



Maryland  
Hospital Association

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Mark Stewart  
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1800 Washington Boulevard, Suite 705  
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Via email to [BEPS.MDE@maryland.gov](mailto:BEPS.MDE@maryland.gov)

**Re: Proposed Building Energy Performance Standards Regulation**

Dear Mr. Stewart:

On behalf of the Maryland Hospital Association's (MHA) member hospitals and health systems, we appreciate the opportunity to comment on the proposed Building Energy Performance Standards regulation (BEPS). While hospitals support efforts to combat climate change, our responsibilities to provide care to patients present unique challenges. Unlike commercial businesses, hospitals cannot afford to experience power disruptions, otherwise patients will suffer catastrophic consequences. Furthermore, as we elaborate below, Maryland's innovative hospital financing model also creates distinct challenges. We urge the Department of the Environment (MDE) to recognize the special circumstances hospitals face and exempt hospital facilities from BEPS.

***MDE should follow the law and exempt hospitals from BEPS***

The Climate Solutions Now Act of 2022 (Act) includes a special provision for hospitals. The Act created a new Section 2-1602(c)(2)(ii)(3) under the Environment Article, which provides that regulations promulgated under the Act shall include special provisions or exceptions to account for the unique needs of health care facilities.

The General Assembly included this provision in recognition of the uniqueness of hospitals. While the hospital field supports the goal of the Act to reduce greenhouse gas emissions, the unique nature of hospitals—and the potentially deadly consequences of power failure on patient safety—requires special consideration. MDE should follow the statutory language and exempt hospitals from BEPS.

### ***Hospitals have unique energy demands that deserve exemption***

Hospitals have many special needs that are unique to the industry. We provide a few examples of these unique hospital energy uses below.

Hospitals need heat to deliver critical medical gases to patients. Oxygen, for example, is commonly transported and stored in liquid form to minimize space requirements. Vaporizers are then used to heat and convert liquid oxygen stored in hospital facilities into gaseous form for delivery to patients. Energy interruptions that disrupt the conversion of oxygen will affect the availability of gaseous oxygen, which will instantly create life-threatening conditions for patients.

Hospitals are also subject to strict ventilation requirements that require intensive energy use. The Centers for Medicare & Medicaid Services (CMS) have rules that regulate air pressure, exchange rate, relative humidity, and temperature range in different areas of the hospital. In addition to ensuring patient comfort, temperature, humidity, and other atmospheric variables must be carefully regulated to minimize bacterial and fungal growth. Failure to adhere to these federal standards may jeopardize patient health and subject hospitals to potential civil monetary penalties from CMS.

Hospital medical equipment must also be disinfected to prevent infection. While there are several sterilizing methods, steam and heat remain prevalent in hospitals. Energy use to generate steam or increase heat to the requisite temperature necessary to eliminate pathogens must be available to safeguard patient safety.

These are but a few examples of the unique hospital energy needs. Furthermore, care settings like intensive care units, surgical operating rooms and emergency departments all need continuous and guaranteed access to power. While newer alternatives are becoming available, experimenting with new technology carries risks for patients. We urge MDE to recognize the unique energy demands imposed on hospitals and exempt hospitals completely from BEPS, or alternatively develop a reduced alternative compliance fee similar to affordable housing providers.

### ***Maryland hospitals are subject to a unique federal-state financing model and need exemption from BEPS***

#### **The GBR does not provide financing for new equipment**

Maryland hospitals are financed under an innovative Global Budget Revenue model (GBR). Under the GBR, the Maryland Health Services Cost Review Commission fixes each hospital's total annual revenue at the beginning of a fiscal year. Hospitals cannot increase their revenue by increasing the number of patients served or the number of services provided. The annual revenue is determined by adjusting a hospital's baseline historical revenue to account for inflation, population changes, and other factors beyond the hospital's control. Financing for capital projects—such as buying new equipment or retrofitting existing infrastructure to meet net-zero standards—is not part of the annual revenue adjustments. The current model does not account for

expenses necessary to comply with the proposed BEPS, and hospitals would need new funding sources to help meet the new standards.

**Maryland is negotiating with CMS on a new hospital payment model with uncertain outcomes**

The Maryland Department of Health is negotiating with CMS to participate in the new States Advancing All-Payer Health Equity Approaches and Development (AHEAD) Model. The new AHEAD Model will affect how Maryland hospitals are reimbursed in the future, including new performance standards that hospitals must meet. While the new Model may present opportunities, it also creates uncertainties. The results of the negotiation and the effects of the transition to the new Model are difficult to anticipate, making it even more difficult for hospitals to comply with BEPS.

Thank you for the opportunity to comment. We look forward to working with MDE to care for Marylanders safely and sustainably. Please do not hesitate to contact me, or [Steven Chen](#), MHA director of policy, if we can be of assistance.

Sincerely,



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