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HOUSE BILL NO. 1194

Offered January 22, 1996

A BILL to amend and reenact §§ 32.1-102.1 and 32.1-102.2 of the Code of Virginia, relating to certificates of public need.

Patrons—Hamilton, Baker and Mims

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-102.1 and 32.1-102.2 of the Code of Virginia are 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 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.

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, single photon emission computed tomography (SPECT), or such other specialty services as may be designated by the Board by regulation.

10. Rehabilitation hospitals.

The term "medical care facility" shall not include any facility of the (i) 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) physician's office, except that portion of a physician's office described above in subdivision 9 of the definition of "medical care facility"; or (iv) the Woodrow Wilson Rehabilitation Center of the Department of Rehabilitative Services.

"Project" means:

1. Establishment of a medical care facility;

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

3. Relocation at the same site of ten beds or ten percent of the beds, whichever is less, from one existing physical facility to another in any two-year period; however, a hospital shall not be required to

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60 obtain a certificate for the use of ten percent of its beds as nursing home beds as provided in
61 § 32.1-132;

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

65 5. Introduction into an existing medical care facility of any new cardiac catheterization, computed
66 tomographic (CT), gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic
67 source imaging (MSI), medical rehabilitation, neonatal special care, obstetrical, open heart surgery,
68 positron emission tomographic (PET) scanning, psychiatric, organ or tissue transplant service, radiation
69 therapy, single photon emission computed tomography (SPECT), substance abuse treatment, or such
70 other specialty clinical services as may be designated by the Board by regulation, which the facility has
71 never provided or has not provided in the previous twelve months;

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

74 7. The addition or replacement by an existing medical care facility of any medical equipment for the
75 provision of cardiac catheterization, computed tomographic (CT), gamma knife surgery, lithotripsy,
76 magnetic resonance imaging (MRI), magnetic source imaging (MSI), open heart surgery, positron
77 emission tomographic (PET) scanning, radiation therapy, single photon emission computed tomography
78 (SPECT), or other specialized service designated by the Board by regulation; notwithstanding the above,
79 the Commissioner shall develop regulations providing for the replacement by a medical care facility of
80 existing medical equipment, which is determined by the Commissioner to be inoperable or otherwise in
81 need of replacement without requiring issuance of a certificate of public need; or

82 8. Any capital expenditure of ~~one~~ five million dollars or more, not defined as reviewable in
83 subdivisions 1 through 7 of this definition, by or in behalf of a medical care facility, ~~except capital~~
84 ~~expenditures, registered with the Commissioner pursuant to regulations developed by the Board, of less~~
85 ~~than two million dollars that do not involve the expansion of any space in which patient care services~~
86 ~~are provided, including, but not limited to, expenditures for nurse-call systems, materials handling and~~
87 ~~management information systems, parking lots and garages, child-care centers, and laundry services.~~

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

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

96 "Virginia Health Planning Board" means the statewide health planning body established pursuant to
97 § 32.1-122.02 which serves as the analytical and technical resource to the Secretary of Health and
98 Human Resources in matters requiring health analysis and planning.

99 § 32.1-102.2. Regulations.

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

101 1. Shall establish procedures for the review of applications for certificates consistent with the
102 provisions of this article which may include a structured batching process which incorporates, but is not
103 limited to, authorization for the Commissioner to request proposals for certain projects;

104 2. May classify projects and may eliminate one or more or all of the procedures prescribed in
105 § 32.1-102.6 for different classifications;

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

109 4. Shall establish a schedule of fees for applications for certificates to be applied to expenses for the
110 administration and operation of the certificate of public need program. Such fees shall not *be less than*
111 *\$1,000 nor* exceed the lesser of one percent of the proposed expenditure for the project or \$10,000
112 \$20,000.

113 B. The Board shall promulgate regulations providing for time limitations for schedules for
114 completion and limitations on the exceeding of the maximum capital expenditure amount for all
115 reviewable projects. The Commissioner shall not approve any such extension or excess unless it
116 complies with the Board's regulations.

117 C. The Board shall also promulgate regulations authorizing the Commissioner to condition approval
118 of a certificate on the agreement of the applicant to provide a level of care at a reduced rate to indigents
119 or accept patients requiring specialized care. In addition, the Board's licensure regulations shall direct the
120 Commissioner to consider, when issuing or renewing any license for any applicant whose certificate was
121 approved upon such condition, whether such applicant has complied with any agreement to provide a

122 level of care at a reduced rate to indigents or accept patients requiring specialized care.