Department of Legislative Services

Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 944 (Delegate Cullison)
Health

Maryland Health Care Commission - Certificates of Need and Material Change Transactions

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This bill requires a "health care entity" to provide notice of a "material change transaction" to the Maryland Health Care Commission (MHCC). The bill also (1) establishes a public interest review process for such a transaction; (2) requires the executive director of MHCC to approve or deny such a transaction; and (3) removes the exemption from the certificate of need (CON) requirement for certain mergers. MHCC must adopt specified regulations. MHCC may (1) establish an appropriate fee for a material change transaction; (2) impose a civil penalty for a violation of the bill's requirements; (3) issue an administrative order requiring a health care entity to comply with the bill's requirements; and (4) apply to a circuit court for legal relief, as specified. The bill does not apply if a material change transaction involves changes that require a CON or other MHCC approval. The bill may not be construed to (1) impair, modify, limit, or supersede the applicability of any other license or approval required under law or (2) limit the authority of the Attorney General to protect the health care market or consumers under any other law.

Fiscal Summary

State Effect: MHCC special fund revenues increase by an indeterminate amount beginning as early as FY 2027 from any fees assessed. Any special fund expenditures to implement the bill can likely be absorbed with existing budgeted resources or covered by new special fund fee revenues. Civil penalties are not likely to have a material impact on State finances or operations.

Local Effect: Any impact on the circuit courts is not expected to materially affect local revenues or expenditures.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Definitions

"Consolidation" means the consolidation or relocation of beds and health care services between health care facilities within the same merged asset system.

"Health care entity" means a health care facility, an ambulatory surgical facility, and a provider organization.

"Health care facility" means a hospital; a limited service hospital; a related institution; an ambulatory surgical facility; an inpatient facility that is organized primarily to help in the rehabilitation of disabled individuals, through an integrated program of medical and other services provided under competent professional supervision; a home health agency; a hospice; a freestanding medical facility; and any other health institution, service, or program that requires a CON. The bill designates entities not included in the definition of "health care facility."

"Market power" means possessing 30% or more market share in any line of service in the relevant geographic area or under other criteria that MHCC may define by regulation.

"Material change transaction" means any of the following events occurring during a single transaction or in a series of related transactions within a consecutive five-year period involving a health care entity that has total assets, annual revenues, or anticipated annual revenues if the result of the transaction is a new health care entity, of at least $10.0 million, including both in-State and out-of-state assets and revenues:

- a merger including one or more health care entities;
- an acquisition of a health care entity;
- any affiliation, arrangement, or contract that results in a change of control over a health care entity;
- the formation of a partnership, joint venture, parent organization, or management services organization for the purpose of administering contracts with carriers, third-party administrators, pharmacy benefits managers, or providers;
- a sale, purchase, lease, affiliation, or transfer of control of a board of directors or governing body of a health care entity; or
- a real estate sale or lease agreement involving a material amount of assets of a health care entity.

"Material change transaction" does not include: (1) an acquisition of a nursing home; (2) a clinical affiliation of health care entities formed solely for the purpose of collaborating on clinical trials; (3) graduate medical education programs; (4) the mere offer of employment to, or hiring of, a single physician; or (5) instances in which the health care entity directly, or indirectly through one or more intermediaries, already controls, is controlled by, or is under common control with, all other parties to the transaction, such as a corporate restructuring.

"Provider organization" means a person that is in the business of health care delivery or management, whether incorporated or not, that represents one or more health care practitioners in contracting with payors for the payments of health care services. "Provider organization" includes a physician organization, a medical group practice, an independent practice association, a provider network, a management services organization, and any other organization that contracts with payors for payment for health care services.

Required Notice of Material Change Transaction

At least 90 days before completing a material change transaction, a health care entity must provide notice to MHCC and the public in accordance with regulations adopted by MHCC. The required notices are complete when the executive director determines that all required information has been disclosed by the health care entity.

