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SENATE BILL NO. 358

Offered January 13, 2010

Prefiled January 12, 2010

A *BILL to amend and reenact § 32.1-102.2 of the Code of Virginia, relating to Certificate of Public Need; schedule of fees.*

Patron—Howell

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:**1. That § 32.1-102.2 of the Code of Virginia is amended and reenacted as follows:**

§ 32.1-102.2. Regulations.

A. The Board shall promulgate regulations which are consistent with this article and:

1. Shall establish concise procedures for the prompt review of applications for certificates consistent with the provisions of this article which may include a structured batching process which incorporates, but is not limited to, authorization for the Commissioner to request proposals for certain projects. In any structured batching process established by the Board, applications, combined or separate, for computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, or nuclear imaging shall be considered in the radiation therapy batch. A single application may be filed for a combination of (i) radiation therapy, stereotactic radiotherapy and proton beam therapy, and (ii) any or all of the computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, and nuclear medicine imaging;

2. May classify projects and may eliminate one or more or all of the procedures prescribed in § 32.1-102.6 for different classifications;

3. May provide for exempting from the requirement of a certificate projects determined by the Commissioner, upon application for exemption, to be subject to the economic forces of a competitive market or to have no discernible impact on the cost or quality of health services;

4. Shall establish specific criteria for determining need in rural areas, giving due consideration to distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care in such areas and providing for weighted calculations of need based on the barriers to health care access in such rural areas in lieu of the determinations of need used for the particular proposed project within the relevant health systems area as a whole;

5. May establish, ~~on or after July 1, 1999,~~ a schedule of fees for applications for certificates to be applied to expenses for the administration and operation of the certificate of public need program. Such fees shall not be less than \$1,000 nor exceed the lesser of one percent of the proposed expenditure for the project or ~~\$20,000~~ \$50,000. ~~Until Effective July 1, 2010, and until such time as the Board shall establish a schedule of fees, such fees shall be one percent of the proposed expenditure for the project; however, such fees shall not be less than \$1,000 or more than \$20,000.~~ *Such fees shall be divided between the Department of Health and the regional health planning agencies, with the allocation among the regional health planning agencies based on population. If any region does not have a designated regional health planning agency for any period of time, the Department of Health shall retain the fees that would have been allocated to that regional health planning agency; and*

6. Shall establish an expedited application and review process for any certificate for projects reviewable pursuant to subdivision 8 of the definition of "project" in § 32.1-102.1. Regulations establishing the expedited application and review procedure shall include provisions for notice and opportunity for public comment on the application for a certificate, and criteria pursuant to which an application that would normally undergo the review process would instead undergo the full certificate of public need review process set forth in § 32.1-102.6.

B. The Board shall promulgate regulations providing for time limitations for schedules for completion and limitations on the exceeding of the maximum capital expenditure amount for all reviewable projects. The Commissioner shall not approve any such extension or excess unless it complies with the Board's regulations. However, the Commissioner may approve a significant change in cost for an approved project that exceeds the authorized capital expenditure by more than 20 percent, provided the applicant has demonstrated that the cost increases are reasonable and necessary under all the circumstances and do not result from any material expansion of the project as approved.

C. The Board shall also promulgate regulations authorizing the Commissioner to condition approval of a certificate on the agreement of the applicant to provide a level of care at a reduced rate to indigents

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59 or accept patients requiring specialized care. In addition, the Board's licensure regulations shall direct the
60 Commissioner to condition the issuing or renewing of any license for any applicant whose certificate
61 was approved upon such condition on whether such applicant has complied with any agreement to
62 provide a level of care at a reduced rate to indigents or accept patients requiring specialized care.