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SENATE BILL NO. 197

Senate Amendments in [] — February 3, 2004

A BILL to amend and reenact § 32.1-102.1 of the Code of Virginia, relating to certificate of public need for intermediate care facilities for the mentally retarded.

Patrons Prior to Engrossment—Senators Reynolds and Ruff

Referred to Committee on Education and Health

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:

"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, *except those intermediate care facilities established for the mentally retarded that [are licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services; have no more than 12 beds and are in an area identified as in need of residential services for people with mental retardation in any plan of the Department of Mental Health, Mental Retardation and Substance Abuse Services.]*

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.

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) *an intermediate care facility for the mentally retarded that [is licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services has no more than 12 beds and is in an area identified as in need of residential services for people with mental retardation in any plan of*

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59 *the Department of Mental Health, Mental Retardation and Substance Abuse Services*] ; (iv) a
60 physician's office, except that portion of a physician's office described above in subdivision 9 of the
61 definition of "medical care facility"; or ~~(iv)~~ the Woodrow Wilson Rehabilitation Center of the
62 Department of Rehabilitative Services. "Medical care facility" shall also not include that portion of a
63 physician's office dedicated to providing nuclear cardiac imaging.

64 "Project" means:

65 1. Establishment of a medical care facility;

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

67 3. Relocation at the same site of ten beds or ten percent of the beds, whichever is less, from one
68 existing physical facility to another in any two-year period; however, a hospital shall not be required to
69 obtain a certificate for the use of ten percent of its beds as nursing home beds as provided in
70 § 32.1-132;

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

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

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

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

88 8. Any capital expenditure of five million dollars or more, not defined as reviewable in subdivisions
89 1 through 7 of this definition, by or in behalf of a medical care facility. However, capital expenditures
90 between one and five million dollars shall be registered with the Commissioner pursuant to regulations
91 developed by the Board.

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

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

100 "Virginia Health Planning Board" means the statewide health planning body established pursuant to
101 § 32.1-122.02 which serves as the analytical and technical resource to the Secretary of Health and
102 Human Resources in matters requiring health analysis and planning.