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**SENATE BILL NO. 633**

Offered January 24, 2000

*A BILL to amend and reenact §§ 32.1-102.1 and 32.1-124 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-124.1, relating to regulation of certain health care facilities.*

Patrons—Mims and Martin

Referred to Committee on Education and Health

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-102.1 and 32.1-124 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 32.1-124.1 as follows:**

§ 32.1-102.1. Definitions.

As used in this article, unless the context indicates otherwise:

"Certificate" means a certificate of public need for a project required by this article.

"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

"Medical care facility," as used in this title, means any institution, place, building or agency, whether or not licensed or required to be licensed by the Board or the State Mental Health, Mental Retardation and Substance Abuse Services Board, whether operated for profit or nonprofit and whether privately owned or privately operated or owned or operated by a local governmental unit, (i) by or in which health services are furnished, conducted, operated or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated mentally or physically sick or injured persons, or for the care of two or more nonrelated persons requiring or receiving medical, surgical or nursing attention or services as acute, chronic, convalescent, aged, physically disabled or crippled or (ii) which is the recipient of reimbursements from third-party health insurance programs or prepaid medical service plans. For purposes of this article, only the following medical care facilities shall be subject to review:

1. General hospitals.

2. Sanitariums.

3. Nursing homes.

4. Intermediate care facilities.

5. Extended care facilities.

6. Mental hospitals.

7. Mental retardation facilities.

8. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.

9. ~~Specialized centers or clinics or that portion of a physician's office developed for the provision of outpatient or ambulatory surgery, cardiac catheterization, computed tomographic (CT) scanning, gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, radiation therapy, nuclear medicine imaging, or such other specialty services as may be designated by the Board by regulation.~~

~~10. Rehabilitation hospitals.~~

~~11. Any facility licensed as a hospital.~~

The term "medical care facility" shall not include any facility of (i) the Department of Mental Health, Mental Retardation and Substance Abuse Services; or (ii) any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board under the Department of Mental Health, Mental Retardation and Substance Abuse Services' Comprehensive Plan; or (iii) a physician's office, except that portion of a physician's office described above in subdivision 9 of the definition of "medical care facility"; or (iv) the Woodrow Wilson Rehabilitation Center of the Department of Rehabilitative Services.

"Project" means:

1. Establishment of a medical care facility;

2. An increase in the total number of beds ~~or operating rooms~~ in an existing medical care facility;

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60 3. Relocation at the same site of ten beds or ten percent of the beds, whichever is less, from one  
61 existing physical facility to another in any two-year period; however, a hospital shall not be required to  
62 obtain a certificate for the use of ten percent of its beds as nursing home beds as provided in  
63 § 32.1-132;

64 4. Introduction into an existing medical care facility of any new nursing home service, such as  
65 intermediate care facility services, extended care facility services, or skilled nursing facility services,  
66 regardless of the type of medical care facility in which those services are provided;

67 5. Introduction into an existing medical care facility of any new cardiac catheterization, computed  
68 tomographic (CT) scanning, gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI),  
69 magnetic source imaging (MSI), medical rehabilitation, neonatal special care, obstetrical, open heart  
70 surgery, positron emission tomographic (PET) scanning, psychiatric, organ or tissue transplant service,  
71 radiation therapy, nuclear medicine imaging, substance abuse treatment, or such other specialty clinical  
72 services as may be designated by the Board by regulation, which the facility has never provided or has  
73 not provided in the previous twelve months; *or*

74 6. Conversion of beds in an existing medical care facility to medical rehabilitation beds or  
75 psychiatric beds;

76 7. The addition by an existing medical care facility of any medical equipment for the provision of  
77 cardiac catheterization, computed tomographic (CT) scanning, gamma knife surgery, lithotripsy, magnetic  
78 resonance imaging (MRI), magnetic source imaging (MSI), open heart surgery, positron emission  
79 tomographic (PET) scanning, radiation therapy, or other specialized service designated by the Board by  
80 regulation. Replacement of existing equipment shall not require a certificate of public need; *or*

81 8. Any capital expenditure of five million dollars or more, not defined as reviewable in subdivisions  
82 1 through 7 of this definition, by or in behalf of a medical care facility. However, capital expenditures  
83 between one and five million dollars shall be registered with the Commissioner pursuant to regulations  
84 developed by the Board.

85 "Regional health planning agency" means the regional agency, including the regional health planning  
86 board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform  
87 the health planning activities set forth in this chapter within a health planning region.

88 "State Medical Facilities Plan" means the planning document adopted by the Board of Health which  
89 shall include, but not be limited to, (i) methodologies for projecting need for medical care facility beds  
90 and services; (ii) statistical information on the availability of medical care facilities and services; and  
91 (iii) procedures, criteria and standards for review of applications for projects for medical care facilities  
92 and services.

93 "Virginia Health Planning Board" means the statewide health planning body established pursuant to  
94 § 32.1-122.02 which serves as the analytical and technical resource to the Secretary of Health and  
95 Human Resources in matters requiring health analysis and planning.

96 § 32.1-124. Exemptions.

97 The provisions of §§ 32.1-123 through 32.1-136 shall not be applicable to: (i) a dispensary or  
98 first-aid facility maintained by any commercial or industrial plant, educational institution or convent; (ii)  
99 an institution licensed by the State Mental Health, Mental Retardation and Substance Abuse Services  
100 Board; (iii) an institution or portion thereof licensed by the State Board of Social Services; (iv) a  
101 hospital or nursing home owned or operated by an agency of the United States government; (v) an  
102 office of one or more physicians or surgeons ~~unless such office is used principally for performing~~  
103 ~~surgery except as authorized by § 32.1-124.1;~~ and (vi) a hospital or nursing home, as defined in  
104 § 32.1-123, owned or operated by an agency of the Commonwealth unless such hospital or nursing  
105 home or portion thereof is certified as a nursing facility pursuant to § 32.1-137.

106 § 32.1-124.1. Licensure of certain centers, clinics, and offices providing outpatient or ambulatory  
107 surgery, cardiac catheterization or radiation therapy.

108 A. Upon application from the operator, the Board shall issue a license to each specialized center or  
109 clinic or that portion of a physician's office developed for the provision of outpatient or ambulatory  
110 surgery, cardiac catheterization, or radiation therapy, certifying such facility to be a medical care  
111 facility pursuant to § 32.1-137 if the facility that seeks to be licensed has received accreditation by the  
112 Joint Commission on Accreditation of Health Care Organizations, the Accreditation Association of  
113 Ambulatory Health Care or the American Association for Accreditation of Ambulatory Surgery  
114 Facilities.

115 B. The Board may revoke or suspend any license issued hereunder if the holder of the license fails to  
116 maintain accreditation by the relevant organization as required by subsection A. If the license is revoked  
117 as provided in this subsection, the Board may issue a new license upon application therefor, after the  
118 facility has obtained reinstatement of its accreditation.

119 C. The Board shall issue a provisional license, for a period of not more than two years, to an  
120 operator who provides documentation to the Board that the facility has applied for accreditation by the  
121 relevant organization. Such provisional license shall certify such facility to be a medical care facility

122 pursuant to § 32.1-137 during the accreditation application period. A provisional license may be  
123 renewed for a third year if the relevant accreditation organization provides the Board with a written  
124 statement confirming (i) a facility site visit within the six months prior to the date of the application for  
125 the third-year extension of the provisional license and (ii) sufficient progress of the facility toward  
126 accreditation.