Overview of Health Planning and Certificate of Need

Emergency Department Overcrowding Workgroup

MARYLAND HEALTH CARE COMMISSION

AUGUST 23, 2023

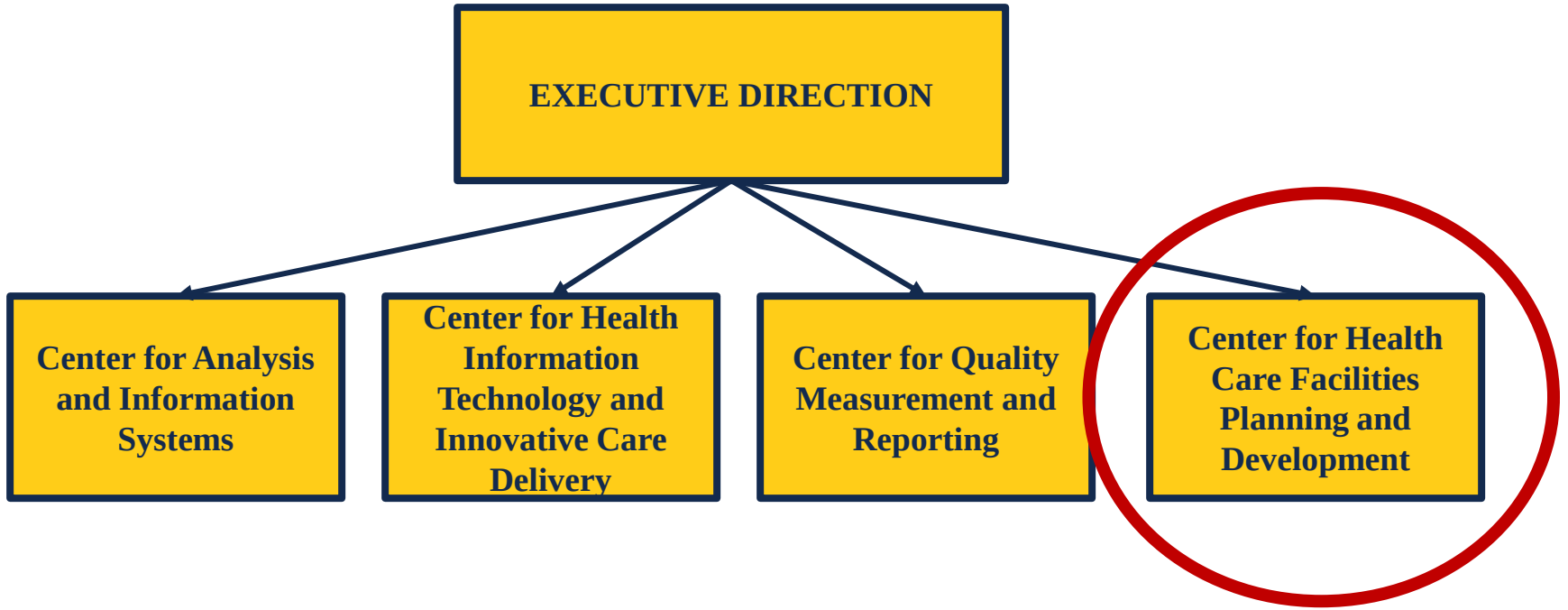
Agenda

- Health Care Facilities Planning: State Health Plan Chapters with a focus on Hospital Services

- Hospital Facility Development: the Certificate of Need
  - ✓ CON Application Process
  - ✓ Commission Review of CON Applications

- Facts on Hospital Capacity and Utilization

THE MARYLAND HEALTH CARE COMMISSION



The Center for Health Care Facilities Planning and Development is principally responsible for administering planning and CON functions at MHCC

