

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 (8), 19-116(b), 19-118(d), 19-120, 19-120.1, and 19-126, et seq., Annotated Code of Maryland

.03 Non-Coverage by Certificate of Need or Other Commission Approval.

A. Acquisition of an Existing Health Care Facility.

(1) At least 30 days before closing on a contract to acquire a health care facility, the person acquiring the facility shall notify the Commission in writing, with a copy to the local health officer in each affected jurisdiction and the appropriate State licensing agency, of the intent to acquire the facility, and include the following information:

- (a) The health care services provided by the facility;
- (b) The bed capacity, or jurisdiction served, if a community-based service;
- (c) Complete organizational charts that describe the ownership of the health care facility prior to and after the proposed acquisition;

(d) A description of any unsatisfied conditions imposed by the Commission on the facility and an affirmation that the person acquiring the facility will abide by any conditions still in effect; and

(e) Any other information required by this chapter, by the State Health Plan chapter applicable to the health care facility, or requested by Commission staff.

(2) Deemed Approval.

(a) Except for acquisitions of a nursing home, CON review is not required if Commission staff does not issue either a determination of coverage or notice that timely or complete notice was not received within 60 days of receipt of a notice from the person acquiring the health care facility.

(b) Upon request, Commission staff shall provide written confirmation that an acquisition was deemed approved under this regulation.

(3) Commission staff's determination that CON or other Commission review is not required remains valid for 180 days from its issuance. A new determination of coverage shall be required if the acquisition is not completed within that time period.

(4) If the acquisition is completed, the buyer shall sign a notice of completion of acquisition and file it with the Commission within 15 days of the completion of the acquisition.

(5) Conditions imposed by the Commission on a health care facility survive an acquisition of the facility.

B. Acquisition of a Nursing Home, Home Health Agency, or Hospice.

(1) In addition to providing the information required in §A of this regulation, a person seeking to acquire a nursing home shall obtain approval for the acquisition in accordance with Regulation .21 of this chapter.

(2) In addition to providing the information required in §A of this regulation, a person seeking to acquire a home health agency or hospice [shall :] *shall*:

(a) Identify each person with an ownership interest in the acquiring entity or a related or affiliated entity, including

- (i) The percentage of ownership interest of each such person; and
- (ii) The history of each such person's experience in ownership or operation of health care facilities;

(b) Provide information on corporate structure and affiliations of the acquirer, purchase price, source of funds, and other relevant data as requested;

(c) Affirm that the services provided will not change as a result of the proposed acquisition and that its commitment to Medicaid participation, if any, will not decrease as a result of the proposed acquisition; and

(d) Affirm under penalties of perjury, that within the last 10 years no owner or former owner of the purchaser, or member of senior management or management organization, or a current or former owner or senior manager of any related or affiliated entity has been convicted of a felony or crime, or pleaded guilty, nolo contendere, entered a best interest plea of guilty, received a diversionary disposition regarding a felony or crime, and that the purchaser or a related or affiliated entity has not paid a civil penalty in excess of \$10 million dollars that relates to the ownership or management of a health care facility.

(3) Disqualification for Acquisition. A nursing home, home health agency, or hospice may not be acquired by an entity if an owner or member of senior management or an owner or member of senior management of a related or affiliated entity of the acquiring entity has been convicted of a felony or crime or pleaded guilty, nolo contendere, entered a best interest plea of guilty, or received a diversionary disposition regarding a felony or crime within the last 10 years, [unless :] *unless*:

(a) All of the individuals involved in the fraud or abuse are no longer associated with the entity or any of its related or affiliated entities;

(b) Each entity has fully complied with each applicable plan of correction; and

(c) If applicable, each entity has fully complied with each condition of the imposition of a civil penalty or agreed disposition.

(4) In an acquisition of a home health agency or hospice, the purchaser may only acquire the authority to provide services in jurisdictions for which the facility being acquired was granted a CON or is otherwise recognized by the Commission as having legal authorization.

