

# Title 10 MARYLAND DEPARTMENT OF HEALTH

## Subtitle 24 MARYLAND HEALTH CARE COMMISSION

### Chapter 01 Procedural Regulations for Health Care Facilities and Services

Authority: Health-General Article, §§19-109(a)(1) and (a)(8), 19-116(b), 19-118(d), 19-120, 19-120.1, and 19-126, et seq., Annotated Code of Maryland

#### **.12 Holder Responsibilities and [Withdrawal of a Certificate of Need or Other Commission Approval] Penalties for Noncompliance.**

A.—D. (text unchanged)

E. [Grounds for Withdrawal of Commission Approval.] *Enforcement.* The Commission may impose financial penalties, withdraw a CON or other Commission approval, or both, if it finds that:

(1) The holder made a material misrepresentation upon which the Commission relied in approving the application or issuing first use approval;

(2)—(4) (text unchanged)

(5) The holder failed to timely provide the semiannual progress report required under §B of this regulation; [or]

(6) The project differs materially from that approved by the Commission[.], including failure to timely seek approval of a project change in accordance with Regulation .17 of this chapter; or

(7) The holder failed to obtain approval under Regulation .18 of this chapter prior to first use of any portion of a facility or service developed under a CON or other Commission approval.

F. *Financial Penalties.*

(1) Financial penalties imposed in accordance with this regulation may not exceed:

(a) \$100 per day for each day the violation continues for failure to timely provide a semiannual progress report; or

(b) \$50,000 per violation for any other violation.

(2) The Commission shall consider the following factors in determining the amount of any financial penalty:

(a) The willfulness of the improper conduct;

(b) The extent of actual or potential public harm caused by the violation;

(c) The cost of investigation;

(d) The holder's prior record of compliance;

(e) The budget approved in the CON or other Commission approval;

(f) The holder's ability to pay; and

(g) If applicable, the amount of any unapproved capital cost increase that exceeds the approved budget.

[F.] G. Notice Before [Withdrawal of a CON or Other Commission Approval] *Enforcement Action.*

(1) If Commission staff determines that a CON or other Commission approval should be withdrawn or financial penalties should be imposed, Commission staff shall inform the holder and each appropriate local health department, setting forth in writing the reasons for the proposed [withdrawal] action.

(2) This notice shall set forth the right of the holder to submit written argument in support of its position and present oral argument to the Commission, as well as the right to an evidentiary hearing conducted in accordance with Regulation .11 of this chapter, to show cause why the approval should not be withdrawn or financial penalties should not be imposed.

(3) (text unchanged)

[G.] H. Final action by the Commission imposing financial penalties or withdrawing a CON or other approval shall:

(1)—(3) (text unchanged)

[H.] I. (text unchanged)