

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

House Bill 840 (Delegates Carter and Oaks)  
Health and Government Operations

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Maryland Health Care Commission - Certificates of Need - Extension

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This bill requires the Maryland Health Care Commission (MHCC) to grant an extension of time to the holder of a certificate of need (CON) on the showing of good cause by the holder. MHCC must renew the extension of time to the holder of a CON on a continued showing of good cause.

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Fiscal Summary

**State Effect:** The bill's requirements can be handled with existing budgeted MHCC resources.

**Local Effect:** None.

**Small Business Effect:** Potential minimal.

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Analysis

**Current Law:** MHCC must issue a CON before a health care facility may be built, developed, or established in the State. 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. A CON is also required to close certain health care facilities, generally nursing homes, ambulatory surgical facilities with two or more operating rooms, home health agencies, and hospices. Hospitals may be closed without a CON if notice of the proposed closing is filed with MHCC at least 45 days prior to closure. Hospitals located in a county with fewer than three hospitals must also hold a public informational hearing in the county where the hospital is located within 30 days after submitting notice of intent to close.

Under Code of Maryland Regulations, performance requirements are applied to each approved CON project with specific time limitations, beginning with the date of the CON approval, based on the nature and scope of the project. A person who holds a CON may request one extension of time, not to exceed six months, to meet each applicable performance requirement. The applicant must provide reasonable assurance that it will meet the performance requirement by the end of the extended period. The executive director of MHCC, for good cause, may approve a requested extension to an applicable performance requirement. MHCC must fully document an extension approval. A request for an extension must be made in writing and received at least 30 calendar days before the date by which the performance requirement is to be completed. A request is considered to show good cause if it demonstrates that circumstances completely beyond the control of the person who holds the CON require the extension. Good cause does not include delays in securing financing.

**Background:** The CON process, employed in most states in some form, is a cost-containment regulatory method that began in the early 1970s. The CON process prohibits capital expenditures by hospitals and other health care facilities unless a governmental agency finds a need for the new health care services to be offered.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 11, 2009  
mcp/mwc

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