

Statute

§19-126.

(a) If the Commission receives an application for a certificate of need for a change in the bed capacity of a health care facility, as required under § 19-120 of this subtitle, or for a health care project that would create a new health care service or abolish an existing health care service, the Commission shall give notice of the filing by publication in the Maryland Register and give the following notice to:

(1) Each member of the General Assembly in whose district the action is planned;

(2) Each member of the governing body for the county where the action is planned;

(3) The county executive, mayor, or chief executive officer, if any, in whose county or city the action is planned; and

(4) Any health care provider, third party payor, local planning agency, or any other person the Commission knows has an interest in the application.

(b) Failure to give notice shall not adversely affect the application.

(c) (1) All decisions of the Commission on an application for a certificate of need, except in emergency circumstances posing a threat to public health, shall be consistent with the State health plan and the standards for review established by the Commission.

(2) The mere failure of the State health plan to address any particular project or health care service shall not alone be deemed to render the project inconsistent with the State health plan.

(3) Unless the Commission finds that the facility or service for which the proposed expenditure is to be made is not needed or is not consistent with the State health plan, the Commission shall approve an application for a certificate of need required under § 19-120(k) of this subtitle to the extent that the expenditure is to be made to:

(i) Eliminate or prevent an imminent safety hazard, as defined by federal, State, or local fire, building, or life safety codes or regulations;

(ii) Comply with State licensing standards; or

(iii) Comply with accreditation standards for reimbursement under Title XVIII of the Social Security Act or under the State Medical Assistance Program approved under Title XIX of the Social Security Act.

Regulation

COMAR 10.24.01.20 Emergency Certificate of Need.

A. Commission May Issue an Emergency Certificate of Need. If a situation presents hazards to employees or patients of a health care facility or the closing of a facility by State licensing authorities requires changes or adjustments in other facilities to accommodate displaced patients, and the changes or adjustments would otherwise require that these facilities obtain a Certificate of Need under these regulations, the Commission may issue an emergency Certificate of Need.

B. Commission Action. The Executive Director of the Commission is authorized to grant or deny an emergency Certificate of Need after consultation with the Commission Chairman or the Chairman's designee. Before an emergency Certificate of Need is issued and before licensing action is taken, the Department's Office of Health Care Quality shall provide the Commission's Executive Director with suitably detailed written information explaining why action cannot be delayed. If, upon receipt of this information, the Executive Director agrees that an emergency situation exists, the Executive Director shall issue an emergency Certificate of Need to allow the Office of Health Care Quality to issue an appropriate provisional license. The Executive Director shall notify the Commission of the issuance of the emergency Certificate of Need at the next scheduled Commission meeting for confirmation.

C. Duration of Emergency Certificate of Need. The emergency Certificate of Need is temporary and may not exceed 165 days. During the first 30 days of this period, the facility shall submit a formal application for a Certificate of Need to the Health Facilities Coordination Office. The normal review period set forth in Regulations .08—.10 of this chapter applies.

D. Time Frame for Commission Action. Within 150 days of the filing of a complete Certificate of Need application, the Commission shall issue its decision regarding the Certificate of Need.

E. Inapplicability if Capital Expenditure is Involved. An emergency Certificate of Need may only be granted when the emergency change in licensure can be accomplished without a capital expenditure that exceeds

the threshold for capital expenditure defined in Regulation .01B of this chapter.