C. Closure of a Health Care Facility.

(1) A CON is not required to close a health care facility or part of a health care facility, including a State hospital, if it provides notice to the Commission at least 90 days prior to the closing or 45 days prior to the partial closing and complies with the provisions of §C(2)—(4) of this regulation, if applicable.

(2) An acute general hospital shall hold a public informational hearing in accordance with Regulation .04D of this chapter if the hospital:

(a) Files a notice of the proposed closing of the hospital with the Commission; or

(b) Is located in a jurisdiction with fewer than three acute general hospitals and files a notice of the partial closing of the hospital.

(3) The Commission may require a health care facility not covered by §C(2) of this regulation to hold a public information hearing in accordance with Regulation .04D of this chapter.

(4) If a hospital that intends to close has outstanding public obligations issued on its behalf, written notice of its intended closing shall be given to the Maryland Health and Higher Educational Facilities Authority and the Health Services Cost Review Commission by the:

(a) Commission, within 5 days after receiving a written notification by the hospital of its intended closure;

(b) Hospital, within 10 days of filing with the Commission its written notification of its intended closure, along with a written statement of all public obligations issued on behalf of the hospital that provides the information required by Economic Development Article, §10-346(a)(2), Annotated Code of Maryland; and

(c) Commission, that the hospital held a public informational hearing in consultation with the Commission in the jurisdiction where the hospital is located.

D. Temporary Delicensure or Suspension of Bed Capacity, Health Care Facility, or CON-Approved Service.

(1) A temporary delicensure of licensed bed capacity or a licensed and operating health care facility or a temporary suspension of a CON-approved service does not require CON review, and the Commission will retain the bed capacity or health care facility on its inventory or permit the reimplementation of the CON-approved service without obtaining a CON for up to 1 year, if the owner or licensed operator:

(a) Provides written notice to the Commission at least 30 days before the proposed temporary delicensure or temporary service suspension;

(b) Identifies good cause for the proposed temporary delicensure or temporary service suspension;

(c) States the intention either to bring the bed capacity back onto the facility's license or relicense the health care facility or reimplement the CON-approved service at the end of the 1-year period, or to notify the Commission that it intends to take another of the actions permitted under this subsection; and

(d) Has received authorization from the Executive Director for the temporary delicensure or temporary service suspension.

(2) Temporary Delicensure of Nursing Home Bed Capacity after an Acquisition.

(a) A temporary delicensure of licensed bed capacity or a licensed and operating nursing home following an acquisition does not require CON review, and the Commission will retain the bed capacity or the nursing home on its inventory for up to 3 years immediately following the acquisition, if the person who acquired the nursing home:

(i) Provides written notice to the Commission at least 30 days before the proposed temporary delicensure;

(ii) Demonstrates the temporary delicensure is needed to reduce the number of resident rooms that contain more than 2 beds;

(iii) States the intention either to bring the bed capacity back onto the facility's license or relicense the health care facility at the end of the 3-year period, or to notify the Commission that it intends to take another of the actions permitted under §D of this regulation; and

(iv) Has received authorization from the Executive Director for the temporary delicensure.

(b) The Executive Director may extend the period of a temporary delicensure under §D of this regulation beyond 3 years for good cause including:

(i) Demonstrated progress toward eliminating multi-bedded rooms by expanding the existing facility;

(ii) A pending or approved application for a CON or exemption from CON review to relocate the beds to another existing or new facility;

(iii) Evidence of physical or legal constraints; or

(iv) Evidence of good faith negotiations to sell the beds.

