

# 2008 SESSION

## HOUSE SUBSTITUTE

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### HOUSE BILL NO. 398

#### AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions  
on January 10, 2008)

(Patron Prior to Substitute — Delegate Hamilton)

*A BILL to amend and reenact § 32.1-102.1 of the Code of Virginia, relating to relocation of nursing home beds.*

**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 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; (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; (iii) an intermediate care facility for the mentally retarded that 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 the Department of Mental Health, Mental Retardation and Substance Abuse Services; (iv) 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 (v) the Woodrow Wilson Rehabilitation Center of the Department of Rehabilitative Services. "Medical care facility" shall also not include that portion of a physician's office

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60 dedicated to providing nuclear cardiac imaging.

61 "Project" means:

62 1. Establishment of a medical care facility;

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

64 3. Relocation ~~at the same site of beds from one existing facility to another; provided that "project"~~  
65 *shall not include the relocation of up to 10 beds or 10 percent of the beds, whichever is less, (i) from*  
66 *one existing physical facility to another existing facility at the same site in any two-year period; or (ii)*  
67 *in any three-year period, from one existing nursing home facility to any other existing nursing home*  
68 *facility owned by the same person that is located either within the same planning district, or within*  
69 *another planning district out of which, during that three-year period, at least 10 times that number of*  
70 *beds have been transferred and at least half of those beds have not been replaced; provided further*  
71 *that, however, a hospital shall not be required to obtain a certificate for the use of 10 percent of its beds*  
72 *as nursing home beds as provided in § 32.1-132;*

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

76 5. Introduction into an existing medical care facility of any new cardiac catheterization, computed  
77 tomographic (CT) scanning, gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI),  
78 magnetic source imaging (MSI), medical rehabilitation, neonatal special care, obstetrical, open heart  
79 surgery, positron emission tomographic (PET) scanning, psychiatric, organ or tissue transplant service,  
80 radiation therapy, nuclear medicine imaging, except for the purpose of nuclear cardiac imaging,  
81 substance abuse treatment, or such other specialty clinical services as may be designated by the Board  
82 by regulation, which the facility has never provided or has not provided in the previous 12 months;

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

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

90 8. Any capital expenditure of \$15 million or more, not defined as reviewable in subdivisions 1  
91 through 7 of this definition, by or in behalf of a medical care facility. However, capital expenditures  
92 between \$5 and \$15 million shall be registered with the Commissioner pursuant to regulations developed  
93 by the Board. The amounts specified in this subdivision shall be revised effective July 1, 2008, and  
94 annually thereafter to reflect inflation using appropriate measures incorporating construction costs and  
95 medical inflation.

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

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

104 "Virginia Health Planning Board" means the statewide health planning body established pursuant to  
105 § 32.1-122.02 which serves as the analytical and technical resource to the Secretary of Health and  
106 Human Resources in matters requiring health analysis and planning.