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**HOUSE BILL NO. 2276**

Offered January 10, 2007

Prefiled January 9, 2007

A *BILL to amend and reenact §§ 32.1-102.2, 32.1-102.6, 32.1-102.12 and 32.1-122.05 of the Code of Virginia, relating to certificates of public need.*

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 Patron—Purkey
 

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Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-102.2, 32.1-102.6, 32.1-102.12 and 32.1-122.05 of the Code of Virginia are 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 or nuclear imaging shall be considered in the radiation therapy batch. A single application may be filed for a combination of (i) radiation 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; ~~and~~

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~~\$10,000 *for contested applications* or \$5,000 *for uncontested applications*. 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~~\$10,000 *for contested applications* or \$5,000 *for uncontested applications*; *and*

6. *Shall establish and utilize concise applications for certificates of public need. Such applications and accompanying materials shall not exceed 20 pages in final and complete form.*

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.

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

§ 32.1-102.6. Administrative procedures.

A. *At least 30 calendar days before any person is contractually obligated to acquire an existing medical care facility, the cost of which is \$600,000 or more, that person shall notify the Commissioner and the appropriate health planning agency of the intent, the services to be offered in the facility, the bed capacity in the facility, and the projected impact that the cost of the acquisition will have upon the charges for services to be provided. If clinical services or beds are proposed to be added as a result of*

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59 *the acquisition, the Commissioner may require the proposed new owner to obtain a certificate prior to*  
60 *the acquisition.*

61 *B. To obtain a certificate for a project, the applicant shall file a completed application for a*  
62 *certificate with the Department and the appropriate health planning agency. In order to verify the date of*  
63 *the Department's and the appropriate health planning agency's receipt of the application, the applicant*  
64 *shall transmit the document by certified mail or a delivery service, return receipt requested, or shall*  
65 *deliver the document by hand, with signed receipt to be provided.*

66 *Within 10 calendar days of the date on which the document is received, the Department and the*  
67 *appropriate health planning agency shall determine whether application is complete or not and the*  
68 *Department shall notify the applicant, if the application is not complete, of the information needed to*  
69 *complete the application.*

70 *At least 30 calendar days before any person is contractually obligated to acquire an existing medical*  
71 *care facility, the cost of which is \$600,000 or more, that person shall notify the Commissioner and the*  
72 *appropriate health planning agency of the intent, the services to be offered in the facility, the bed*  
73 *capacity in the facility and the projected impact that the cost of the acquisition will have upon the*  
74 *charges for services to be provided. If clinical services or beds are proposed to be added as a result of*  
75 *the acquisition, the Commissioner may require the proposed new owner to obtain a certificate prior to*  
76 *the acquisition.*

77 *BC. The appropriate health planning agency shall review each completed application for a certificate*  
78 *within 6030 calendar days of the day which begins the appropriate batch review cycle as established by*  
79 *the Board by regulation pursuant to subdivision A 1 of § 32.1-102.2, such cycle not to exceed 190 days*  
80 *in duration. In conducting its review, the health planning agency shall consider (i) whether the*  
81 *application is contested or uncontested, and (ii) whether the application should be granted.*

82 *The health planning agency shall hold one public hearing on each application in a location in the*  
83 *county or city in which the project is proposed or a contiguous county or city. The health planning*  
84 *agency shall cause notice of the public hearing to be published in a newspaper of general circulation in*  
85 *the county or city where a project is proposed to be located at least nine calendar days prior to the*  
86 *public hearing. Prior to the public hearing, the health planning agency shall notify the local governing*  
87 *bodies in the planning district. The health planning agency shall consider the comments of such*  
88 *governing bodies and all other public comments in making its decision. Such comments shall be part of*  
89 *the record provided to the Department. In no case shall a health planning agency hold more than two*  
90 *meetings on any application, one of which shall be the public hearing conducted by the board of the*  
91 *health planning agency or a subcommittee of the board. The applicant shall be given the opportunity,*  
92 *prior to the vote by the board of the health planning agency or a committee of the agency, if acting for*  
93 *the board, on its recommendation, to respond to any comments made about the project by the health*  
94 *planning agency staff, any information in a staff report, or comments by those voting; however, such*  
95 *opportunity shall not increase the 60-calendar-day30-calendar-day period designated herein for the health*  
96 *planning agency's review unless the applicant or applicants request a specific extension of the health*  
97 *planning agency's review period.*