(3) Bed capacity or a facility that has been authorized by the Commission to be temporarily delicensed or a CON-approved service that has been authorized by the Commission to be temporarily suspended is not subject to the provisions of this section:

(a) During the pendency at the Commission of a letter of intent to apply or an application for CON approval involving the temporarily delicensed bed capacity or facility or the temporarily suspended CON-approved service;

(b) If the Commission has issued a Certificate of Need to reimplement the facility's temporarily delicensed bed capacity or the facility's temporarily suspended CON-approved service;

(c) If the Commission has approved a request pursuant to Regulation .03 or .04 of this chapter to reimplement the bed capacity, facility or CON-approved service, and has determined that the bed capacity, facility, or CON-approved service may be reimplemented without a CON or other Commission approval, including but not limited to actions that may be undertaken by a merged asset system of which the facility is a member;

(d) If the Commission receives a notice of acquisition of the temporarily delicensed bed capacity or facility and the buyer and seller timely complete the acquisition, in accordance with Regulation .03 of this chapter; or

(e) If the Commission receives written notification that the owner or operator of the temporarily delicensed bed capacity or facility has applied for relicensure or reimplementation of the temporarily suspended CON-approved service.

(4) The requirements and procedures in this subsection do not apply to:

(a) A proposal to close, on either a temporary or a permanent basis:

(i) An acute general hospital or part of a hospital, including a medical service, in a jurisdiction with fewer than three acute general hospitals; or

(ii) A health care facility that provides any medical service approved by the Commission as a regional or Statewide health resource; or

(b) A temporary interruption of a CON-approved service that does not exceed 30 days.

(5) This section does not substitute any notice or approvals that may be required from another body that regulates the bed capacity, health care facility, or CON-approved service.

(6) A health care facility may not request authorization by the Commission to temporarily delicense bed capacity or the entire health care facility or to temporarily suspend a CON-approved service more than one time in a 1-year period.

(7) No fewer than 30 days before the end of the 1-year or other applicable period, a health care facility that has temporarily delicensed bed capacity or its entire facility or has temporarily suspended a CON-approved service shall notify the Commission that, before the end of the 1-year or other applicable period, it will:

(a) Apply to relicense the bed capacity or the entire facility temporarily delicensed or reimplement the CON-approved service temporarily suspended pursuant to this subsection;

(b) Submit and receive the Executive Director's approval of a specific plan for the relicensure of the bed capacity or facility or for the reimplementation of the temporarily suspended CON-approved service, that:

(i) Imposes stated time frames by which steps toward the relicensure of the bed capacity or facility or reimplementation of the service will be accomplished, or the bed capacity, facility, or service will be deemed abandoned; and

(ii) May be revised upon a proposal by the owner or operator, with the approval of the Executive Director;

(c) File a letter of intent, followed within 60 days by a Certificate of Need application, or request the applicable level of Commission action pursuant to Regulations .03 and .04 of this chapter, for the relocation of the bed capacity or facility, or for a capital expenditure deemed necessary to relicense the temporarily delicensed beds or facility or necessary to reimplement the temporarily suspended CON-approved service;

(d) Execute a binding contract to transfer ownership of the health care facility, if the requirements of §A of this regulation are met;

(e) Execute a binding contract to transfer ownership of the previously licensed bed capacity, contingent on the filing within 90 days for those filings not subject to a published review cycle or upon the Commission's next published review schedule of a letter of intent to apply for CON approval, or other applicable level of Commission action pursuant to Regulations .03 and .04 of this chapter if required, to relocate the bed capacity; or

(f) Relinquish the bed capacity or the authorization to provide the CON-approved service, or seek the appropriate Commission approval to delicense and permanently close the health care facility.

(8) The Executive Director may extend the period of a temporary delicensure or temporary service suspension under this subsection beyond 1 year for good cause.

(9) An application for a CON to reimplement at another location any previously operating bed capacity that has not operated for 2 or more years shall demonstrate that the bed capacity is needed in the jurisdiction.

(10) Abandonment of Bed Capacity, Health Care Facility, or Service.

(a) If, at the end of the 1-year period or other time period permitted under this section, the requirements of §C(5) or (7) of this regulation have not been met, no request for an extension of time has been granted pursuant to §C(6) of this regulation, and the previously delicensed bed capacity or facility has not been relicensed or the previously suspended service has not been reimplemented, the bed capacity, health care facility, or service is deemed abandoned by its owner or operator.

