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**SENATE BILL NO. 1467**

Offered January 20, 2009

**A BILL to amend and reenact § 32.1-102.1 of the Code of Virginia, relating to exempting certain inpatient psychiatric beds from the certificate of public need requirements.**

5 Patron—Reynolds

6 Referred to Committee on Education and Health

7  
8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 32.1-102.1 of the Code of Virginia is amended and reenacted as follows:**

10 § 32.1-102.1. Definitions.

11 As used in this article, unless the context indicates otherwise:

12 "Certificate" means a certificate of public need for a project required by this article.

13 "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.

14 "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.

15 "Medical care facility," as used in this title, means any institution, place, building or agency, whether 16 or not 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 17 health services are furnished, conducted, operated or offered for the prevention, diagnosis or treatment of 18 human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or 19 more nonrelated mentally or physically sick or injured persons, or for the care of two or more 20 nonrelated persons requiring or receiving medical, surgical or nursing attention or services as acute, 21 chronic, convalescent, aged, physically disabled or crippled or (ii) which is the recipient of 22 reimbursements from third-party health insurance programs or prepaid medical service plans. For 23 purposes of this article, only the following medical care facilities shall be subject to review:

24 1. General hospitals.

25 2. Sanitariums.

26 3. Nursing homes.

27 4. Intermediate care facilities, except those intermediate care facilities established for the mentally 28 retarded that have no more than 12 beds and are in an area identified as in need of residential services 29 for people with mental retardation in any plan of the Department of Mental Health, Mental Retardation 30 and Substance Abuse Services.

31 5. Extended care facilities.

32 6. Mental hospitals.

33 7. Mental retardation facilities.

34 8. Psychiatric hospitals and intermediate care facilities established primarily for the medical, 35 psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.

36 9. Specialized centers or clinics or that portion of a physician's office developed for the provision of 37 outpatient or ambulatory surgery, cardiac catheterization, computed tomographic (CT) scanning, gamma 38 knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron 39 emission tomographic (PET) scanning, radiation therapy, nuclear medicine imaging, except for the 40 purpose of nuclear cardiac imaging, or such other specialty services as may be designated by the Board 41 by regulation.

42 10. Rehabilitation hospitals.

43 11. Any facility licensed as a hospital.

44 The term "medical care facility" shall not include any facility of (i) the Department of Mental Health, 45 Mental Retardation and Substance Abuse Services; (ii) any nonhospital substance abuse residential 46 treatment program operated by or contracted primarily for the use of a community services board under 47 the Department of Mental Health, Mental Retardation and Substance Abuse Services' Comprehensive 48 Plan; (iii) an intermediate care facility for the mentally retarded that has no more than 12 beds and is in 49 an area identified as in need of residential services for people with mental retardation in any plan of the 50 Department of Mental Health, Mental Retardation and Substance Abuse Services; (iv) a physician's 51 office, except that portion of a physician's office described above in subdivision 9 of the definition of 52 53 54 55 56 57 58

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SB1467

59 "medical care facility"; or (v) the Woodrow Wilson Rehabilitation Center of the Department of  
60 Rehabilitative Services. "Medical care facility" shall also not include that portion of a physician's office  
61 dedicated to providing nuclear cardiac imaging.

62 "Project" means:

63 1. Establishment of a medical care facility;  
64 2. An increase in the total number of beds or operating rooms in an existing medical care facility,  
*except when such beds are added to a facility designated as a critical access hospital pursuant to 42 U.S.C. § 1395i-4, to establish a distinct unit not to exceed 10 beds for the delivery of inpatient psychiatric services through the conversion of space that had previously been licensed as part of the hospital prior to designation as a critical access hospital;*

65 3. Relocation of beds from one existing facility to another; provided that "project" shall not include  
66 the relocation of up to 10 beds or 10 percent of the beds, whichever is less, (i) from one existing  
67 facility to another existing facility at the same site in any two-year period, or (ii) in any three-year  
68 period, from one existing nursing home facility to any other existing nursing home facility owned or  
69 controlled by the same person that is located either within the same planning district, or within another  
70 planning district out of which, during or prior to that three-year period, at least 10 times that number of  
71 beds have been authorized by statute to be relocated from one or more facilities located in that other  
72 planning district and at least half of those beds have not been replaced; provided further that, however, a  
73 hospital shall not be required to obtain a certificate for the use of 10 percent of its beds as nursing  
74 home beds as provided in § 32.1-132;

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

78 5. Introduction into an existing medical care facility of any new cardiac catheterization, computed  
79 tomographic (CT) scanning, gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI),  
80 magnetic source imaging (MSI), medical rehabilitation, neonatal special care, obstetrical, open heart  
81 surgery, positron emission tomographic (PET) scanning, *inpatient psychiatric services, except when such services are to be provided in a distinct unit of a critical access hospital not exceeding 10 beds,* organ  
82 or tissue transplant service, radiation therapy, nuclear medicine imaging, except for the purpose of  
83 nuclear cardiac imaging, substance abuse treatment, or such other specialty clinical services as may be  
84 designated by the Board by regulation, which the facility has never provided or has not provided in the  
85 previous 12 months;

86 6. Conversion of beds in an existing medical care facility to medical rehabilitation beds or  
87 psychiatric beds, *except when a critical access hospital establishes a distinct unit of not more than 10 beds for such services, through conversion of bed capacity licensed as part of the critical access hospital or beds previously licensed at the facility prior to designation as a critical access hospital;*

88 7. The addition by an existing medical care facility of any medical equipment for the provision of  
89 cardiac catheterization, computed tomographic (CT) scanning, gamma knife surgery, lithotripsy, magnetic  
90 resonance imaging (MRI), magnetic source imaging (MSI), open heart surgery, positron emission  
91 tomographic (PET) scanning, radiation therapy, or other specialized service designated by the Board by  
92 regulation. Replacement of existing equipment shall not require a certificate of public need; or

93 8. Any capital expenditure of \$15 million or more, not defined as reviewable in subdivisions 1  
94 through 7 of this definition, by or in behalf of a medical care facility. However, capital expenditures  
95 between \$5 and \$15 million shall be registered with the Commissioner pursuant to regulations developed  
96 by the Board. The amounts specified in this subdivision shall be revised effective July 1, 2008, and  
97 annually thereafter to reflect inflation using appropriate measures incorporating construction costs and  
98 medical inflation.

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

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

107 "Virginia Health Planning Board" means the statewide health planning body established pursuant to  
108 § 32.1-122.02 which serves as the analytical and technical resource to the Secretary of Health and  
109 Human Resources in matters requiring health analysis and planning.