Purpose of the MHCC - Health General §19-103

- …to establish a streamlined health care regulatory system in this State in a manner such that a single State health policy can be better articulated, coordinated, and implemented in order to better serve the citizens of this State.
- Thirteen defined purposes including …
  - ✓ Develop cost containment strategies;
  - ✓ Create a health regulatory system that provides access to quality health care services at a reasonable cost;
    - ➢ **Promote efficient delivery of services and improved access to care**
    - ➢ **Enhance the strengths of current health care delivery and regulatory system**
  - ✓ Establish an MCDB and disclosure info from medical claims for public policy;
  - ✓ License electronic claims clearinghouses;
  - ✓ Promote the availability of information to consumers on charges by practitioners and reimbursement payers;
  - ✓ Oversee the Maryland Trauma Services Fund
- Coordinate with MDH and HSCRC to "ensure an integrated, effective health care policy for the State."
- New roles added after 2003 -- quality reporting systems, designation of Patient Safety Center, Health Information Exchange, establish pilots and demonstrations.

Health Care Facilities Planning: State Health Plan Chapters and Other Planning Authorities

State Health Plan (SHP) - Health General § 19-118

for Facilities and Services

- MHCC shall adopt a SHP:

  - ✓ Consistent with Maryland All Payor Model Contract (TCOC January 2019)
  - ✓ Includes methodologies, standards, and criteria for CON review
  - ✓ Prioritizes conversion of acute capacity to alternative uses
  - ✓ 15 State Health Plan Chapters, 9 apply or mostly apply to hospital projects

- Annually or upon petition, MHCC shall assess each SHP chapter, set priorities for update and act according to ranking of priorities

State Health Plan - Health General § 19-118 (cont.)

- MHCC shall adopt rules and regulations ensuring broad public input, public hearings, and consideration of local health plans in development of the SHP
- SHP standards shall address availability, accessibility, cost, and quality of health care
- SHP standards will be reviewed periodically to reflect new developments in health planning, delivery, and technology
- In adopting standards regarding cost, efficiency, cost-effectiveness, or financial feasibility, MHCC shall take relevant methodologies of HSCRC into account
- Other State agencies involved in regulating, funding, or planning for health care delivery shall carry out their responsibilities in a manner consistent with SHP
- MHCC shall recognize but may not apply, develop, or duplicate standards related to quality adopted or enforced by national or state licensing or accrediting agencies (added in 2019)

Health Care Facilities Development: Certificate of Need

Scope of CON – COMAR 10.24.01.02

- ✓ Hospitals & hospital bed capacity (general acute care and specialty hospitals)
- ✓ Some surgical facilities & services including Ambulatory Surgical Facilities with 3 or more ORs (ASC with 2 or fewer ORs do not need a CON)
- ✓ Certain specialized hospital services (cardiac surgery, organ transplant, neonatal intensive care)
- ✓ Freestanding medical facilities
- ✓ Acute inpatient rehab facilities
- ✓ Inpatient psychiatric facilities
- ✓ Other - Nursing homes & nursing home bed capacity, Home health agency services, hospice services, residential treatment centers, and substance abuse intermediate care facilities

A CON is Required to:

- Establish a new health care facility
- Relocate a health care facility
- Change bed capacity
- Change type or scope of health care services in specific cases
- Hospital capital expenditures that exceed the threshold for capital expenditures which is the lesser of $50 million or 25% of a hospital's regulated revenue

COMAR 10.24.01.02

Healthcare facility actions and projects not covered by CON

- Acquisition of an existing health care facility
- Merger of existing health care facilities
- Closure of a health care facility
- Temporary delicensure of bed capacity or facility
- Relocation an existing health care facility owned or controlled by a merged asset system
- Certain changes in bed capacity (nursing home waiver beds, annual hospital bed recalculation and other circumstances)
- Certain hospital capital expenditures below the capital threshold

