

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 626

(Delegate Krebs, *et al.*)

Health and Government Operations

Finance

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**Health Care Facilities - Change in Bed Capacity - Certificate of Need Exemption**

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This emergency bill exempts a health care facility from the general requirement to obtain a certificate of need (CON) from the Maryland Health Care Commission (MHCC) before changing the bed capacity of a health care facility if the change in bed capacity will occur in (1) a licensed intermediate care facility that offers residential or intensive substance-related disorder treatment services or (2) an existing, licensed general hospice program. In order to be exempt, a health care facility must file written notice of the intent to change bed capacity with MHCC at least 45 days before increasing or decreasing bed capacity. The bill also requires MHCC to (1) review the chapter of the State Health Plan on Psychiatric Services; Emergency Medical Services and (2) if regulations are not adopted that update that chapter by December 30, 2019, provide a report on the review of the chapter to specified committees of the General Assembly by December 30, 2019.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially affect State operations or finances.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law/Background:** The CON program, located within MHCC, is intended to ensure that new health care facilities and services are developed only as needed and that, if determined to be needed, they:

- are the most cost-effective approach to meeting identified needs;
- are of high quality;
- are geographically and financially accessible;
- are financially viable; and
- will not have a significant negative impact on the cost, quality, or viability of other health care facilities and services.

The CON program requires review and approval of certain types of proposed health care facility and service projects by MHCC. With certain exceptions, a CON is required to:

- build, develop, or establish a new health care facility;
- move an existing health care facility to another site;
- change the type or scope of any health care service offered by a health care facility;
- make a health care facility capital expenditure that exceeds a threshold established in Maryland statute; or
- change the bed capacity of a health care facility.

A CON is not required for any increase or decrease in health care facility bed capacity if:

- for a health care facility that is not a hospital, during a two-year period, the increase or decrease would not exceed the *lesser* of 10% of the total bed capacity or 10 beds;
- the increase or decrease would change the bed capacity for an existing medical service *and* (1) the change would not increase total bed capacity; (2) the change is maintained for at least a one-year period; and (3) the hospital provides specified written notice to MHCC at least 45 days prior to the change;
- following specified notice, MHCC, in its sole discretion finds that the proposed change (1) is pursuant to the consolidation or merger of two or more health care facilities or conversion of a health care facility or part of a facility to a nonhealth-related use; (2) is not inconsistent with the State Health Plan or the institution-specific plan developed by MHCC; (3) will result in the delivery of more efficient and effective health care services; and (4) is in the public interest; or
- the increase or decrease in bed capacity is the result of the annual licensed bed recalculation as specified.

### *Certificate of Need Modernization Task Force*

In June 2017, the Senate Finance and House Health and Government Operations committees directed MHCC to review specific elements of the CON program. In response, MHCC convened a CON Modernization Task Force. In the task force's December 2018 [final report](#), the task force recommended, among other things, eliminating the requirement

to obtain CON approval of changes in bed capacity (1) by an alcoholism and drug abuse treatment intermediate care facility or by a residential treatment center and (2) by a hospital for acute psychiatric beds. The report also noted, as a potential solution to issues identified, the utility of eliminating CON for changes in bed capacity at inpatient hospices.

### *State Health Plan*

At least every five years, MHCC must adopt a State Health Plan. The plan must include (1) the methodologies, standards, and criteria for CON review and (2) priority for conversion of acute capacity to alternative uses where appropriate. Each year, or on petition by any person, MHCC must *review* the State Health Plan and publish any changes in the plan that MHCC considers necessary, subject to the review and approval granted to the Governor under the Health-General Article. MHCC must adopt rules and regulations that ensure broad public input, public hearings, and consideration of local health plans in development of the State Health Plan.

MHCC must develop standards and policies consistent with the State Health Plan that relate to the CON program. The standards must address the availability, accessibility, cost, and quality of health care, and they must be reviewed and revised periodically to reflect new developments in health planning, delivery, and technology. In adopting standards regarding cost, efficiency, cost effectiveness, or financial feasibility, MHCC must take into account the relevant methodologies of the Health Services Cost Review Commission.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - March 4, 2019  
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