Within 10 days after receiving complete notice of a transaction, MHCC must post on a publicly available website information about the transaction, including: (1) the identity of the parties to the transaction; (2) a summary of the proposed transaction; (3) an explanation of the groups or individuals likely to be impacted by the transaction; (4) information about services currently provided by the health care entity, commitments by the health care entity to continue the services, and any services that will be reduced or eliminated; and (5) any other information from the notice and other materials submitted by the health care entity that MHCC determines would be in the public interest.

Within 30 days after receiving a complete notice of a material change transaction, the executive director must notify the health care entity that the transaction is either (1) not subject to a public interest review or (2) subject to a public interest review and request additional information necessary for the review.

Public Interest Review

In determining whether to conduct a public interest review of a material change transaction, the executive director must consider whether:

- the transaction will result in the transfer of assets that exceeds the threshold established by MHCC in regulations;

- the transaction will occur in a consolidated market for a line of services offered by a party to the transaction;
- the transaction will cause a change in market share, such that any resulting health care entity will possess market power on completion of the transaction;
- the transaction will otherwise lessen competition, including through the effects of vertical or cross-market transactions among different product or geographic markets;
- a party to the transaction possesses market power prior to the transaction; and
- the transaction is likely to have a negative impact on the cost, quality, equity, or access to health care services in any region in the State.

If the executive director determines that a material change transaction is subject to public interest review, the executive director must assess the potential impact of the transaction on the public interest. Within 60 days after providing notice that a public interest review will be conducted and receipt of complete information, the executive director must (1) approve the transaction, (2) approve the transaction with conditions, or (3) deny the transaction.

In conducting a public interest review, the executive director may: (1) consult with any other federal, State, or local governmental entity; (2) solicit and consider comments by employees of the health care entity or other parties to the transaction; (3) consider comments submitted by the public; and (4) contract with experts or consultants independent as necessary to assist in the analysis of a proposed transaction.

If the executive director contracts with experts or consultants, the cost of the contract must be paid by the parties to the material change transaction.

Denial or Conditional Approval of a Material Change Transaction

If the executive director denies or imposes a condition on a material change transaction, a person that is a party to the transaction may submit a written request for MHCC to review the decision in accordance with regulations adopted by MHCC. A decision of MHCC must be a final decision for the purpose of judicial review. A person that is a party to the transaction may seek judicial review in the circuit court in the county where a party to the transaction resides or has a principal place of business. A petition for judicial review must be filed within 30 days after MHCC makes the final decision.

MHCC must monitor compliance with any conditions placed on a material change transaction after the closing of the transaction.

Records and Reporting

A party to a material change transaction must timely provide any information and access to records and facilities needed by MHCC to perform its duties. MHCC must set reasonable deadlines when requesting information or access to records or facilities.

MHCC may report statistical or other information that it collects that is not prohibited from disclosure under law. The following information is presumed not to be confidential: (1) the parties to a transaction; (2) the identity of any person with at least a 5% ownership interest in a party to a transaction; (3) the annual revenue and value or assets of a party to a transaction; (4) the monetary value of the transaction; (5) whether the transaction is subject to public interest review; (6) whether the executive director approved, approved with conditions, or denied the transaction; and (7) any conditions imposed on a transaction and a party's compliance with the conditions.

Except as specified, MHCC may not disclose confidential commercial or financial information or trade secrets without the consent of the party that produced the confidential information. The executive director may disclose information to another State agency or an expert or consultant under contract with MHCC if the expert, consultant, or State agency is bound by the same confidentiality requirements as MHCC.

Penalty Provisions

In addition to any other penalty imposed by law, MHCC may: (1) impose a civil penalty for a violation of material change transaction requirements of up to 1% of the value of the transaction; (2) issue an administrative order that requires the health care entity to comply with the requirements; (3) apply to the circuit court in the jurisdiction in which the health care entity is located or, if the health care entity is out-of-state, the jurisdiction in which MHCC is located, for legal relief considered appropriate by MHCC.

