



**TESTIMONY BEFORE THE  
SENATE FINANCE COMMITTEE**

*January 14, 2020*

**Senate Bill 106: Health Care Facilities - Certificate of Need -  
Exception for State-Owned Facilities**

**POSITION: OPPOSE**

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our opposition for Senate Bill 106. HFAM represents over 170 skilled nursing centers and assisted living communities in Maryland, as well as nearly 80 associate businesses that offer products and services to healthcare providers throughout the state. Our members provide services and employ individuals in nearly every jurisdiction in the state. HFAM members provide quality and cost-efficient care to the majority of the 5.8 million total Medicaid patient days in Maryland skilled nursing and rehabilitation centers annually.

Senate Bill 106 would dramatically alter the definition of “health care facility” to exempt completely State-owned facilities from the requirement that a certificate of need (CON) issued by the Maryland Health Care Commission (MHCC) permitting the establishment, expansion or major capital projects for any health care facility in the state, not limited to skilled nursing and rehabilitation centers (regulated by the MHCC as comprehensive care facilities). It would also enable the state to develop or own an unlimited number of hospitals, home health agencies, hospices, ambulatory surgery centers, or any other health care facility otherwise covered by the CON law. The amended law would permit the state to acquire, develop, or own any health care facility without a CON while not requiring any such health care facility to be operated or managed by the state. It could lead to unlimited state owned and privately operated health care facilities.

We understand that the source of this legislation may be for particular services such as opioid treatment and/or behavioral health services for children. If so, SB 106 goes far beyond any such issue. Moreover, the MHCC just completed a major strategic planning exercise evaluating and amending the CON law, regulations and multiple chapters of the State Health Plan. SB 106 represents a significant deviation from that major exercise since it exempts completely the development of a state-owned health care delivery system of any size, scale or scope from the CON requirement. If there is a problem to be addressed the question whether legislation is needed and if regulations would suffice should be answered.



The current Maryland CON law is intended to ensure that new health care facilities are developed only as needed and that, if determined to be needed, new facilities are cost effective, high quality, accessible, financially viable, and will not negatively impact other health care facilities and services. Under this proposed legislation, the State would not be subject to its own methodology and criteria, which could result in harm to the existing health care delivery system. Demonstrated need should be the driver of building new care capacity in the regulated health care environment, especially in light of the need to make effective use of existing facilities that are already innovating and making strides in adapting to Maryland's unique Total Cost of Care (TCOC) contract with the Federal government.

**For these reasons, we oppose SB 106 and request an unfavorable report from the committee.**

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