(b) The Commission shall issue a written notice to the owner of the affected facility, and to its licensed operator if the facility is not operated by its owner, of the opportunity to respond within 30 days before the abandonment is considered final, in order to demonstrate that the previously delicensed bed capacity or facility has been relicensed or the previously suspended service has been reimplemented.

E. A CON is not required to relocate an existing health care facility owned or controlled by a merged asset system, if:

- (1) The proposed relocation is not across jurisdictional boundaries and is to a site in:
 - (a) The primary service area of the hospital to be relocated; or
 - (b) The service area of the non-hospital health care facility to be relocated;
- (2) At least 45 days before the proposed relocation, notice is filed with the Commission, which will publish notice of the proposed relocation in the Maryland Register and a newspaper of general circulation in the affected area; and
- (3) The relocation of the existing health care facility does not:
 - (a) Change the type or scope of health care services offered; and
 - (b) In the case of a hospital, require a capital expenditure that exceeds the hospital capital threshold, except as provided in §J of this regulation.

F. Change in Bed Capacity.

- (1) A CON is not required to increase or decrease bed capacity if:
 - (a) For a health care facility that is not an acute general hospital, the change does not exceed ten beds or 10 percent of the facility's total bed capacity, whichever is less, and the facility's licensed bed capacity has not changed in the preceding 2 years;
 - (b) For a special rehabilitation hospital or a residential treatment center, the change does not exceed ten beds or 40 percent of its current bed capacity, whichever is less, and the facility's licensed bed capacity has not changed in the preceding 2 years;
 - (c) For an acute general hospital located in a jurisdiction with three or more acute general hospitals, the change:
 - (i) Is between hospitals in a merged asset system located within the same health planning region;
 - (ii) Does not involve comprehensive care or extended care beds;
 - (iii) Does not occur earlier than 45 days after a notice of intent to reallocate bed capacity is filed with the Commission; and
 - (iv) Does not create a new health care service through the relocation of beds from one jurisdiction to another jurisdiction pursuant to this subsection;
 - (d) The change in bed capacity is the result of the annual recalculation of licensed bed capacity in acute general hospitals provided for under Health-General Article, §19-307.2, Annotated Code of Maryland;
 - (e) For an existing medical service provided by an acute general hospital:
 - (i) The total bed capacity of the hospital does not increase;
 - (ii) The change is maintained for at least a 1-year period, unless modified pursuant to CON or exemption from CON, or as a result of the annual recalculation of hospital licensed bed capacity required at Health-General Article, §19-307.2, Annotated Code of Maryland; and
 - (iii) The hospital notifies the Commission at least 45 days before the proposed change in bed capacity of its medical services; or
 - (f) At least 45 days before increasing or decreasing bed capacity, written notice of the intent to change bed capacity is filed with the Commission, and the increase or decrease in bed capacity will occur in:
 - (i) An existing general hospice that has a current license issued by the Secretary and involves an increase in bed capacity for the provision of inpatient hospice care under the facility's current license; or
 - (ii) An existing intermediate care facility that offers residential or intensive substance-related disorder treatment services for withdrawal management and treatment under the facility's current license issued by the Secretary.] license.
- (2) Except as otherwise provided in this regulation, a CON is not required to decrease bed capacity at a health care facility if at least 45 days before decreasing bed capacity, written notice of the intent to change bed capacity is filed with the Commission.

G. A CON is not required for a non-hospital health care facility project by a health maintenance organization if:

- (1) At least 90 percent of the patients who will receive health care services from the facility are enrolled in the health maintenance organization;
- (2) The health maintenance organization requests a determination of coverage from Commission staff that describes its proposed project, including its street address, and the health care service to be provided; and
- (3) Commission staff issues a determination that CON or other Commission review is not required.

H. A home health agency is not required to obtain a CON to open a branch office, as defined by the Centers for Medicare and Medicaid Services at 42 CFR §484.2, although notice to the Commission is required.