Required Regulations

MHCC must adopt regulations that: (1) include criteria for an expedited review of a transaction if there is an emergency and the transaction is needed to ensure continuity of care; (2) define public interest to include consideration of quality, price, health care service line, continuity of care, access, staffing, equity, and financial status of the parties to the transaction; and (3) describe the contents and the form and manner of delivery of the required notice to MHCC and the public. MHCC may adopt regulations establishing an appropriate fee to be paid by a party to a transaction, proportionate to the size of the parties to the transaction, sufficient to reimburse the costs of administering the bill.

Current Law: MHCC is an independent commission within the Maryland Department of Health with a mission to plan for health system needs, promote informed decision making, increase accountability, and improve access in a rapidly changing health care environment by providing timely and accurate information on availability, cost, and quality of services to policymakers, purchasers, providers, and the public.

Certificate of Need

The CON program, located within MHCC, requires review and approval of certain types of proposed health care facility and service projects by MHCC, including before a person acquires a health care facility, with specified exceptions. A CON is not required for acquisition of a health care facility if, at least 30 days before making the contractual arrangement to acquire the facility, written notice of intent is filed with MHCC and MHCC finds, within 30 days of receipt of the notice, that the health services or bed capacity of the facility will not change.

Nursing Home Acquisitions

Chapters 332 and 333 of 2025 require a person, at least 60 days before the closing date of the acquisition of a nursing home, to submit to MHCC a request for acquisition and provide notice to the residents, resident representatives, and employees of the nursing home that (1) the request for acquisition was submitted to MHCC and (2) there will be an opportunity to submit comments. This requirement does not apply to an acquisition that involves only changes of ownership interests among existing owners of a nursing home.

A person must provide notice to MHCC at least 30 days before the closing of a change of ownership of a nursing home that (1) involves at least a 5% transfer in ownership interest and (2) is not an acquisition that requires approval.

The executive director of MHCC must review a completed request for acquisition within 45 days after receiving the request from the applicant. To approve a request, the executive director must find that the acquisition is consistent with the State Health Plan and is in the public interest. In determining if the acquisition is in the public interest, the executive director must consult with the Attorney General on whether the acquisition raises public interest concerns and solicit and accept comments from individuals who (1) reside in the nursing home; (2) have family members who reside in the nursing home; or (3) are employees of the nursing home.

If the executive director refers a request for acquisition to MHCC, the commission must use specified criteria to make a final decision within 60 days after receiving the completed request from the applicant. If the executive director denies a request for acquisition or imposes a condition on the approval of the acquisition, a person that is a party to the acquisition may submit a written request for MHCC to review the decision in accordance with regulations adopted by MHCC.

The executive director's decision must be a final decision for the purpose of judicial review. A person that is a party to the acquisition may take a direct judicial appeal within 30 days after MHCC makes a final decision. MHCC must send each final decision to the Secretary of Health, the Secretary of Aging, the Office of Health Care Quality, the Office of the Attorney General, and the State Long-Term Care Ombudsman.

State Revenues: The bill authorizes MHCC to adopt regulations establishing a fee to be paid by a party to a material change transaction (proportionate to the size of the parties to the transaction) sufficient to reimburse the costs of administering the bill. Additionally, if the executive director of MHCC contracts with experts or consultants during the public review process, the cost of the contract must be paid by the parties to the transaction.

MHCC advises that since material change transactions are not currently monitored, it is unclear how many transactions MHCC will oversee under the bill, how many may require a fee, or how many may require consultation with experts or consultants. However, since the bill requires a fee to be sufficient to reimburse the costs of administering the bill and authorizes MHCC to cover the cost of any contractual experts of consultants, special fund revenues likely increase proportionate to any special fund expenditures.

State Expenditures: The bill requires MHCC to oversee a material change transaction that may occur at specified health care entities, promulgate regulations, establish and oversee a public interest review process, and approve or deny a material change transaction. MHCC advises that it anticipates filling a current vacant position and potentially hiring a contractual program manager to assist with implementation of the bill. However, MHCC notes that these expenditures can be absorbed by the commission's existing budget and are otherwise offset by new special fund revenues authorized under the bill.

Small Business Effect: Small business health care entities that are party to a material change transaction may be required to pay a fee.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 494 (Senator Beidle) - Finance.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

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