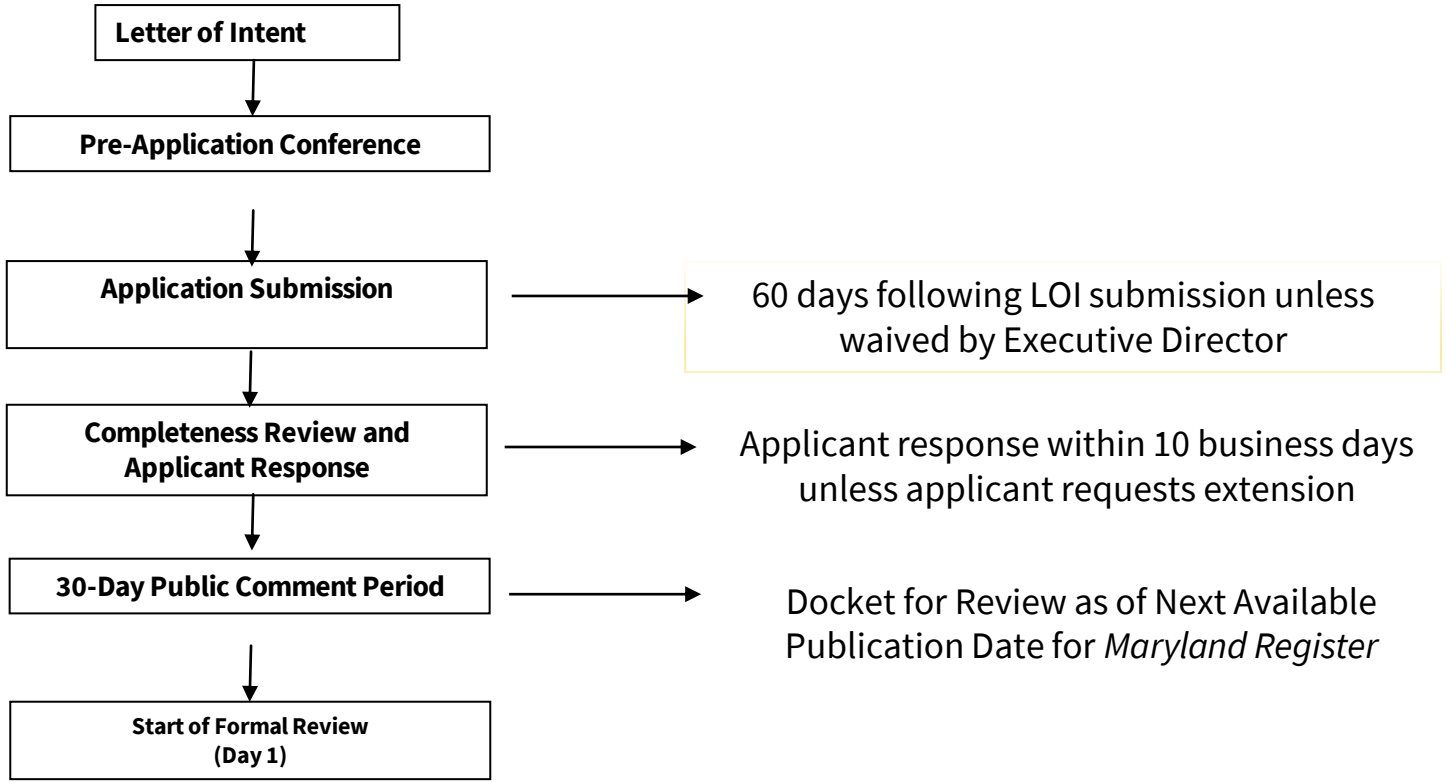
COMAR 10.24.01.03

Exemptions from CON review – COMAR 10.24.01.04

- A CON Exemption is an alternative process for obtaining an approval for a capital project and is distinctly different from a project not covered by CON pursuant to the previous regulation, .03. - *A CON exemption pursuant to regulation .04 requires a project review process*.
  - Merger or consolidation of two or more hospitals or other health care facilities
  - Relocation of an existing health care facility owned or controlled by a merged asset system
  - Change in bed capacity pursuant to a merger or consolidation, or conversion
- A change in the type or scope of the health care services consolidation or merger or two or more facilities, conversion of a hospital to a freestanding medical facility
- A capital expenditure that exceeds the capital threshold made as part of a consolidation, merger or conversion
- The closure of an acute general hospital in a jurisdiction with fewer than three acute general hospitals

CON Application Process

Overview of CON - The Application Process



CON Application Review schedule *

- Letter of Intent filed by prospective applicant in accordance with the published review schedule
- Pre-Application Conference – procedures, data, SHP requirements
- Application submitted 60 days after Letter of Intent (LOI)
- If LOI received for an “unscheduled” project, notice placed in the Md. Register initiating 30-day period for other LOIs for same service/same region

* If a type of project is not on the review schedule, a LOI can be filed at any time.

