



MARYLAND HEALTH CARE COMMISSION

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215
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MEMORANDUM

TO: CEOs, Maryland Acute General Hospitals

FROM: Ben Steffen, Executive Director

RE: Emergency Certificates of Need

DATE: March 17, 2020

As you know, on March 5, 2020, Governor Lawrence J. Hogan, Jr. issued a Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19. Yesterday, Governor Hogan issued an Order Relating to Various Health Care Matters (copy attached).

I am aware of the current planning activities that Maryland hospitals are undertaking and applaud your efforts. Maryland has estimated that, by May 1, 2020, Maryland residents will need an additional 500 inpatient hospital beds to address the COVID-19 pandemic. I wanted to make you aware that the Maryland Health Care Commission (MHCC) has regulatory authority to issue Emergency Certificates of Need (CONs) and can do so rapidly to help address this emergency. COMAR 10.24.01.20 provides that the Executive Director of the MHCC can issue an Emergency CON when “a situation presents hazards to employees or patients of a health care facility” An Emergency CON is initially valid for 165 days or until 30 days after the termination of the state of emergency declared by Governor Lawrence J. Hogan, Jr. on March 5, 2020. This date may be extended for good cause shown.

Before issuance of an Emergency CON, I will confer with Andrew N. Pollak, M.D., Commission chairman, and receive suitably detailed information from the Office of Health Care Quality (OHCQ) regarding the need for prompt action, in accordance with COMAR 10.24.01.20C. Dr. Patricia Tomsco Nay, OHCQ Executive Director, has assured me that she will act quickly to provide the needed information to the MHCC.

Although COMAR 10.24.01.20C provides that a facility that is granted an Emergency CON must file a formal application for CON within 30 days, I will extend that deadline pursuant to COMAR 10.24.01.10C. Thus, an Emergency CON will initially provide that a CON application is not required until *30 days after Governor Hogan’s termination of the state of emergency*. This deadline may be extended. I expect that many Emergency CONs will involve the opening of closed

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facilities or closed units. Requiring a CON application only after Governor Hogan has terminated the state of emergency will allow hospitals and health systems to temporarily operate facilities during the current crisis and close the facility once the crisis is over.

If you have any questions, please contact me by email at ben.steffen@maryland.gov.

Attachment

cc: Robert R. Neall, Secretary of Health
Patricia Tomsko Nay, M.D., Executive Director, OHCQ
Katie Wunderlich, Executive Director, HSCRC
Renee Webster, Assistant Director for Hospitals, Laboratories and Patient Safety, OHCQ