I. Religious Orders.

- (1) A CON is not required before a religious order seeks licensure to operate a comprehensive care facility for the exclusive use of members of that religious order, provided that the religious order seeks and receives a determination of coverage from Commission staff that a CON is not required.
- (2) The request for a determination of coverage shall provide the following:
 - (a) The name and address of the facility;
 - (b) The number of beds in the facility;
 - (c) The name of the religious order that will own and operate the facility;

(d) An affirmation that the facility will be owned and operated by the religious order for the exclusive use of its members; and

(e) Agreement to participate in the Maryland Long-Term Care Survey, authorized by COMAR 10.24.03.

(3) Commission staff shall issue a determination that either CON review is not required, with or without conditions, or that CON review is required for stated reasons.

J. Hospital Capital Expenditures in Excess of the Hospital Capital Threshold.

(1) A CON is not required by a hospital before it obligates an amount exceeding the hospital capital threshold for capital expenditures for physical plant construction or renovation, or before it receives a donated physical plant whose appraised value exceeds the hospital capital threshold, under the following circumstances:

(a) The capital expenditure may be related to patient care.

(b) The capital expenditure does not require, over the entire period or schedule of debt service associated with the project or plant, a total cumulative increase in patient charges or hospital rates of more than \$1,500,000 for the capital costs associated with the project.

(c) At least 45 days before an obligation is made or the physical plant is donated, the hospital provides notice to the Commission and to the Health Services Cost Review Commission, in the form of a written request for determination of coverage, as provided in Regulation .14A of this chapter, which shall contain the following information:

(i) A description of the proposed capital project, including whether it involves new construction, renovation of or additions to the existing physical plant, or the donation of a physical plant, with any necessary adaptations;

(ii) The total capital costs associated with the project;

(iii) The sources and uses of funds to be applied to the project, including hospital equity contributions, if applicable, as documented by audited financial statements of the hospital and relevant subsidiary corporations, if any, from which funds are to be taken;

(iv) A description of the financing arrangement, if applicable, for the proposed project, including the debt service schedule; and

(v) A statement by one or more persons authorized to represent the hospital that the hospital does not require a total cumulative increase in patient charges or hospital rates of more than \$1,500,000 for the capital costs associated with the project.

(2) After consultation with the Health Services Cost Review Commission, the Commission shall issue a determination whether CON review is required within 45 days after it receives the information specified in this section. If Commission staff does not issue a determination within 60 days of receipt of all relevant financial information by the Commission and by the Health Services Cost Review Commission, the Commission is considered to have issued a determination that approval of the capital expenditure is not required by the Commission or by the Health Services Cost Review Commission.

(3) Commission staff shall issue a determination that either CON review is not required, with or without conditions, or that CON review is required for stated reasons.

K. Continuation of Specific Exception from Certificate of Need for Continuing Care Retirement Communities.

(1) A comprehensive care facility on the campus of a continuing care retirement community is exempted from CON review, provided that the requirements of Health-General Article, §19-114(d)(2)(ii)(1), Annotated Code of Maryland, and this chapter are met, and that the number of comprehensive care beds located on the campus of the continuing care retirement community does not exceed:

(a) 20 percent of the number of independent living units at a continuing care retirement community that has 300 or more independent living units; or

(b) 24 percent of the number of independent living units at a continuing care retirement community that has fewer than 300 independent living units.

(2) Limited Direct Admission. Notwithstanding the provisions of Health-General Article, §19-114(d)(2)(ii), Annotated Code of Maryland, a continuing care retirement community does not lose its exception from CON when the continuing care community admits an individual directly to a comprehensive care facility within the continuing care community under either of the following circumstances:

(a) Two individuals having a long-term significant relationship are admitted together to a continuing care retirement community and:

(i) The admission occurs after October 1, 1999;

(ii) The admission includes spouses, two relatives, or two individuals having a long-term significant relationship, as defined in Regulation .01B of this chapter and supported by documentary proof in existence for at least 1 year before application to the continuing care retirement community, admitted at the same time, under a joint contract, who are jointly responsible for expenses incurred under the joint contract; and

