

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

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

Senate Bill 71

(Chair, Finance Committee)(By Request - Departmental -  
Health and Mental Hygiene)

Finance

Health and Government Operations

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

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This departmental bill aligns statutory requirements for the closure of specified health care facilities with those currently required for the closure of hospitals. Thus, to close without a certificate of need (CON), a “health care facility” has to file notice of the proposed closure with the Maryland Health Care Commission (MHCC) at least 45 days prior to closure. MHCC may require a facility that intends to close or partially close to hold a public informational hearing in the county where the facility is located at least 15 days prior to closure.

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**Fiscal Summary**

**State Effect:** None. The bill’s requirements do not affect governmental finances.

**Local Effect:** None.

**Small Business Effect:** MHCC has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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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. However, a hospital or part of a hospital 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.

**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.

Maryland's statutory requirement that certain health care facilities obtain CON approval prior to closure was intended to ensure public notice and scrutiny of the impact of any closure on access to care. However, enforcement of this requirement is challenging. Although closure of health care facilities in Maryland is rare, the bill replaces the CON requirement with public notice requirements, establishing consistent CON policy with respect to closure of hospitals and other health care facilities.

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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 - January 23, 2009  
mlm/mwc Revised - Senate Third Reader - April 1, 2009

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Health Care Commission – Certificate of Need Requirements

BILL NUMBER: SB 71

PREPARED BY: Office of the Inspector General

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.