



2026 SESSION
POSITION PAPER

BILL NO: HB 632

COMMITTEE: Health and Government Operations Committee

POSITION: Oppose

TITLE: Certificate of Need - Psychiatric Health Care Facilities and Psychiatric and Mental Health Services - Exemption

BILL ANALYSIS

HB 632 - Certificate of Need - Psychiatric Health Care Facilities and Psychiatric and Mental Health Services – Exemption removes psychiatry and any subcategory of psychiatry from the definition of “medical service” and removes the requirement to obtain a certificate of need (CON) to establish or operate a psychiatric health care facility or to offer psychiatric or other mental health services at a health care facility.

POSITION AND RATIONALE

The Maryland Health Care Commission (MHCC) opposes HB 632. The certificate of need process provides critical regulatory oversight to ensure that proposed health care facilities have the expertise and capabilities to provide high-quality services. CON regulations for acute psychiatric services prioritize private rooms, ensure appropriate physical separation and programming for different age groups, and require facilities to admit involuntary patients and participate in Medicare and Medicaid. HB 632 would remove oversight and safeguards for psychiatric care and risks undermining equity, access, and stability in a service line already facing shortages and fragmentation. MHCC acknowledges that additional behavioral health care options are needed; however, efforts to increase services should not come at the expense of the State’s most vulnerable populations who rely on the State’s careful vetting of projects. HB 632 is not the solution.

First, since 2019, psychiatric bed capacity has increased but staffing levels have remained insufficient. Psychiatric bed capacity at acute care hospitals has climbed from 714 to 835 licensed psychiatric beds in FY 24; however, only 85 percent of those

licensed beds are staffed. Likewise, licensed beds at private psychiatric hospitals has climbed from 406 to 522 beds; however, only 77 percent of licensed beds are staffed.¹ This data suggests the first challenge to address is staffing. Even though licensed beds have increased substantially, a significant share of capacity is not operational because it cannot be staffed. MHCC's 2024 study found that Maryland was nearly 50% short of the workers needed to meet Maryland behavioral health needs.² Eliminating CON would likely produce more licensed beds on paper, but not necessarily more staffed beds.

A factor contributing to the staffing problem is inadequate reimbursement for behavioral health care services, which MHCC has noted throughout the years. Reimbursement rates are independent of CON and repeal will not solve the workforce shortages; therefore, it is more prudent to focus on staffing before adding more bed capacity, which will only exacerbate staffing challenges in the short term.

Second, CON has not been a barrier to expanding psychiatric bed capacity. Since 2015, MHCC has approved three new or replacement psychiatric hospitals in Anne Arundel, Howard, and Harford Counties. We have also approved expansion of psychiatric capacity at hospitals in Baltimore, Carroll, Montgomery County, Prince George's Counties among others. Only one psychiatric project has been denied over that period and that was because MHCC and HSCRC agreed that the project was not financially feasible. In addition, the procedural regulations governing the CON process have been amended to substantially streamline the CON process. The new process sets tight deadlines for MHCC staff to accelerate its work, limits the ability of interested parties to delay CON reviews, and reduces an applicant's post-approval reporting requirements. As a result of these and other changes there is no backlog of projects on the CON docket.

Third, passage of this legislation will create opportunities for some operators to establish additional inpatient psychiatric bed capacity and then convert that capacity to other service lines, which would otherwise continue to be subject to CON. MHCC regulates a hospital's overall bed capacity but allows hospitals to adjust bed capacity among the service lines of medical-surgical, obstetrics, pediatric, and psychiatric beds if a hospital does not exceed its overall licensed capacity. This flexibility is

¹https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_hospital/documents/acute_care/con_chartbook_md_gen_hosp_fy25.pdf

² Maryland Health Care Commission (2024). Investing in Maryland's Behavioral Health Talent. https://mhcc.maryland.gov/mhcc/pages/plr/plr/documents/2024/md_bh_workforce_rpt_SB283.pdf



important and enables hospitals to respond to changing local needs. However, creating an exception for psychiatric bed capacity would generate an incentive for hospitals to add psychiatric capacity and then circumvent CON by converting the psychiatric beds to other service lines without CON review.

HB 632 will not address the barriers to creating sufficient quality behavioral health services in the State. CON is appropriate for regulating hospital bed capacity and should continue, particularly in the context of the Total Cost of Care (TCOC) model, which has inherent incentives to be cautious about hospital expansion. Eliminating CON to allow unregulated psychiatric capacity will not resolve problems of a limited clinical workforce, poor reimbursement for behavioral health treatment, and limited post-discharge placements. Instead, this bill creates a loophole for adding non-psychiatric bed capacity that tends to be more favorably reimbursed. CON is still needed for establishing or adding new psychiatric bed capacity.

Finally, legislation was passed in the 2024 legislative session to establish the Maryland Emergency Department Wait Time Reduction Commission that is charged with identifying the root causes of prolonged emergency department wait times in Maryland and develop strategies and initiatives for State and local agencies, hospitals, and health care providers to reduce wait times. This builds on prior work that assessed behavioral health emergency department wait times and recommend service improvements, a report that was submitted in 2022.³ The work of the Emergency Department Wait Time Reduction Commission includes assessment and collaboration on behavioral health, post-acute and primary care. A preliminary report was submitted in November 2025 to the Governor and the General Assembly on the Commission's activities, findings, and recommendations, including an update on the development, implementation, and impact of the recommended policies and programs to improve ED wait times. A final report is expected in November 2026.

MHCC urges the Committee to reject HB 632 for the compelling reasons stated above and we ask for an unfavorable report on HB 632.

³ [https://dlslibrary.state.md.us/publications/Exec/MDH/HSCRC/HB1121,2020Ch29\(2021\)_2022.pdf](https://dlslibrary.state.md.us/publications/Exec/MDH/HSCRC/HB1121,2020Ch29(2021)_2022.pdf)

