



Maryland
Hospital Association

March 6, 2019

To: The Honorable Shane Pendergrass, Chairman
Health & Government Operations Committee
Sponsor Delegate Krebs

From: Jennifer Witten, Vice President, Government Affairs
Maryland Hospital Association

Re: Letter of Information- House Bill 626: Health Care Facilities-Change in Bed Capacity-
Certificate of Need Exemption

Dear Chairman Pendergrass:

On behalf of the Maryland Hospital Association's (MHA) 62-member hospitals and health systems, we appreciate the opportunity to provide feedback on the proposed legislation. In June of 2018, the respective Chair of the Senate Finance Committee and House Health and Government Operations Committee sent a letter to MHCC requesting a study of CON. The study was requested to address two concerns: the change in incentives under Maryland's All-Payer model, and the complexity and burden of the current application process. The Maryland Hospital Association was represented on the workgroup. Several recommendations were developed that seek to modify the current Certificate of Need (CON) application requirements, regulatory efficiencies and statutory changes.

The workgroup agreed on several key principles of which are the following:

- Certificate of Need (CON) is a necessary tool to ensure access to quality service, efficient care delivery and should support healthcare transformation
- CON and the State Health Plan should align with the goals of the new Maryland Total Cost of Care Model and be reviewed annually to assess need
- Streamline and improve application process, remove outdated policy standards and remove barriers for determination

House Bill 626 would create a process in which a health care facility could be approved for a CON exemption from the Maryland Health Care Commission (MHCC) before changing the bed capacity of a health care facility. The following providers could increase or decrease bed capacity after filing a written notice with MHCC 45 days before such capacity change occurs; an existing licensed intermediate care facility that offers residential or substance-related disorder treatment services, an existing licensed hospice program with inpatient services, and an existing hospital with acute psychiatric beds.

Hospitals support expanding addiction and behavioral health capacity when access is needed and for patient populations that placement can be challenging. However, rather than immediately

recommending that CON approval standards be relaxed, hospitals recommend the commission review the psychiatric services chapter of the State Health Plan (SHP) to determine an appropriate course of action. This review should assess psychiatric and behavioral health service capacity across all settings to determine what services are needed. House Bill 646 seeks to require this review by the MHCC.

MHA did not reach a consensus regarding residential treatment centers, although we do appreciate the intent to consider access for individuals seeking SUD services. We understand that CON is a default “gatekeeper” to discourage unqualified or suspect applicants from initiating facilities or services. This bill would not allow new entrants to apply for a CON exemption. We believe the Office of Health Care Quality can provide the needed oversight to enforce quality and safety. The commission should review the SHP chapter that governs residential treatment centers in conjunction with reviewing the psychiatric services chapter of the SHP. Lastly, MHA did not offer an opinion to the MHCC workgroup regarding hospice services.

Under the Total Cost of Care Model, the state of Maryland must comply with certain performance measures, including Medicare spending per beneficiary and total spending per capita. MHCC, and HSCRC, should monitor the growth in utilization of nonhospital services, as hospitals continue to hold the risk for the success of the new model. We appreciate MHCC’s efforts to align policies to meet the new model goals through improvements of the CON process.

We thank you for your consideration and careful debate on this critical policy proposal.