(iii) One of the individuals admitted under the joint contract will reside in an independent living unit or an assisted living unit; or

(b) An individual is admitted directly into a comprehensive care bed at a continuing care retirement community and:

(i) The individual must have executed a continuing care agreement and must have paid entrance fees that are at least equal to the lowest entrance fee charged by the continuing care retirement community for its independent or assisted living units;

(ii) The individual must pay the entrance fee by the same method, terms of payment, and time frame as a person who immediately assumes residence in an independent or assisted living unit at that continuing care retirement community; and

(iii) The individual admitted to the comprehensive care bed must have the potential for eventual transfer to an independent living unit or assisted living unit at that continuing care retirement community, as determined by the subscriber's personal physician, as defined in Regulation .01B of this chapter.

(3) Under §K(2)(b)(iii) of this regulation, an individual is deemed not to have potential for eventual transfer to an independent living unit or assisted living unit if the individual can qualify for hospice services under federal Medicare regulations or if the individual has an irreversible condition that would make it unlikely that the individual could transfer to an independent living unit or assisted living unit at the continuing care retirement community. Irreversible conditions include quadriplegia, ventilator dependence, and any end-stage condition.

(4) The total number of comprehensive care beds occupied by individuals who are directly admitted to comprehensive care beds pursuant to §K(2)(b) of this regulation may not exceed 20 percent of the total number of licensed and available comprehensive care beds at the continuing care retirement community.

(5) The admission of the individual directly into the comprehensive care bed pursuant to §K(2)(b) of this regulation may not cause the occupancy of the comprehensive care facility at the continuing care retirement community to exceed 95 percent of its current licensed capacity.

(6) The comprehensive care facility at the continuing care retirement community shall maintain an attestation by the individual's personal physician that the individual has the potential for eventual transfer to an independent living unit or an assisted living unit.

(7) The nursing home administrator of the comprehensive care facility at each continuing care retirement community who admits an individual directly to a comprehensive care bed pursuant to §K(2)(b) of this regulation shall maintain information, in a format specified by the Commission, about each admission in the format required by the Commission and encrypted by the continuing care retirement community so that the individual's identity will not be disclosed. The forms shall be maintained by the nursing home administrator, to be provided to Commission staff upon its request, and shall include:

(a) The number and utilization of licensed comprehensive care beds excluded from Certificate of Need requirements at the continuing care retirement community;

(b) The admission source of each individual admitted pursuant to §K(2)(b) of this regulation to a comprehensive care bed excluded from Certificate of Need requirements at the continuing care retirement community;

(c) For an individual admitted pursuant to §K(2)(b) of this regulation, the amount of and terms of payment for the entrance fee;

(d) The dates of admission and discharge of each individual admitted pursuant to §K(2)(b) of this regulation;

(e) The site to which an individual directly admitted pursuant to §K(2)(b) of this regulation is discharged; and

(f) Any other information as required by Commission staff.10.24.01.04

.04 Exemption from Certificate of Need Review.

A. The Commission may exempt from the requirement of CON review and approval the following actions:

(1) Merger or consolidation of two or more hospitals or other health care facilities, if the facilities or an organization that operates the facilities give the Commission 45 days written notice of their intent to merge or consolidate;

(2) Relocation of an existing health care facility owned or controlled by a merged asset system, if:

(a) The relocation is to a site outside:

(i) The primary service area of the hospital to be relocated but within the primary service area of the merged asset system; or

(ii) The service area of the non-hospital health care facility to be relocated but within the primary service area of the merged asset system; and

(b) The relocation of the existing health care facility does not:

(i) Change the type or scope of health care services offered; and

(ii) In the case of a hospital, require a capital expenditure for its construction that exceeds the hospital capital threshold, adjusted for inflation, except as provided by Regulation .03J of this chapter;