98 *The health planning agency shall submit its recommendations on each application regarding (i)*  
99 *whether the application is contested or uncontested and (ii) whether the application should be approved*  
100 *or denied, and its reasons therefor to the Department within 10 calendar days after the completion of its*  
101 *60-calendar-dayupon completion of its 30-calendar-day review or such other period in accordance with*  
102 *the applicant's request for extension.*

103 *If the health planning agency has not completed its review within the specified 6030 calendar days*  
104 *or such other period in accordance with the applicant's request for extension and has not submitted its*  
105 *recommendations on the application and the reasons therefor within 10 calendar days after the upon*  
106 *completion of its review, the Department shall, on the eleventh calendar day after the expiration of the*  
107 *health planning agency's review period, proceed as though the health planning agency has (i) determined*  
108 *that the application is uncontested and (ii) recommended project approval without conditions or*  
109 *revision.*

110 *D. If the health planning agency determines that the application is contested, the Department shall*  
111 *review the application as follows:*

112 *1. The Commissioner shall make his determination in accordance with the provisions of Article 3*  
113 *(§ 2.2-4018 et seq.) of Chapter 40 of Title 2.2, except for those parts of the determination process for*  
114 *which timelines and specifications are delineated in subdivision 3. Further, if an informal fact-finding*  
115 *conference is determined to be necessary by the Department or is requested by a person seeking good*  
116 *cause standing, the parties to the case shall include only the applicant, any person showing good cause,*  
117 *any third-party payor providing health care insurance or prepaid coverage to five percent or more of*  
118 *the patients in the applicant's service area, and the relevant health planning agency.*

119 *2. The Department shall commence the review of each completed application upon the day that*  
120 *begins the appropriate batch review cycle.*

A determination as to whether a public need exists for a project shall be made by the Commissioner within 60 calendar days of the day that begins the appropriate batch cycle. The 60-calendar-day review period shall begin on the date upon which the application is determined to be complete within the batching process specified in subdivision A 1 of § 32.1-102.2. If the application is not determined to be complete upon submission, the application shall be refiled in the next batch for like projects.

3. Upon entry of each completed application or applications into the appropriate batch review cycle:

a. The Department shall review every application prior to the 10th calendar day of the 60-calendar-day review period to determine whether an informal fact-finding conference is necessary.

b. The Department may establish, for any application, a date between the 30th and 40th calendar days within the 60-calendar-day review period for holding an informal fact-finding conference, if such conference is found to be necessary.

Any person seeking to be made a party to the case for good cause shall notify the Department of his request and the basis therefor on or before the 30th calendar day following the day that begins the appropriate batch review cycle.

c. In any case in which an informal fact-finding conference is held, a date shall be established for the closing of the record that shall not be more than 10 calendar days after the date for holding the informal fact-finding conference.

d. In any case in which an informal fact-finding conference is not held, the record shall be closed on the earlier of (i) the date established for holding the informal fact-finding conference or (ii) the date that the Department determines an informal fact-finding conference is not necessary.

e. If a determination whether a public need exists for a project is not made by the Commissioner within 35 calendar days of the closing of the record, the Commissioner shall notify the applicant or applicants and any persons seeking to show good cause, in writing, that the application or the applications of each shall be deemed approved 25 calendar days after expiration of such 35-calendar-day period, unless the receipt of recommendations from the person performing the hearing officer functions permits the Commissioner to issue his case decision within that 25-calendar-day period. The validity or timeliness of the aforementioned notice shall not, in any event, prevent, delay, or otherwise impact the effectiveness of subdivision 3.

