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**HOUSE BILL NO. 883**

Offered January 9, 2002

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*A BILL to amend and reenact § 32.1-102.1 of the Code of Virginia, relating to medical care facilities certificate of public need.*

Patrons—Hamilton, Christian, Crittenden, Devolites, Drake, Janis, Joannou, Louderback, Nixon, O'Bannon, Oder, Purkey, Reid and Welch; Senators: Quayle and Williams

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:****1. That § 32.1-102.1 of the Code of Virginia is amended and reenacted as follows:**

§ 32.1-102.1. Definitions.

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

"Cancer care center" means any specialized center or clinic or portion of a physician's office developed for the provision of outpatient chemotherapy, radiation, and diagnostic radiology services that does not administer general anesthesia in connection with such services.

"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, except for the purpose of nuclear cardiac imaging, or such other specialty services as may be designated by the Board by regulation. "Medical care facility" shall not, however, include any cancer care center, regardless of whether such center provides services covered by this chapter, so long as the cancer care center does not take into consideration the ability to pay for any needed chemotherapy, radiation, or diagnostic radiology services of any patient with cancer or any patient referred in regard to a diagnosis of cancer. Each cancer care center shall report annually to the Department of Medical Assistance Services regarding indigent care provided in accordance with this provision.

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,

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58 Mental Retardation and Substance Abuse Services; or (ii) any nonhospital substance abuse residential  
59 treatment program operated by or contracted primarily for the use of a community services board under  
60 the Department of Mental Health, Mental Retardation and Substance Abuse Services' Comprehensive  
61 Plan; or (iii) a physician's office, except that portion of a physician's office described above in  
62 subdivision 9 of the definition of "medical care facility"; ~~or~~ (iv) the Woodrow Wilson Rehabilitation  
63 Center of the Department of Rehabilitative Services; *or (v) any cancer care center, regardless of*  
64 *whether such center provides services covered by this chapter, so long as the cancer care center does*  
65 *not take into consideration the ability to pay for any needed chemotherapy, radiation, or diagnostic*  
66 *radiology services of any patient with cancer or any patient referred in regard to a diagnosis of cancer.*  
67 *Each cancer care center shall report annually to the Department of Medical Assistance Services*  
68 *regarding indigent care provided in accordance with this provision. "Medical care facility" shall also not*  
69 *include that portion of a physician's office dedicated to providing nuclear cardiac imaging.*

70 "Project" means:

71 1. Establishment of a medical care facility;

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

73 3. Relocation at the same site of ten beds or ten percent of the beds, whichever is less, from one  
74 existing physical facility to another in any two-year period; however, a hospital shall not be required to  
75 obtain a certificate for the use of ten percent of its beds as nursing home beds as provided in  
76 § 32.1-132;

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

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

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

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

94 8. Any capital expenditure of five million dollars or more, not defined as reviewable in subdivisions  
95 1 through 7 of this definition, by or in behalf of a medical care facility. However, capital expenditures  
96 between one and five million dollars shall be registered with the Commissioner pursuant to regulations  
97 developed by the Board.

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

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

106 "Virginia Health Planning Board" means the statewide health planning body established pursuant to  
107 § 32.1-122.02 which serves as the analytical and technical resource to the Secretary of Health and  
108 Human Resources in matters requiring health analysis and planning.