Completeness Review and Docketing

- Application submitted in accordance with the review schedule to MHCC, copies to other applicants, Local Head Department(s) in jurisdiction where the hospital is located
- Within 10 business days of filing an application, staff reviews the application for completeness
- If necessary, additional information requested
- The applicant shall submit additional information in writing within 10 business days (applicant may ask for more time)

CON Process – Completeness and Docketing

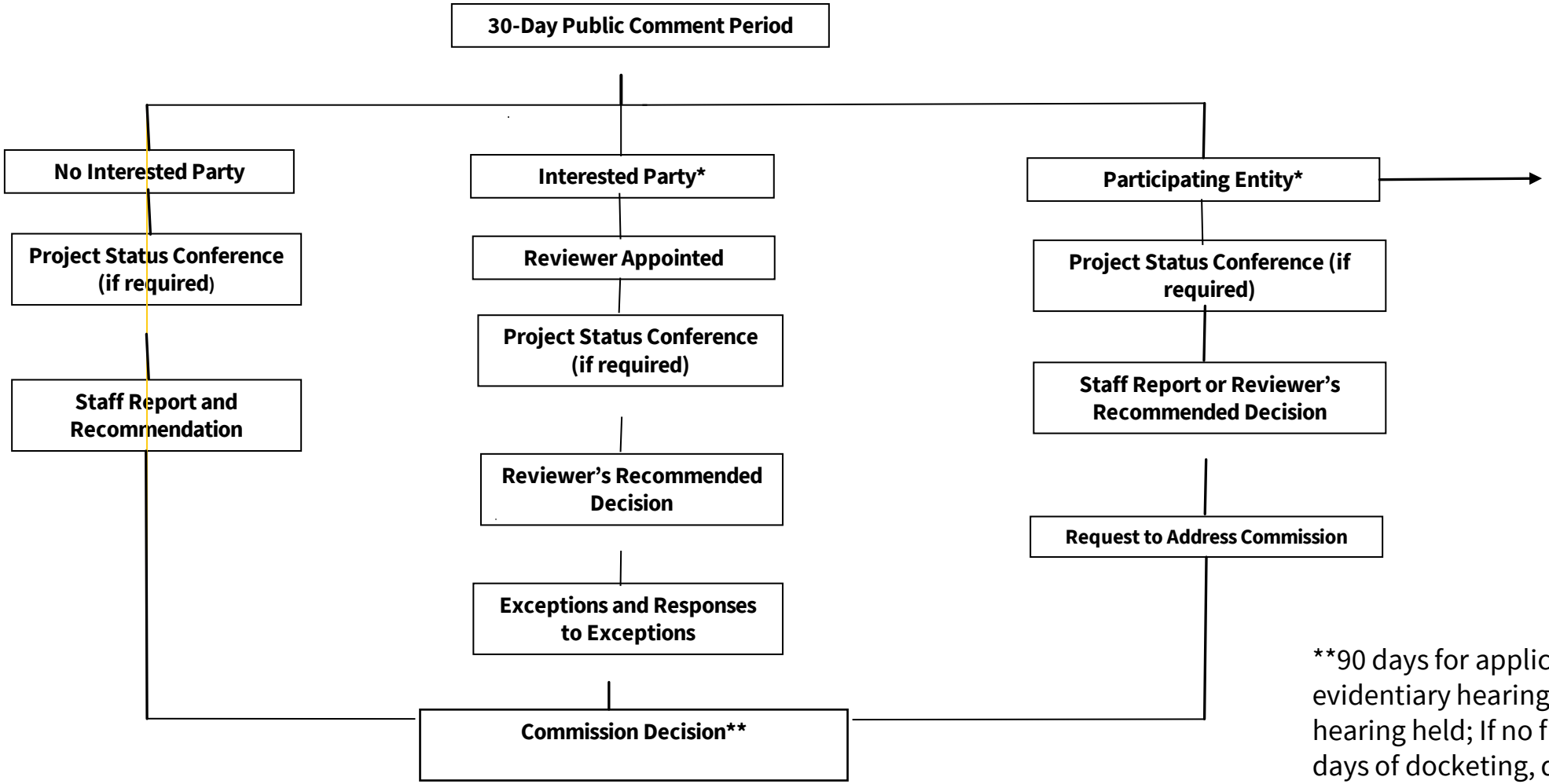
- When determined complete, the application is docketed in the Maryland Register
- The reviewer, staff, or the Commission may request additional information at any time during the review and set time limits for the requested information

