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SENATE BILL NO. 1039

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 23, 2015)

(Patron Prior to Substitute—Senator Hanger)

A *BILL to amend and reenact §§ 22.1-218, 22.1-220, 23-14, 32.1-102.1, 32.1-330, 51.1-209, 51.5-55, 51.5-131, and 51.5-132 of the Code of Virginia, relating to Woodrow Wilson Rehabilitation Center; name change.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-218, 22.1-220, 23-14, 32.1-102.1, 32.1-330, 51.1-209, 51.5-55, 51.5-131, and 51.5-132 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-218. Reimbursement for placement in private schools; reimbursement of school boards from state funds.

A. If a child's individualized education program calls for placement in a private nonreligious school, agency, or institution, payment for reasonable tuition cost and other reasonable charges shall be made from the state pool of funds pursuant to § 2.2-5211.

B. Where a school board enters into an agreement with the ~~Woodrow~~ *Woodrow Wilson Workforce and Rehabilitation Center* or a special education regional program established pursuant to regulations of the Board of Education, the Board of Education is authorized to reimburse the school board from such funds as are appropriated for this purpose.

C. The Board of Education is further authorized to reimburse each school board operating a preschool special education program for children with disabilities aged two through four, through the Standards of Quality Special Education account.

§ 22.1-220. Power of counties, cities, and towns to appropriate and expend funds for education of children with disabilities.

The governing body of any county, city or town is hereby authorized and empowered to appropriate and expend funds of the county, city or town in furtherance of the education of children with disabilities residing in such county, city or town who attend ~~Woodrow~~ *Woodrow Wilson Workforce and -Rehabilitation Center* or public or private nonsectarian schools, or public or private nonsectarian child-day programs for children below the compulsory school attendance age, whether within or without the county, city or town and whether within or without the Commonwealth.

§ 23-14. Certain educational institutions declared governmental instrumentalities; powers vested in majority of members of board.

The College of William and Mary in Virginia, at Williamsburg; Richard Bland College of the College of William and Mary at Dinwiddie and Prince George; the rector and visitors of Christopher Newport University, at Newport News; Longwood University, at Farmville; the University of Mary Washington, at Fredericksburg; George Mason University, at Fairfax; the James Madison University, at Harrisonburg; Old Dominion University, at Norfolk; the State Board for Community Colleges, at Richmond; the Virginia Commonwealth University, at Richmond; the Radford University, at Radford; the Roanoke Higher Education Authority and Center; the rector and visitors of the University of Virginia, at Charlottesville; the University of Virginia's College at Wise; the Virginia Military Institute, at Lexington; the Virginia Polytechnic Institute and State University, at Blacksburg; the Virginia Schools for the Deaf and the Blind; the Virginia State University, at Petersburg; Norfolk State University, at Norfolk; the ~~Woodrow~~ *Woodrow Wilson Workforce and Rehabilitation Center*, at Fishersville; the Eastern Virginia Medical School; the Southern Virginia Higher Education Center; the Southwest Virginia Higher Education Center; the Institute for Advanced Learning and Research; the New College Institute; and the Opportunity Educational Institution are hereby classified as educational institutions and are declared to be public bodies and constituted as governmental instrumentalities for the dissemination of education. The powers of every such institution derived directly or indirectly from this chapter shall be vested in and exercised by a majority of the members of its board, and a majority of such board shall be a quorum for the transaction of any business authorized by this chapter. Wherever the word "board" is used in this chapter, it shall be deemed to include the members of a governing body designated by another title.

§ 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.

60 "Health planning region" means a contiguous geographical area of the Commonwealth with a
61 population base of at least 500,000 persons which is characterized by the availability of multiple levels
62 of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

63 "Medical care facility," as used in this title, means any institution, place, building or agency, whether
64 or not licensed or required to be licensed by the Board or the Department of Behavioral Health and
65 Developmental Services, whether operated for profit or nonprofit and whether privately owned or
66 privately operated or owned or operated by a local governmental unit, (i) by or in which health services
67 are furnished, conducted, operated or offered for the prevention, diagnosis or treatment of human
68 disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more
69 nonrelated persons who are injured or physically sick or have mental illness, or for the care of two or
70 more nonrelated persons requiring or receiving medical, surgical or nursing attention or services as
71 acute, chronic, convalescent, aged, physically disabled or crippled or (ii) which is the recipient of
72 reimbursements from third-party health insurance programs or prepaid medical service plans. For
73 purposes of this article, only the following medical care facilities shall be subject to review:

