

HOUSE BILL 804

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By: **Delegates Grammer, Alston, Arentz, Arikan, Bagnall, Buckel, Chisholm, Crutchfield, Fisher, Grossman, Guzzone, Hill, Hutchinson, A. Johnson, S. Johnson, Kerr, Kipke, R. Lewis, Lopez, Mangione, McComas, Metzgar, M. Morgan, Nawrocki, Phillips, Reilly, Schmidt, Spiegel, Szeliga, Taveras, White Holland, and Woods**

Introduced and read first time: January 31, 2024

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Certificate of Need – Psychiatric Health Care Facilities and Psychiatric and**
3 **Mental Health Services – Exemption**

4 FOR the purpose of altering the definition of “medical service” for the purpose of providing
5 an exemption to the certificate of need requirement by removing psychiatry and any
6 subcategory of psychiatry; providing that a certificate of need is not required to
7 establish or operate a psychiatric health care facility or to offer psychiatric or other
8 mental health services at a health care facility; and generally relating to psychiatric
9 health care facilities and psychiatric and mental health services and exemptions to
10 the certificate of need requirement.

11 BY repealing and reenacting, with amendments,

12 Article – Health – General
13 Section 19–120(a) and (j)
14 Annotated Code of Maryland
15 (2023 Replacement Volume)

16 BY adding to

17 Article – Health – General
18 Section 19–122.1
19 Annotated Code of Maryland
20 (2023 Replacement Volume)

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

23 **Article – Health – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 19–120.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) “Consolidation” and “merger” include increases and decreases in bed
4 capacity or services among the components of an organization that:

5 (i) Operates more than one health care facility; or

6 (ii) Operates one or more health care facilities and holds an
7 outstanding certificate of need to construct a health care facility.

8 (3) (i) “Health care service” means any clinically related patient
9 service.

10 (ii) “Health care service” includes a medical service.

11 (4) “Hospital capital threshold” means the lesser of:

12 (i) 25% of the hospital’s gross regulated charges for the immediately
13 preceding year; or

14 (ii) \$50,000,000.

15 (5) “Limited service hospital” means a health care facility that:

16 (i) Is licensed as a hospital on or after January 1, 1999;

17 (ii) Changes the type or scope of health care services offered by
18 eliminating the facility’s capability to admit or retain patients for overnight hospitalization;

19 (iii) Retains an emergency or urgent care center; and

20 (iv) Complies with the regulations adopted by the Secretary under §
21 19–307.1 of this title.

22 (6) “Medical service” means:

23 (i) Any of the following categories of health care services:

24 1. Medicine, surgery, gynecology, addictions;

25 2. Obstetrics;

26 3. Pediatrics;

- 4. [Psychiatry;
- 5.] Rehabilitation;
- [6.] 5. Chronic care;
- [7.] 6. Comprehensive care;
- [8.] 7. Extended care;
- [9.] 8. Intermediate care; or
- [10.] 9. Residential treatment; or

(ii) Any subcategory of the rehabilitation, [psychiatry,] comprehensive care, or intermediate care categories of health care services for which need is projected in the State health plan.

(j) (1) A certificate of need is required before the type or scope of any health care service is changed if the health care service:

- (i) Is offered:
 - 1. By a health care facility;
 - 2. In space that is leased from a health care facility; or
 - 3. In space that is on land leased from a health care facility;
- or

(ii) Results in a change in operating room capacity in a hospital, a freestanding medical facility, or an ambulatory surgical facility.

(2) This subsection does not apply if:

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

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

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

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

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1 2. Establishment of a cardiac surgery, organ transplant
2 surgery, or burn or neonatal intensive health care service;

3 3. Except as provided in § 19–120.1 of this subtitle,
4 establishment of percutaneous coronary intervention services;

5 4. Establishment of a home health program, hospice
6 program, or freestanding ambulatory surgical center or facility; or

7 5. Expansion of a comprehensive care, extended care,
8 intermediate care, residential treatment, [psychiatry,] or rehabilitation medical service,
9 except for an expansion related to an increase in total bed capacity in accordance with
10 subsection (h)(2)(i) of this section; or

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

14 2. The Commission in its sole discretion finds that the
15 proposed change:

16 A. Is pursuant to:

17 I. The consolidation or merger of two or more health care
18 facilities;

19 II. The conversion of a health care facility or part of a facility
20 to a nonhealth–related use;

21 III. The conversion of a hospital to a limited service hospital;
22 or

23 IV. The conversion of a licensed general hospital to a
24 freestanding medical facility in accordance with subsection (o)(3) of this section;

25 B. Is not inconsistent with the State health plan or the
26 institution–specific plan developed and adopted by the Commission;

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

29 D. Is in the public interest; and

30 3. Within 45 days of receiving notice under item 1 of this
31 item, the Commission notifies the health care facility of its finding.

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

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

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

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

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

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

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

19 **19–122.1.**

20 **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CERTIFICATE OF NEED**
21 **IS NOT REQUIRED TO:**

22 **(1) ESTABLISH OR OPERATE A PSYCHIATRIC HEALTH CARE FACILITY;**
23 **OR**

24 **(2) OFFER PSYCHIATRIC OR OTHER MENTAL HEALTH SERVICES AT A**
25 **HEALTH CARE FACILITY, REGARDLESS OF WHETHER THE HEALTH CARE FACILITY**
26 **REQUIRES A CERTIFICATE OF NEED UNDER THIS SUBTITLE.**

27 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
28 **October 1, 2024.**