f. In any case where a determination whether a public need exists for a project is not made by the Commissioner within 60 calendar days after the closing of the record, the application shall be deemed to be approved and the certificate shall be granted.

g. If a determination whether a public need exists for a project is not made by the Commissioner within 35 calendar days of the closing of the record, any applicant who is competing in the relevant batch or who has filed an application in response to the relevant Request for Applications issued pursuant to § 32.1-102.3:2 may, prior to the application being deemed approved, petition for immediate injunctive relief pursuant to § 2.2-4030, naming as respondents the Commissioner and all parties to the case. During the pendency of the proceeding, no applications shall be deemed to be approved. In such a proceeding, the provisions of § 2.2-4030 shall apply.

4. Deemed approvals shall be construed as the Commissioner's case decision on the application pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) and shall be subject to judicial review on appeal as the Commissioner's case decision in accordance with such Act.

Any person who has sought to participate in the Department's review of such deemed-to-be-approved application as a person showing good cause who has not received a final determination from the Commissioner concerning such attempt to show good cause shall be deemed to be a person showing good cause for purposes of appeal of the deemed approval of the certificate.

In any appeal of the Commissioner's case decision granting a certificate of public need pursuant to a Request for Applications issued pursuant to § 32.1-102.3:2, the court may require the appellant to file a bond pursuant to § 8.01-676.1, in such sum as shall be fixed by the court for protection of all parties interested in the case decision, conditioned on the payment of all damages and costs incurred in consequence of such appeal.

E. Uncontested applications shall be reviewed as follows:

1. The Commissioner shall make his determination in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), except for those parts of the determination process for which timelines and specifications are delineated in subdivision 3. Further, if an informal fact-finding conference is determined to be necessary by the Department or is requested by a person seeking good cause standing, the parties to the case shall include only the applicant, any person showing good cause, any third-party payor providing health care insurance or prepaid coverage to five percent or more of the patients in the applicant's service area, and the relevant health planning agency.

2. The Department shall commence the review of each completed application upon the day that begins the appropriate batch review cycle.

A determination whether a public need exists for a project shall be made by the Commissioner within

182 30 calendar days of the day that begins the appropriate batch cycle. The 30-calendar-day review period  
183 shall begin on the date upon which the application is determined to be complete within the batching  
184 process specified in subdivision A 1 of § 32.1-102.2. If the application is not determined to be complete  
185 upon submission, the application shall be refiled in the next batch for like projects.

186 3. Upon entry of each completed application or applications into the appropriate batch review cycle:  
187 a. The Department may review the application at or before the fifth calendar day within the  
188 30-calendar-day review period to determine whether an informal fact-finding conference is necessary. If  
189 the Department determines that an informal fact-finding conference is necessary, the Department shall  
190 identify a date not more than 15 days following the day that begins the appropriate batch review cycle  
191 for holding the informal fact-finding conference.

192 Any person seeking to be made a party to the case for good cause shall notify the Department of his  
193 request and the basis therefor on or before the 10th day following the day that begins the appropriate  
194 batch review cycle.

195 In any case in which an informal fact-finding conference is held, a date shall be established for the  
196 closing of the record which shall not be more than five calendar days after the date for holding the  
197 informal fact-finding conference.

198 b. In any case in which an informal fact-finding conference is not held, the record shall be closed on  
199 the earlier of (i) the date established for holding the informal fact-finding conference or (ii) the date  
200 that the Department determines an informal fact-finding conference is not necessary.

201 c. In any case where a determination whether a public need exists for a project is not made by the  
202 Commissioner within 30 calendar days after the closing of the record, the application shall be deemed  
203 to be approved and the certificate shall be granted.