CON Process – Interested Parties*

- A person seeking interested party or participating entity status shall file written comments on an application within 30 days of docketing
- An applicant is permitted to respond to all written comments within 15 days of receipt of those comments
- Interested party has standing to appeal to the judicial system

*Interested Party is a person recognized by a reviewer and may include the applicant for a project, MHCC staff, 3rd Party Payor who can demonstrate negative impact to cost, Local Health Department, a person who would be adversely affected by approval of project

Overview of CON - The Review Process



*Applicant response to comments by Day 45

**90 days for applications with no evidentiary hearing; 150 days if evidentiary hearing held; If no final action within 120 days of docketing, deemed approved for most uncontested applications.

Criteria for Review

- Applicant has burden by preponderance of the evidence
- Criteria for Review:
  - ✓ State Health Plan
  - ✓ Need
  - ✓ Availability of more cost-effective alternatives
  - ✓ Viability of the project
  - ✓ Compliance with conditions of previous CON
  - ✓ Impact on existing providers and the health care delivery system

COMAR 10.24.01.08G(3)

Commission Decision

- Must be based on the record
- Must consider exceptions
- Must address (agree that the applicant met) each review criteria
- Decision shall
  - Approve the application;
  - Approve the application with conditions; or
  - Deny the application

COMAR 10.24.01.09D

Commission Role in Assessing And Modifying Bed Capacity

MSGA Bed Projection Methodology

- Projections are driven by historic patterns of utilization (discharges, length of stay, and location of care).
- Current patient migration patterns for non-Maryland residents are assumed to be maintained in the future.
- Current migration patterns for Maryland residents across jurisdictional lines to hospitals outside the jurisdiction are also assumed to continue.
- Population projections for Maryland and adjacent states and the District of Columbia also shape projections.
- If a jurisdiction has historically had more beds and a greater number of patient days compared to another jurisdiction, the projected need will be much higher in future years too. Consider Prince George's and Montgomery Counties. (567 vs 987 for FY 2024).
- Draft regs (COMAR 10.24.10) allow hospitals more flexibility on projects in expanding bed capacity.

Annual Opportunities to Expand Bed Capacity Under §19–307.2.

(a) For a hospital classified as a general hospital, the Secretary shall annually calculate the hospital's licensed bed capacity.

(b) The annual licensed bed calculation for each hospital shall equal 140 percent of the average daily census for the 12-month period immediately preceding the calculation.

(c) If necessary to adequately meet demand for services, a hospital may exceed its licensed bed capacity if:

(1) On average for the 12-month period, the hospital does not exceed its licensed bed capacity based on the annual calculation; and

(2) The hospital includes in its monthly report to the Health Services Cost Review Commission the following information:

(i) The number of days in the month the hospital exceeded its licensed bed capacity; and

(ii) The number of beds that were in excess on each of those days.

(d) Before July 1, 2000 and each July 1 thereafter, the Secretary shall delicense any licensed hospital beds determined to be excess bed capacity under subsection (b) of this section.