- 74 1. General hospitals.
- 75 2. Sanitariums.
- 76 3. Nursing homes.
- 77 4. Intermediate care facilities, except those intermediate care facilities established for individuals with
78 intellectual disability (ICF/MR) that have no more than 12 beds and are in an area identified as in need
79 of residential services for individuals with intellectual disability in any plan of the Department of
80 Behavioral Health and Developmental Services.
- 81 5. Extended care facilities.
- 82 6. Mental hospitals.
- 83 7. Facilities for individuals with intellectual disability.
- 84 8. Psychiatric hospitals and intermediate care facilities established primarily for the medical,
85 psychiatric or psychological treatment and rehabilitation of individuals with substance abuse.
- 86 9. Specialized centers or clinics or that portion of a physician's office developed for the provision of
87 outpatient or ambulatory surgery, cardiac catheterization, computed tomographic (CT) scanning,
88 stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging
89 (MSI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy,
90 proton beam therapy, nuclear medicine imaging, except for the purpose of nuclear cardiac imaging, or
91 such other specialty services as may be designated by the Board by regulation.
- 92 10. Rehabilitation hospitals.
- 93 11. Any facility licensed as a hospital.

94 The term "medical care facility" shall not include any facility of (i) the Department of Behavioral
95 Health and Developmental Services; (ii) any nonhospital substance abuse residential treatment program
96 operated by or contracted primarily for the use of a community services board under the Department of
97 Behavioral Health and Developmental Services' Comprehensive State Plan; (iii) an intermediate care
98 facility for individuals with intellectual disability (ICF/MR) that has no more than 12 beds and is in an
99 area identified as in need of residential services for individuals with intellectual disability in any plan of
100 the Department of Behavioral Health and Developmental Services; (iv) a physician's office, except that
101 portion of a physician's office described in subdivision 9 of the definition of "medical care facility"; (v)
102 the ~~Woodrow~~ Wilson Workforce and Rehabilitation Center of the Department for Aging and
103 Rehabilitative Services; (vi) the Department of Corrections; or (vii) the Department of Veterans Services.
104 "Medical care facility" shall also not include that portion of a physician's office dedicated to providing
105 nuclear cardiac imaging.

106 "Project" means:

- 107 1. Establishment of a medical care facility;
- 108 2. An increase in the total number of beds or operating rooms in an existing medical care facility;
- 109 3. Relocation of beds from one existing facility to another, provided that "project" shall not include
110 the relocation of up to 10 beds or 10 percent of the beds, whichever is less, (i) from one existing
111 facility to another existing facility at the same site in any two-year period, or (ii) in any three-year
112 period, from one existing nursing home facility to any other existing nursing home facility owned or
113 controlled by the same person that is located either within the same planning district, or within another
114 planning district out of which, during or prior to that three-year period, at least 10 times that number of
115 beds have been authorized by statute to be relocated from one or more facilities located in that other
116 planning district and at least half of those beds have not been replaced, provided further that, however, a
117 hospital shall not be required to obtain a certificate for the use of 10 percent of its beds as nursing
118 home beds as provided in § 32.1-132;
- 119 4. Introduction into an existing medical care facility of any new nursing home service, such as
120 intermediate care facility services, extended care facility services, or skilled nursing facility services,
121 regardless of the type of medical care facility in which those services are provided;

5. Introduction into an existing medical care facility of any new cardiac catheterization, computed tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), medical rehabilitation, neonatal special care, obstetrical, open heart surgery, positron emission tomographic (PET) scanning, psychiatric, organ or tissue transplant service, radiation therapy, stereotactic radiotherapy, proton beam therapy, nuclear medicine imaging, except for the purpose of nuclear cardiac imaging, substance abuse treatment, or such other specialty clinical services as may be designated by the Board by regulation, which the facility has never provided or has not provided in the previous 12 months;

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

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

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

9. Conversion in an existing medical care facility of psychiatric inpatient beds approved pursuant to a Request for Applications (RFA) to nonpsychiatric inpatient beds.

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

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

§ 32.1-330. Preadmission screening required.

All individuals who will be eligible for community or institutional long-term care services as defined in the state plan for medical assistance shall be evaluated to determine their need for nursing facility services as defined in that plan. The Department shall require a preadmission screening of all individuals who, at the time of application for admission to a certified nursing facility as defined in § 32.1-123, are eligible for medical assistance or will become eligible within six months following admission. For community-based screening, the screening team shall consist of a nurse, social worker or other assessor designated by the Department, and physician who are employees of the Department of Health or the local department of social services or a team of licensed physicians, nurses, and social workers at the ~~Woodrow Wilson~~ *Woodrow Wilson Workforce and Rehabilitation Center* (WWRC) for WWRC clients only. For institutional screening, the Department shall contract with acute care hospitals. The Department shall contract with other public or private entities to conduct required community-based and institutional screenings in addition to or in lieu of the screening teams described in this section in jurisdictions in which the screening team has been unable to complete screenings of individuals within 30 days of such individuals' application.

§ 51.1-209. Disability as the result of felonious misconduct of another.