204 d. If a determination whether a public need exists for a project is not made by the Commissioner  
205 within 30 calendar days of the closing of the record, any applicant who is competing in the relevant  
206 batch or who has filed an application in response to the relevant Request for Applications issued  
207 pursuant to § 32.1-102.3:2 may, prior to the application being deemed approved, petition for immediate  
208 injunctive relief pursuant to § 2.2-4030, naming as respondents the Commissioner and all parties to the  
209 case. During the pendency of the proceeding, no applications shall be deemed to be approved. In such a  
210 proceeding, the provisions of § 2.2-4030 shall apply.

211 4. Deemed approvals shall be construed as the Commissioner's case decision on the application  
212 pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) and shall be subject to judicial review  
213 on appeal as the Commissioner's case decision in accordance with such Act.

214 Any person who has sought to participate in the Department's review of such deemed-to-be-approved  
215 application as a person showing good cause who has not received a final determination from the  
216 Commissioner concerning such attempt to show good cause shall be deemed to be a person showing  
217 good cause for purposes of appeal of the deemed approval of the certificate.

218 In any appeal of the Commissioner's case decision granting a certificate of public need pursuant to a  
219 Request for Applications issued pursuant to § 32.1-102.3:2, the court may require the appellant to file a  
220 bond pursuant to § 8.01-676.1, in such sum as shall be fixed by the court for protection of all parties  
221 interested in the case decision, conditioned on the payment of all damages and costs incurred in  
222 consequence of such appeal.

223 After commencement of any public hearing and before a decision is made there shall be no ex parte  
224 contacts concerning the subject certificate or its application between (i) any person acting on behalf of  
225 the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of  
226 a certificate of public need and (ii) any person in the Department who has authority to make a  
227 determination respecting the issuance or revocation of a certificate of public need, unless the Department  
228 has provided advance notice to all parties referred to in (i) of the time and place of such proposed  
229 contact.

230 D. The Department shall commence the review of each completed application upon the day which  
231 begins the appropriate batch review cycle and simultaneously with the review conducted by the health  
232 planning agency.

233 A determination whether a public need exists for a project shall be made by the Commissioner  
234 within 190 calendar days of the day which begins the appropriate batch cycle.

235 The 190-calendar-day review period shall begin on the date upon which the application is determined  
236 to be complete within the batching process specified in subdivision A 1 of § 32.1-102.2.

237 If the application is not determined to be complete within 40 calendar days from submission, the  
238 application shall be refiled in the next batch for like projects.

239 The Commissioner shall make determinations in accordance with the provisions of the Administrative  
240 Process Act (§ 2.2-4000 et seq.) except for those parts of the determination process for which timelines  
241 and specifications are delineated in subsection E of this section. Further, if an informal fact-finding  
242 conference is determined to be necessary by the Department or is requested by a person seeking good  
243 cause standing, the parties to the case shall include only the applicant, any person showing good cause,

any third-party payor providing health care insurance or prepaid coverage to five percent or more of the patients in the applicant's service area, and the relevant health planning agency.

E. Upon entry of each completed application or applications into the appropriate batch review cycle:

1. The Department shall establish, for every application, a date between the eightieth and ninetieth calendar days within the 190-calendar-day review period for holding an informal fact-finding conference, if such conference is necessary.

2. The Department shall review every application at or before the seventy-fifth calendar day within the 190-calendar-day review period to determine whether an informal fact-finding conference is necessary.

3. Any person seeking to be made a party to the case for good cause shall notify the Department of his request and the basis therefor on or before the eightieth calendar day following the day which begins the appropriate batch review cycle.

4. In any case in which an informal fact-finding conference is held, a date shall be established for the closing of the record which shall not be more than 30 calendar days after the date for holding the informal fact-finding conference.

5. In any case in which an informal fact-finding conference is not held, the record shall be closed on the earlier of (i) the date established for holding the informal fact-finding conference or (ii) the date that the Department determines an informal fact-finding conference is not necessary.