(3) A change in the bed capacity of an existing health care facility pursuant to the consolidation or merger of two or more health care facilities, or conversion of a health care facility or part of a health care facility to a non-health-related use, except as provided in Regulation .03F of this chapter;

(4) A change in the type or scope of the health care services offered by a health care facility, if, at least 45 days before increasing or decreasing the volume of one or more health care services, the Commission finds that the proposed change is pursuant to the:

(a) Consolidation or merger of two or more health care facilities;

(b) Conversion of all or part of a health care facility to a non-health-related use; or

- (c) Conversion of a hospital to a limited service hospital;
- (5) A capital expenditure that exceeds the review threshold for capital expenditure made as part of a consolidation or merger of two or more health care facilities, or conversion of a health care facility or part of a health care facility to a non-health-related use; [or]
- (6) The establishment of a freestanding medical facility through the conversion of an acute general hospital, as provided in §F of this regulation and in [COMAR 10.24.19.04C.] *COMAR 10.24.19.04C;*
- (7) The establishment of an intermediate care facility; or*
- (8) A change in the bed capacity at an intermediate care facility that has a current license issued by the Secretary to provide American Society of Addiction Medicine Level 3.7 substance use disorder treatment.*

B. Unless otherwise provided in this chapter for a specific type of health care facility, complete notice of intent to seek exemption from CON review shall be filed with the Commission at least 45 days before the intended action, and shall include:

- (1) The name and location of each affected health care facility;
- (2) A general description of the proposed project including, in the case of mergers and consolidations, any proposed:
 - (a) Conversion, expansion, relocation, or reduction of one or more health care services;
 - (b) Renovation of existing facilities;
 - (c) New construction;
 - (d) Relocation or reconfiguration of existing medical services; or
 - (e) Change in bed capacity at each affected facility;
- (3) The scheduled date of the project's completion;
- (4) Identification of each outstanding public obligation;
- (5) Information demonstrating that the project:
 - (a) Is not inconsistent with the State Health Plan;
 - (b) Will result in the delivery of more efficient and effective delivery of health care services; and
 - (c) Is in the public interest; and
- (6) Any other information, analyses, or other requirements established in State Health Plan regulation for requests seeking exemption from CON review.

C. Notice by the Commission to the Public, Elected Officials, and Other State Agencies.

- (1) Within 5 days after it receives a complete Notice of Intent from a health care facility seeking exemption from CON review, the Commission shall publish notice of its receipt:
 - (a) In at least one newspaper of general circulation in the affected area;
 - (b) In the next available issue of the Maryland Register; and
 - (c) On the Commission's website.
- (2) The Commission shall mail the same notice to elected public officials in whose district or jurisdiction the exemption from CON review is proposed.
- (3) The Commission shall solicit comment from the affected public, in evaluating whether the action or project proposed for exemption from CON review is in the public interest.

D. Public Informational Hearing.

- (1) An acute general hospital shall hold a public informational hearing in the jurisdiction where it is located within 30 days after it has filed with the Commission notice of its intent to:
 - (a) Close;
 - (b) Partially close, if the hospital is located in a jurisdiction with fewer than three acute general hospitals; or
 - (c) Convert to a limited service hospital or freestanding medical facility.
- (2) Before holding the public informational hearing, the hospital shall consult with the Commission, to ensure that:
 - (a) Within 5 days of notifying the Commission of its intent to close, partially close, or convert, the hospital has provided public notice of the proposed closure or conversion and of the time and location of the required public informational hearing and how the public can electronically obtain additional information, including publication in at least one newspaper of general circulation in the affected area; and
 - (b) The public hearing will address the information required by §D(3) of this regulation.
- (3) Requirements for a Public Informational Hearing.
 - (a) The acute general hospital proposing to close, partially close, or convert to a limited service hospital or freestanding medical facility shall hold a public informational hearing at the hospital or if that is not feasible at a public meeting area near the hospital.
 - (b) The hospital shall post a notice of the public informational hearing in public areas of its facility and on the landing page of its website.
 - (c) The hospital shall identify to the public the names of the senior management and Board of Directors attending the hearing;
 - (d) The hospital shall present at least the following information at the public informational hearing:
 - (i) The reasons for the closure, partial closure, or conversion;

