

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

Senate Bill 57

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

Finance

Health and Government Operations

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

This departmental bill aligns statutory requirements for the closure of specified health care facilities with those currently required for the closure or partial 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. The bill also authorizes MHCC to require a health care facility that files notice of its proposed closing to hold a public informational hearing within 30 days.

**Fiscal Summary**

**State Effect:** None. The change is procedural in nature and does not directly affect governmental finances.

**Local Effect:** None.

**Small Business Effect:** MHCC has determined that this bill has minimal or no impact on small businesses (attached). Legislative Services concurs with this assessment.

**Analysis**

**Current Law/Background:** The CON process, employed in most states in some form, is a cost-containment regulatory method that began in the early 1970s. 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 including nursing homes, ambulatory surgical facilities, home health agencies, and hospices.

However, requirements differ for hospital closures. A hospital or part of a hospital may be closed without a CON if notice of the proposed closure is filed with MHCC at least 45 days prior to closure. A hospital 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.

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, MHCC advises that CON applications have increased markedly and 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:** SB 71 of 2009, a similar bill, passed the Senate but received no further action after a hearing in the House Health and Government Operations Committee.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - January 21, 2011  
ncs/mwc

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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 57

PREPARED BY: Department of Health and Mental Hygiene

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

Hospital rates will increase by an extremely small amount when the \$1.5 million increase is fully implemented. Commercial insurers represent about 37% of all hospital payments. Therefore, hospital payments by commercial insurers could increase by \$555,000.