with  
19 subsection (h)(2)(i) of this section; or

20 (iv) 1. At least 45 days before increasing or decreasing the  
21 volume of 1 or more health care services, written notice of intent to change the volume  
22 of health care services is filed with the Commission;

23 2. The Commission in its sole discretion finds that the  
24 proposed change:

25 A. Is pursuant to the consolidation or merger of 2 or  
26 more health care facilities, the conversion of a health care facility or part of a facility  
27 to a nonhealth-related use, or the conversion of a hospital to a limited service hospital;

28 B. Is not inconsistent with the State health plan or the  
29 institution-specific plan developed and adopted by the Commission;

30 C. Will result in the delivery of more efficient and  
31 effective health care services; and

32 D. Is in the public interest; and

1                                   3.     Within 45 days of receiving notice under item 1 of this  
2 subparagraph, the Commission shall notify the health care facility of its finding.

3                                   [(3)   Notwithstanding the provisions of paragraph (2) of this subsection,  
4 a certificate of need is required:

5                                   (i)     Before an additional home health agency, branch office, or  
6 home health care service is established by an existing health care agency or facility;

7                                   (ii)    Before an existing home health agency or health care facility  
8 establishes a home health agency or home health care service at a location in the  
9 service area not included under a previous certificate of need or license;

10                                  (iii)   Before a transfer of ownership of any branch office of a home  
11 health agency or home health care service of an existing health care facility that  
12 separates the ownership of the branch office from the home health agency or home  
13 health care service of an existing health care facility which established the branch  
14 office; or

15                                  (iv)    Before the expansion of a home health service or program by  
16 a health care facility that:

17   1.     Established the home health service or program  
18 without a certificate of need between January 1, 1984 and July 1, 1984; and

19   2.     During a 1–year period, the annual operating revenue  
20 of the home health service or program would be greater than \$333,000 after an annual  
21 adjustment for inflation, based on an appropriate index specified by the Commission.]

22   19–404.

23                                  (a)     The Department shall adopt rules and regulations that set standards for  
24 the care, treatment, health, safety, welfare, and comfort of patients of home health  
25 agencies.

26                                  [(d)   The provisions of this section do not waive the requirement for a home  
27 health agency to obtain a certificate of need.]

28   19–406.

29                                  To qualify for a license, an applicant shall[:

30   (1)     >Show] **SHOW** that the home health agency will provide:

31   [(i)] **(1)**     Appropriate home health care to patients who may be  
32 cared for at a prescribed level of care, in their residence instead of in a hospital; and

1                                    [(ii)] **(2)**      Skilled nursing, home health aid, and at least one  
2 other home health care service that is approved by the Secretary]; and

3                                    (2)      Meet the requirements of Subtitle 1 of this title for certification of  
4 need].

5                                    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2009.