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**HOUSE BILL NO. 502**

Offered January 9, 2008

Prefiled January 7, 2008

*A BILL to amend and reenact § 32.1-102.3 of the Code of Virginia, relating to certificate of public need; fostering competition.*

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Patron—Hamilton

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Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:****1. That § 32.1-102.3 of the Code of Virginia is amended and reenacted as follows:**

§ 32.1-102.3. Certificate required; criteria for determining need.

A. No person shall commence any project without first obtaining a certificate issued by the Commissioner. No certificate may be issued unless the Commissioner has determined that a public need for the project has been demonstrated. If it is determined that a public need exists for only a portion of a project, a certificate may be issued for that portion and any appeal may be limited to the part of the decision with which the appellant disagrees without affecting the remainder of the decision. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Medical Facilities Plan; however, if the Commissioner finds, upon presentation of appropriate evidence, that the provisions of such plan are not relevant to a rural locality's needs, inaccurate, outdated, inadequate or otherwise inapplicable, the Commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

B. In determining whether a public need for a project has been demonstrated, the Commissioner shall consider:

1. The recommendation and the reasons therefor of the appropriate health planning agency.
2. The relationship of the project to the applicable health plans of the Board and the health planning agency.
3. The relationship of the project to the long-range development plan, if any, of the person applying for a certificate.
4. The need that the population served or to be served by the project has for the project, including, but not limited to, the needs of rural populations in areas having distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care.
5. The extent to which the project will be accessible to all residents of the area proposed to be served and the effects on accessibility of any proposed relocation of an existing service or facility.
6. The area, population, topography, highway facilities and availability of the services to be provided by the project in the particular part of the health service area in which the project is proposed, in particular, the distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care.
7. Less costly or more effective alternate methods of reasonably meeting identified health service needs.
8. The immediate and long-term financial feasibility of the project.
9. The relationship of the project to the existing health care system of the area in which the project is proposed; however, for projects proposed in rural areas, the relationship of the project to the existing health care services in the specific rural locality shall be considered.
10. The availability of resources for the project.
11. The organizational relationship of the project to necessary ancillary and support services.
12. The relationship of the project to the clinical needs of health professional training programs in the area in which the project is proposed.
13. The special needs and circumstances of an applicant for a certificate, such as a medical school, hospital, multidisciplinary clinic, specialty center or regional health service provider, if a substantial portion of the applicant's services or resources or both is provided to individuals not residing in the health service area in which the project is to be located.
14. The special needs and circumstances of health maintenance organizations. When considering the special needs and circumstances of health maintenance organizations, the Commissioner may grant a certificate for a project if the Commissioner finds that the project is needed by the enrolled or reasonably anticipated new members of the health maintenance organization or the beds or services to be provided are not available from providers which are not health maintenance organizations or from other

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HB502

59 health maintenance organizations in a reasonable and cost-effective manner.

60 15. The special needs and circumstances for biomedical and behavioral research projects which are  
61 designed to meet a national need and for which local conditions offer special advantages.

62 16. In the case of a construction project, the costs and benefits of the proposed construction.

63 17. The probable impact of the project on the costs of and charges for providing health services by  
64 the applicant for a certificate and on the costs and charges to the public for providing health services by  
65 other persons in the area.

66 18. Improvements or innovations in the financing and delivery of health services which foster  
67 competition and serve to promote quality assurance and cost effectiveness. *In the case of proposed*  
68 *health services or facilities, preference shall be given to projects that introduce competition into a*  
69 *health planning region or subpart thereof in which an existing health care provider system owns or*  
70 *controls 40 percent or more in aggregate of the licensed acute care beds and has more than \$1 billion*  
71 *in aggregate annual net patient revenues.*

72 19. In the case of health services or facilities proposed to be provided, the efficiency and  
73 appropriateness of the use of existing services and facilities in the area similar to those proposed,  
74 including, in the case of rural localities, any distinct and unique geographic, socioeconomic, cultural,  
75 transportation, and other barriers to access to care.

76 20. The need and the availability in the health service area for osteopathic and allopathic services  
77 and facilities and the impact on existing and proposed institutional training programs for doctors of  
78 osteopathy and medicine at the student, internship, and residency training levels.