Licensed Acute Care Beds by Hospital and Service: Maryland, FY24 (Effective July 1, 2023)

Jurisdiction / Region	Hospital	Acute Care Services				
		MSGA	Obstetric	Pediatric	Psychiatric	Total
Allegany County	UPMC Western Maryland	154	7	1	13	175
Frederick County	Frederick Health Hospital	204	27	5	21	257
Garrett County	Garrett Regional Medical Center	16	1	1	0	18
Washington County	Meritus Health System	195	15	1	14	225
WESTERN MARYLAND TOTAL		**569**	**50**	**8**	**48**	**675**
Montgomery County	Adventist HealthCare Shady Grove Medical Center	172	46	10	133	361
	Adventist HealthCare White Oak Medical Center	200	26	0	0	226
	Holy Cross Germantown Hospital	66	16	0	6	88
	Holy Cross Hospital Silver Spring	249	87	4	0	340
	MedStar Montgomery Medical Center	87	11	2	14	114
	Suburban Hospital	213	0	3	24	240
MONTGOMERY COUNTY TOTAL		**987**	**186**	**19**	**177**	**1,369**
Calvert County	CalvertHealth Medical Center	62	4	0	14	80
Charles County	University of Maryland Charles Regional Medical Center	81	12	6	0	99
Prince George's County	Luminis Health Doctors Community Medical Center	192	0	0	16	208
	Adventist HealthCare Fort Washington Medical Center	36	0	0	0	36
	MedStar Southern Maryland Hospital Center	151	18	4	24	197
	University of Maryland Capital Region Medical Center	188	16	1	28	233
	Total: Prince George's County	*567*	*34*	*5*	*68*	*674*
St. Mary's County	MedStar St. Mary's Hospital	70	12	6	12	100
SOUTHERN MARYLAND TOTAL		**780**	**62**	**17**	**94**	**953**
Anne Arundel County	Luminis Health Anne Arundel Medical Center	309	60	8	0	377
	University of Maryland Baltimore Washington Medical Center	262	18	5	22	307
	Total: Anne Arundel County	*571*	*78*	*13*	*22*	*684*
Baltimore City	Johns Hopkins Bayview	316	22	5	20	363
	MedStar Good Samaritan Hospital	151	0	0	0	151
	MedStar Harbor Hospital	82	15	0	28	125
	MedStar Union Memorial Hospital	188	0	1	0	189
	Mercy Medical Center	93	32	4	0	129
	Sinai Hospital of Baltimore	325	25	26	48	424
	Ascension Saint Agnes Hospital	163	15	3	0	181
	The Johns Hopkins Hospital	822	35	140	108	1,105
	University of Maryland Medical Center	579	30	59	42	710
	University of Maryland Medical Center Midtown Campus	79	0	0	37	116
	University of Maryland Rehabilitation & Orthopaedics Institute	4	0	0	0	4
	Total: Baltimore City	*2,802*	*174*	*238*	*283*	*3,497*
Baltimore County	Greater Baltimore Medical Center	160	60	8	0	228
	MedStar Franklin Square Hospital	280	37	0	40	357
	Northwest Hospital Center	149	0	0	49	198
	University of Maryland St. Joseph Medical Center	179	20	4	18	221
	Total: Baltimore County	*768*	*117*	*12*	*107*	*1,004*
Carroll County	Carroll Hospital Center	120	20	4	20	164
Harford County	University of Maryland Harford Memorial Hospital	57	0	0	29	86
	University of Maryland Upper Chesapeake Medical Center	192	9	2	0	203
	Total: Harford County	*249*	*9*	*2*	*29*	*289*
Howard County	Howard County General Hospital	172	34	6	20	232
CENTRAL MARYLAND TOTAL		**4,682**	**432**	**275**	**481**	**5,870**

https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_hospital/documents/acute_care/chcf_acute_care_FY24%20Licensed%20Beds_20230717.pdf

Expansions of MSGA Beds without CON

- Only a merged asset system may increase licensed bed capacity; it must be within the merged asset system at hospitals within the same jurisdiction.

