



THE MARYLAND GENERAL ASSEMBLY  
ANNAPOLIS, MARYLAND 21401-1991

June 23, 2017

Mr. Ben Steffen  
Executive Director, Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, Maryland 21215

Dear Mr. Steffen:

Under the All-Payer Model agreement, the State is moving to a population-based approach that addresses total health care spending. The model directly impacts hospitals, and indirectly impacts physicians and other health care providers, since ultimately all health care providers share responsibility for managing growth in health care spending per capita. The All-Payer Model focuses on the "Triple Aim" of health care, which calls for reduced costs, enhanced quality and patient experience, and improved health. The model, therefore, calls for dramatic changes in health care delivery and spending, and the Certificate of Need (CON) program must also recognize these changes.

We are well aware that the Maryland Health Care Commission (MHCC) has authority over CON, including the drafting of the State Health Plan, which regulates health care services provided in Maryland. CON approval is required to establish certain health care services or for health care capital spending in excess of a defined threshold.

We believe it is time to study specific elements of CON. Such a study is required for the following two important reasons. Maryland's All-Payer Model, under the State's agreement with the federal Centers for Medicare and Medicaid Services, is fundamentally changing the health care delivery landscape in our State. At the same time, the CON application and approval process is complicated and may be an administrative burden, particularly for hospitals.

We request that MHCC undertake a comprehensive and thorough review of the CON application requirements and processes in the State, focusing on the following:

- (1) an examination of the major policy issues that the State should explore to ensure that CON laws and regulations, particularly the capital approval CON requirements, reflect the dynamic and evolving health care delivery system;

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- (2) a review of approaches other states with similar delivery models have taken to determine appropriate capacity;
- (3) recommended revisions to the enabling statutes relating to capital approval processes;
- (4) recommended revisions to the State Health Plan, including:
  - a. creating incentives to reduce unnecessary utilization;
  - b. eliminating, consolidating, or revising individual chapters of the State Health Plan;
  - c. developing criteria used that determine service need in the context of Maryland's All-Payer Model; and
  - d. an understanding that any criteria are clear, unambiguous, and appropriately applied;
- (5) a consideration of what MHCC flexibility, either through legislative or regulatory changes, may be needed to streamline the CON approval process;
- (6) in consultation with the Health Services Cost Review Commission and the Maryland Department of Health, identify areas of regulatory duplication regarding the hospital capital funding process, and other areas of hospital regulation; and
- (7) any other related matters as deemed necessary in the study.

We urge that as MHCC conducts its study staff should gather perspectives and views from a range of stakeholders, including:

- (1) MHCC commissioners;
- (2) the Maryland Department of Health; and
- (3) representatives of the following groups:
  - a. hospitals and health systems;
  - b. physicians;
  - c. post-acute service providers;
  - d. ambulatory surgical facilities;

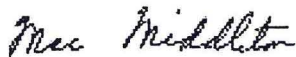
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- e. behavioral health and substance abuse treatment providers;
- f. employers;
- g. health care carriers;
- h. health care consumers; and
- i. local health departments and public health experts.

It is our hope that the study propose legislative and regulatory recommendations that the State should undertake to adapt the CON process to today's health care environment. The recommendations should be reasonable, actionable, and executable. The study should begin as soon as possible with an interim report completed no later than May 1, 2018, and a final report completed and submitted to the Senate Finance and the House Health and Government Operations committees no later than December 1, 2018.

Thank you for your consideration of this important matter. If you have any questions please contact Linda Stahr or David Smulski.

Very truly yours,



Thomas McLain Middleton  
Senate Co-chair



Shane E. Pendergrass  
House Co-chair

TMM:SEP/DAS/nb

cc: Members, Senate Finance Committee  
Members, House Health and Government Operations Committee