



MARYLAND HEALTH CARE COMMISSION

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REVISED MHCC REGULATORY GUIDANCE 001

April 13, 2020

Emergency CON Overview (COMAR 10.24.01.20)

1. An acute general hospital that wants an Emergency Certificate of Need (CON) to help address the COVID-19 pandemic should send a request (generally, a signed letter in PDF format sent by email) to the MHCC that contains:
 - (a) a description of what the applicant wants to do (example: convert existing space without headwalls to a nursing unit with 24 beds, changing the hospital's physical inpatient capacity);
 - (b) where (example: in space currently used by administrative staff in the main patient tower);
 - (c) when the project is expected to be brought on-line (example: 30 days); (d) approximate cost, if known; and
 - (e) status of existing unused physical bed space at the hospital that could quickly be converted to inpatient care (i.e., has headwalls). How much physical bed capacity exists that is unused and what is the plan for using it to address the COVID-19 emergency?
2. The MHCC Executive Director can issue an Emergency CON after consultation with the MHCC Chairman and receipt of suitably detailed information from the Office of Health Care Quality (OHCQ) regarding the need for prompt action. Turnaround time on an Emergency CON request for an acute general hospital is expected to be within 24 hours.
3. An Emergency CON is initially valid for 165 days or until 30 days after the termination of the state of emergency declared by Governor Hogan on March 5, 2020. This date may be extended for good cause shown. (waiver of COMAR 10.24.01.20C).
4. If the hospital or health care facility does not intend to close the beds, etc. approved through an Emergency CON at the end of the emergency, it must file a formal CON application (or receive other required regulatory approval from MHCC) within 30 days of the termination of the state of emergency by Governor Hogan. This filing deadline can be extended by the Executive Director. (waiver of COMAR 10.24.01.20C)

NOTE re Modular Intensive Care Units

An acute general hospital that wants to establish a temporary intensive care unit in a modular building must obtain an Emergency Certificate of Need.

NOTE: Regarding Existing Physical Bed Space (with Headwalls) or Other Space (with Piped Gases)

An acute general hospital that temporarily wants to bring online existing physical bed space (with headwalls) or other space with piped gases (ORs, PACUs, clinical decision units, etc.) to address the COVID-19 emergency can request that OHCQ approve a temporary increase in the hospital's licensed bed capacity until 30 days after the termination of the state of emergency declared by Governor Hogan on March 5, 2020. OHCQ's Application for Temporary Adjustment of Hospital Beds is located at:

<https://app.smartsheet.com/b/form/c7e6598943c84dd2ba9e39859a9f3383>

NOTE: A Hospital Must Meet Reporting Requirements for All Beds Added

A hospital adding beds pursuant to an Emergency CON shall advise MHCC staff and OHCQ staff when the inpatient beds become operational at the Site, disclosing: (1) the number of beds that become available for patients; and (2) the date the beds become available. The hospital shall: notify MHCC staff by sending an email with this information to ruby.potter@maryland.gov; and notify OHCQ staff by completing OHCQ's Application for Temporary Adjustment of Hospital Beds, above.

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

An applicant who has filed a letter of intent but has not yet filed its CON application in a scheduled review may request and receive an extension of time to file the application.

Reviews for scheduled projects for which a LOI has not yet been filed will be included in a new review schedule that will be published within 30 days after Governor Hogan terminates the state of emergency that was declared on March 5, 2020.

For a project that has received CON approval but has not been completed, performance requirements are stayed until after the termination of the state of emergency. For example, if an existing performance deadline is May 5, 2020 (two months after the declaration of state of emergency) and the state of emergency ends on June 5, 2020, the extended performance requirement date will be September 5, 2020 (i.e., time 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. Each performance requirement may still receive one six-month extension as provided in COMAR 10.24.01.12E.

Quarterly status reports on an approved-but-not-completed project will be due 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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