- Annual licensed bed allocation process can result in an increase (or decrease) in number of licensed beds; increase is limited to the maximum number of beds allowed based on formula in statute.

- If a hospital's licensed bed capacity exceeds its physical capacity, the hospital is allowed to add the physical beds to align with its licensed bed capacity.

  - ✓ Approval by MHCC is not required if the cost is below the capital threshold.

  - ✓ Note could require a CON if the capital cost of adding the beds will exceed the capital threshold.

Expansions of MSGA Beds Requiring CON

- Adding licensed beds other than as part of reallocating beds within a merged asset system or the annual reallocation of beds.
- Establishment of a new hospital
- Relocation or replacement of a hospital

Changing Utilization at Maryland Hospitals

	CY 2009	CY 2021
MSGA		
Discharges	552,817	355,191
Patient days	2,312,341	2,066,497
Average length of stay (days)	4.2	5.8
Average daily census	6,335.2	5,661.6
Psychiatric		
Discharges	27,440	21,695
Patient days	140,313	169,411
Average length of stay (days)	5.1	7.8
Average daily census	384.4	464.1

	CY 2009	CY 2021
Obstetric		
Discharges	78,199	64,240
Patient days	220,599	152,779
Average length of stay (days)	2.8	2.4
Average daily census	604.4	418.6
Pediatric		
Discharges	24,432	7,900
Patient days	76,925	41,176
Average length of stay (days)	3.1	5.2
Average daily census	210.8	112.8

Source: MHCC analysis of the HSCRC and DCHA Inpatient Hospital Discharge dataset

Changes in Utilization 2009-2019

	Maryland	U.S.
Ratio per thousand population, 2019		
Hospital beds	1.8	2.4
Hospital admissions	89.8	103.8
Hospital patient days	483.6	564.1
Hospital outpatient visits	1,563.4	2,392.3
Hospital emergency department visits	365	437
Hospital inpatient surgery cases	24.9	27.3
Hospital outpatient surgery cases	51.1	59.2
Change in ratio per thousand population, 2009-2019		
Hospital admissions	-28.4%	-10.3%
Hospital outpatient visits	+51.9%	+14.4%
Hospital emergency department visits	-14.4%	+5.4%
Hospital inpatient surgery cases	-29.5%	-17.0%
Hospital outpatient surgery cases	-17.8%	+4.8%

Sources: American Hospital Association *Hospital Statistics* series (2015-2021)

Methodology Driven by Past Utilization Predicts Future Bed Needs -- Forecasts Change Slowly

	Montgomery County Residents				Prince George's County Residents			
	2018	2019	2020	2021	2018	2019	2020	2021
Total Discharges	80,995	79,500	70,986	68,249	86,548	83,537	76,788	73,536
Discharges from MC,PG,DC Hospitals	90.7%	91.0%	90.9%	90.0%	81.7%	80.6%	80.5%	78.3%
Montgomery Co. Hospitals	76.4%	76.4%	77.3%	74.5%	25.0%	26.1%	27.0%	23.5%
DC Hospitals	13.2%	13.9%	12.8%	14.6%	20.9%	20.9%	18.7%	20.3%
Prince George's Co. Hospitals	1.1%	0.7%	0.8%	0.9%	35.8%	33.7%	34.9%	34.5%

Source: MHCC analysis of the HSCRC and DCHA Inpatient Hospital Discharge dataset

Requests for Additional MSGA Beds since 2017

- Most requests have been emergency CON requests for temporary increases. Post 4/1/2023 Mercy and Meritus (observation beds) have requested to maintain additional capacity added via emergency CONs in 2020.

https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs/documents/chcf_emergency_con_guidance.pdf

- Two CON projects involved an increase in MSGA beds.
    - Only one included an increase in licensed bed capacity, Greater Baltimore Medical Center (Docket No. 19-03-2439)
    - University of Maryland Medical Center requested approval to increase its physical capacity to align with its licensed bed capacity (Docket No. 19-24-2438)