6. The provisions of subsection D of § 2.2-4019 notwithstanding, if a determination whether a public need exists for a project is not made by the Commissioner within 45 calendar days of the closing of the record, the Commissioner shall notify the applicant or applicants and any persons seeking to show good cause, in writing, that the application or the application of each shall be deemed approved 25 calendar days after expiration of such 45-calendar-day period, unless the receipt of recommendations from the person performing the hearing officer functions permits the Commissioner to issue his case decision within that 25-calendar-day period. The validity or timeliness of the aforementioned notice shall not, in any event, prevent, delay or otherwise impact the effectiveness of subdivision E 6 of § 32.1-102.6.

7. In any case when a determination whether a public need exists for a project is not made by the Commissioner within 70 calendar days after the closing of the record, the application shall be deemed to be approved and the certificate shall be granted.

8. If a determination whether a public need exists for a project is not made by the Commissioner within 45 calendar days of the closing of the record, any applicant who is competing in the relevant batch or who has filed an application in response to the relevant Request For Applications issued pursuant to § 32.1-102.3:2 may, prior to the application being deemed approved, petition for immediate injunctive relief pursuant to § 2.2-4030, naming as respondents the Commissioner and all parties to the case. During the pendency of the proceeding, no applications shall be deemed to be approved. In such a proceeding, the provisions of § 2.2-4030 shall apply.

F. Deemed approvals shall be construed as the Commissioner's case decision on the application pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) and shall be subject to judicial review on appeal as the Commissioner's case decision in accordance with such act.

Any person who has sought to participate in the Department's review of such deemed-to-be-approved application as a person showing good cause who has not received a final determination from the Commissioner concerning such attempt to show good cause shall be deemed to be a person showing good cause for purposes of appeal of the deemed approval of the certificate.

In any appeal of the Commissioner's case decision granting a certificate of public need pursuant to a Request for Applications issued pursuant to § 32.1-102.3:2, the court may require the appellant to file a bond pursuant to § 8.01-676.1, in such sum as shall be fixed by the court for protection of all parties interested in the case decision, conditioned on the payment of all damages and costs incurred in consequence of such appeal.

*F. After commencement of any public hearing and before a decision in any case is made there shall be no ex parte contacts concerning the subject certificate or its application between (i) any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need and (ii) any person in the Department who has authority to make a determination respecting the issuance or revocation of a certificate of public need, unless the Department has provided advance notice to all parties referred to in (i) of the time and place of such proposed contact.*

G. For purposes of this section, "good cause" shall mean that (i) there is significant relevant information not previously presented at and not available at the time of the public hearing, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing, or (iii) there is a substantial material mistake of fact or law in the Department staff's report on the application or in the report submitted by the health planning agency.

H. The project review procedures shall provide for separation of the project review manager

305 functions from the hearing officer functions. No person serving in the role of project review manager  
306 shall serve as a hearing officer.

307 I. The applicants, and only the applicants, shall have the authority to extend any of the time periods  
308 specified in this section. If all applicants consent to extending any time period in this section, the  
309 Commissioner, with the concurrence of the applicants, shall establish a new schedule for the remaining  
310 time periods.

311 § 32.1-102.12. Report required.

312 The Commissioner shall annually report to the Governor and the General Assembly on the status of  
313 Virginia's certificate of public need program. The report shall be issued by October 1 of each year and  
314 shall include, but need not be limited to:

315 1. A summary of the Commissioner's actions during the previous fiscal year pursuant to this article;

316 2. A five-year schedule for analysis of all project categories which provides for analysis of at least  
317 three project categories per year;

318 3. An analysis of the appropriateness of continuing the certificate of public need program for at least  
319 three project categories in accordance with the five-year schedule for analysis of all project categories;

320 4. An analysis of the effectiveness of the application review procedures used by the health systems  
321 agencies and the Department required by § 32.1-102.6 which details the review time required during the  
322 past year for various project categories, the number of contested or opposed applications and the project  
323 categories of these contested or opposed projects, the number of applications upon which the health  
324 systems agencies have failed to act in accordance with the timelines of § 32.1-102.6 ~~BC~~, and the number  
325 of deemed approvals from the Department because of their failure to comply with the timelines required  
326 by *subsections D and E of § 32.1-102.6 E*, and any other data determined by the Commissioner to be  
327 relevant to the efficient operation of the program;

