



MARYLAND HEALTH CARE COMMISSION

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MHCC REGULATORY GUIDANCE (July 30, 2021)

Extension of Hospital Emergency Certificates of Need

On July 15, 2021, the Maryland Health Care Commission (MHCC or Commission) granted the request by Dennis R. Schrader, Maryland Secretary of Health, that the Commission extend through the 2022 influenza season the termination date of Emergency Certificates of Need (E-CONs) to increase hospital bed capacity that the Executive Director previously issued and the MHCC approved. As a result of this action, E-CONs that increased hospital bed capacity, which were previously scheduled to expire on September 15, 2021, are extended through April 29, 2022, the anticipated end of the 2022 influenza season.

If a hospital does not intend to close the inpatient beds approved in its E-CON by the April 29, 2022 termination of this extension, it must file a formal CON application (or request other required regulatory approval from MHCC) on or before May 30, 2022. This filing deadline can be extended by the Executive Director for good cause shown.¹ If a hospital that has an E-CON desires to file a CON application for the project before the E-CON's extended expiration, the hospital should consult with Wynne Hawk, Chief, Certificate of Need, to agree upon a filing date. Ms. Hawk's e-mail address is wynne.hawk1@maryland.gov.

The July 15, 2021 extension also applies to:

- (1) Field Hospital Inpatient Units² that were approved in a blanket E-CON that issued on April 10, 2020;
- (2) Earlier hospital-specific Field Hospital Inpatient Units; and
- (3) Temporary intensive care units located in modular buildings at an acute general hospital or that will be moved to the site of a replacement acute general hospital from the site of the prior hospital.

¹ Waiver of COMAR 10.24.01.20C.

² Field Hospital Inpatient Units are called Advanced Medical Tents by the Maryland Emergency Management Agency (MEMA).

Extension Does Not Apply to All E-CONs

The July 15, 2021 extension authorized by MHCC does not apply to an E-CON that was issued to a non-hospital health care facility, including a comprehensive care facility (CCF). The extension applies only to an E-CON that permitted an acute general hospital to increase its bed capacity. If a CCF or other health care facility does not intend to close the beds and/or project approved in an E-CON by September 15, 2021 (30 days after the termination of the state of emergency), it must file a CON application or seek other required regulatory approval on or before that date or request that the Executive Director of the Commission issue an extension for the filing of the application.

Current CON Review Schedule, Performance Requirements, and Quarterly Status Reports

A new CON review schedule was published in the *Maryland Register* on July 16, 2021. The [CON review schedule](#) is available on the Commission's website.

As noted in earlier MHCC guidance, performance requirements for a project that has received CON approval but has not been completed were stayed until after the termination of the state of emergency. For example, if an initial performance deadline had been May 5, 2020 (two months after the declaration of the state of emergency) and the state of emergency ends as scheduled on August 15, 2021, the extended performance requirement date will be October 5, 2020 (i.e., the two-month period remaining from March 5, 2020 to meet the performance requirement *plus* time until the termination of the state of emergency). The remaining performance requirements will be extended accordingly. One six-month extension of each performance requirement (for good cause shown) remains available, as provided in COMAR 10.24.01.12E.

Quarterly status reports on an approved-but-not-completed project will be due on September 15, 2021, which is 30 days after the termination of the state of emergency (but may be filed earlier), and the remaining reports due every three months thereafter until the project is completed.

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