- (ii) The plan for transitioning acute care services previously provided by the hospital to residents of the hospital service area;
 - (iii) The plan for addressing the health care needs of the residents of the hospital service area;
 - (iv) The plan for retraining and placing displaced employees;
 - (v) The plan for the hospital's physical plant and site; and
 - (vi) The proposed timeline for the closure, partial closure, or conversion to a freestanding medical facility.
- (e) The public informational hearing shall be recorded.
- (f) Within 10 business days after the public informational hearing, the hospital shall make available on its website a recording of the public informational hearing and provide a written summary of the hearing, which shall also be provided to:
- (i) The Governor;
 - (ii) The Secretary;
 - (iii) The governing body of the jurisdiction in which the hospital is located;
 - (iv) The local health department and the local board of health or similar body for the jurisdiction in which the hospital is located;
 - (v) The Commission; and
 - (vi) Subject to State Government Article, §2-1257, Annotated Code of Maryland, the Senate Finance Committee, the House Health and Government Operations Committee, and the members of the General Assembly who represent the district in which the hospital is located.

E. Commission Action.

(1) Unless otherwise provided in this chapter for a specific type of health care facility, the Commission shall issue an exemption from CON review to the health care facility or the merged asset system seeking this determination within 45 days after it receives the notice of intent required by §B of this regulation, if:

(a) The facility or system has provided the information required by the notice of intent, and has held a public informational hearing if required by §D of this regulation; and

(b) The Commission, in its sole discretion, finds that the action proposed:

(i) Is not inconsistent with the State Health Plan or an institution-specific plan developed by the Commission under Health-General Article, §19-119, Annotated Code of Maryland;

(ii) Will result in more efficient and effective delivery of health care services; and

(iii) Is in the public interest.

(2) For any project that the Commission may exempt from CON review under §A of this regulation, for which a final Commission decision has not been issued within 45 days after it receives a complete notice of intent as required by §B of this regulation, Commission staff shall provide a status report at the next Commission meeting and any subsequent Commission meeting stating the reasons for the delay and the expected time frame for issuing its final decision.

(3) CON review is not required and the exemption request shall be deemed approved for any project which the Commission may exempt from CON review under §A of this regulation if final action by the Commission does not occur within 90 days after the facility or system has provided complete notice of intent as required by §B of this regulation and has held a public hearing if required by §D of this regulation.

(4) Upon request, Commission staff shall provide written confirmation that an exemption request has been deemed approved in accordance with §E(3) of this regulation.

F. Freestanding Medical Facility.

(1) In accordance with COMAR 10.24.19.04C and this regulation, the Commission may exempt from CON review the establishment of a freestanding medical facility as a result of a conversion from a licensed acute general hospital.

(2) At least 60 days before the conversion, written notice of intent to convert the licensed general hospital to a freestanding medical facility shall be filed with the Commission in accordance with COMAR 10.24.19.04C.

(3) Provided that all the requirements of this regulation and COMAR 10.24.19.04C are met, the Commission shall grant the exemption if it finds, in its sole discretion, that the conversion:

(a) Is consistent with the State Health Plan;

(b) Will result in the delivery of more efficient and effective health care services;

(c) Will maintain adequate and appropriate delivery of emergency care within the statewide emergency medical services system as determined by the State Emergency Medical Services Board; and

(d) Is in the public interest.

(4) The Commission may approve, approve with conditions, or deny the requested exemption.

(5) Failure to maintain compliance with conditions on an exemption or with the time frame for completion of the conversion may result in withdrawal of the exemption issued by the Commission in accordance with Regulation .12 of this chapter. An exemption holder may request approval of a reasonable modification to the conversion timeline in accordance with Regulation .12A(4) of this chapter.