328 5. An analysis of health care market reform in the Commonwealth and the extent, if any, to which  
329 such reform obviates the need for the certificate of public need program;

330 6. An analysis of the accessibility by the indigent to care provided by the medical care facilities  
331 regulated pursuant to this article and the relevance of this article to such access;

332 7. An analysis of the relevance of this article to the quality of care provided by medical care  
333 facilities regulated pursuant to this article; and

334 8. An analysis of equipment registrations required pursuant to § 32.1-102.1:1, including the type of  
335 equipment, whether an addition or replacement, and the equipment costs.

336 § 32.1-122.05. Regional health planning agencies; boards; duties and responsibilities.

337 A. For the purpose of representing the interests of health planning regions and performing health  
338 planning activities at the regional level, there are hereby created such regional health planning agencies  
339 as may be designated by the Board of Health.

340 B. Each regional health planning agency shall be governed by a regional health planning board to be  
341 composed of not more than thirty residents of the region. The membership of the regional health  
342 planning boards shall include, but not be limited to, consumers, providers, a director of a local health  
343 department, a director of a local department of social services or welfare, a director of a community  
344 services board, a director of an area agency on aging and representatives of health care insurers, local  
345 governments, the business community and the academic community. The majority of the members of  
346 each regional health planning board shall be consumers. Consumer members shall be appointed in a  
347 manner that ensures the equitable geographic and demographic representation of the region. Provider  
348 members shall be solicited from professional organizations, service and educational institutions and  
349 associations of service providers and health care insurers in a manner that assures equitable  
350 representation of provider interest.

351 The members of the regional health planning boards shall be appointed for no more than two  
352 consecutive terms of four years or, when appointed to fill an unexpired term of less than four years, for  
353 three consecutive terms consisting of one term of less than four years and two terms of four years. The  
354 boards shall not be self-perpetuating. The Board of Health shall establish procedures requiring staggered  
355 terms. The composition and the method of appointment of the regional health planning boards shall be  
356 established in the regulations of the Board of Health. In addition, the Board of Health shall require,  
357 pursuant to regulations, each regional health planning board to report and maintain a record of its  
358 membership, including, but not limited to, the names, addresses, dates of appointment, years served,  
359 number of consecutive and nonconsecutive terms, and the group represented by each member. These  
360 membership reports and records shall be public information and shall be published in accordance with  
361 the regulations of the Board.

362 *The members of the regional health planning boards shall be governed by the provisions of*  
363 *§ 2.2-3112 concerning personal interests in transactions and shall be required to file disclosure*  
364 *statements as required by § 2.2-3114.*

365 C. An agreement shall be executed between the Commissioner, in consultation with the Board of  
366 Health, and each regional health planning board to delineate the work plan and products to be developed

with state funds. Funding for the regional health planning agencies shall be contingent upon meeting these obligations and complying with the Board's regulations.

D. Each regional health planning agency shall assist the Board of Health by: (i) conducting data collection, research and analyses as required by the Board; (ii) preparing reports and studies in consultation and cooperation with the Board; (iii) reviewing and commenting on the components of the State Health Plan; (iv) conducting needs assessments as appropriate and serving as a technical resource to the Board; (v) identifying gaps in services, inappropriate use of services or resources and assessing accessibility of critical services; (vi) reviewing applications for certificates of public need and making recommendations to the Department thereon as provided in § 32.1-102.6; and (vii) conducting such other functions as directed by the regional health planning board. All regional health planning agencies shall demonstrate and document accountability for state funds through annual budget projections and quarterly expenditure and activity reports that shall be submitted to the Commissioner. A regional health planning agency may designate membership and activities at subarea levels as deemed appropriate by its regional health planning board. Each regional health planning board shall adopt bylaws for its operation and for the election of its chairman and shall maintain and publish a record of its membership and any subarea levels as required by this section and the regulations of the Board of Health.