

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 181

An Act to amend and reenact § 32.1-102.3:5 of the Code of Virginia, relating to relocation of nursing home beds.

[S 1321]

Approved March 15, 2011

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-102.3:5 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-102.3:5. Relocation of certain nursing home beds under limited circumstances.

A. Notwithstanding (i) the provisions of §§ 32.1-102.3 and 32.1-102.3:2, (ii) any regulations of the Board establishing standards for the approval and issuance of Requests for Applications, and (iii) the provisions of any current Requests for Applications issued by the Commissioner pursuant to § 32.1-102.3:2, the Commissioner shall accept applications and may issue certificates of public need for nursing home beds when such beds are a relocation from one facility to another facility under common ownership or control, regardless of whether they are in the same planning district, if, as of December 31 of the year preceding the year in which relocation is proposed, the following criteria are met:

1. The occupancy rate of the facility seeking to relocate beds, based upon the total number of beds for which the facility is licensed, was less than ~~67%~~ 67 percent;

2. Greater than ~~25%~~ 25 percent of the residents of the facility from which beds are to be relocated, immediately prior to moving to the facility, resided outside the planning district in which the facility is located; and

3. Any facility to which beds are to be relocated has experienced an average occupancy rate that meets or exceeds ~~90%~~ 90 percent.

B. A relocation of nursing home beds under the circumstances described herein shall not constitute a "project" as defined in § 32.1-102.1. An entity may not relocate more than two-thirds of the total number of beds for which the facility was licensed prior to any relocation pursuant to this section. *In addition, any entity that has relocated beds pursuant to this section and thereafter given the Commissioner notice of its intention to close the facility may, within 36 months of such closure, relocate the remaining beds to another facility, either existing or new, under common ownership or control, without regard to the criteria set forth in this section, and the Commissioner shall accept the application and may issue a certificate of public need for such relocation. Any restrictions that apply to the certificate at the time of the relocation shall remain in effect following the relocation.*