Any member in service who is totally and permanently disabled while on active duty as the result of the felonious misconduct of another may retire for disability as provided in subsection B of § 51.1-156 and shall be entitled to maintenance and services at or under the supervision of the ~~Woodrow Wilson~~ *Woodrow Wilson Workforce and Rehabilitation Center* without being liable to pay for the same.

§ 51.5-55. Membership of Board; terms, compensation, and expenses.

A. All powers, rights and duties conferred by this chapter or other provisions of law upon the Authority shall be exercised by the Board of Directors of the Authority. The Board shall consist of 12 members as follows: the Secretary of Health and Human Resources or his designee; an employee of the ~~Woodrow Wilson~~ *Woodrow Wilson Workforce and Rehabilitation Center*; an experienced consumer lender; a certified public accountant; two persons with investment finance experience; and six persons with a range of disabilities. The citizen members shall be appointed by the Governor and confirmed by the General Assembly. The Board shall annually elect a chairman from among its members. Board members shall receive no salaries but shall be reimbursed for all reasonable and necessary expenses incurred by them

183 in the performance of their duties on behalf of the Authority.

184 B. The 10 citizen members of the Board shall be appointed for four-year terms, except that
185 appointments to fill vacancies shall be made for the unexpired terms. Representatives of state agencies
186 shall serve coincident with the term of the Governor. No member appointed by the Governor shall be
187 eligible to serve more than two complete terms in succession.

188 C. Meetings of the members of the Board shall be held at the call of the chairman or whenever six
189 members so request. The Board may delegate to a loan committee of at least six members the authority
190 to review and approve or deny loan applications based upon information provided to or obtained by the
191 Board, in accordance with criteria established by the Board. In any event, the Board shall meet as
192 necessary to attend to the business of the Authority.

193 **§ 51.5-131. Powers and duties of Commissioner.**

194 The Commissioner shall have the following powers and duties:

195 1. To employ such personnel, qualified by knowledge, skills, and abilities, as may be required to
196 carry out the purposes of this chapter relating to the Department;

197 2. To make and enter into all contracts and agreements necessary for or incidental to the performance
198 of the Department's duties and the execution of its powers under this title, including but not limited to
199 contracts with the United States, other states, agencies, and governmental subdivisions of the
200 Commonwealth;

201 3. To accept grants from the United States government and agencies and instrumentalities thereof and
202 any other source and, to these ends, to comply with such conditions and execute such agreements as
203 may be necessary, convenient, or desirable;

204 4. To perform all acts necessary or convenient to carry out the purposes of this chapter;

205 5. To develop and analyze information on the needs of older Virginians and persons with disabilities;

206 6. To establish plans, policies, and programs for the delivery of services to older Virginians and
207 persons with disabilities for consideration by the Governor and the General Assembly. Such policies,
208 plans, and programs for services for those who cannot benefit from vocational rehabilitation shall be
209 prepared over time and as funds become available for such efforts;

210 7. To operate and maintain the ~~Woodrow~~ *Wilson Workforce and Rehabilitation Center* and to
211 organize, supervise, and provide other necessary services and facilities (i) to prepare persons with
212 disabilities for useful and productive lives, including suitable employment, and (ii) to enable persons
213 with disabilities, to the degree possible, to become self-sufficient and have a sense of well-being;

214 8. To develop criteria for the evaluation of plans and programs relative to the provision of long-term
215 services and supports for older Virginians and persons with disabilities;

216 9. To investigate the availability of funds from any source for planning, developing, and providing
217 services to older Virginians and persons with disabilities, particularly those not capable of being
218 gainfully employed;

219 10. To coordinate the Department's plans, policies, programs, and services, and such programs and
220 services required under § 51.5-123, with those of the other state agencies providing services to persons
221 with disabilities so as to achieve maximum utilization of available resources to meet the needs of such
222 persons;

223 11. To compile and provide information on the availability of federal, state, regional, and local funds
224 and services for older Virginians and persons with disabilities;

225 12. To accept, execute, and administer any trust in which the Department may have an interest, under
226 the terms of the instruments creating the trust, subject to the approval of the Governor;

227 13. To promulgate regulations necessary to carry out the provisions of the laws of the
228 Commonwealth administered by the Department;

229 14. To work with the Department of Veterans Services and the Department of Behavioral Health and
230 Developmental Services to establish a program for mental health and rehabilitative services for Virginia
231 veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces
232 Reserves not in active federal service and their family members pursuant to § 2.2-2001.1;

233 15. To promote the use of technologies to realize communication access and increase livability across
234 the Commonwealth; and

235 16. To perform such other duties as may be required by the Governor and the Secretary of Health
236 and Human Resources.

237 **§ 51.5-132. Commissioner to establish regulations regarding human research.**

238 The Commissioner shall promulgate regulations pursuant to the Administrative Process Act
239 (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for
240 human research, as defined in § 32.1-162.16, to be conducted or authorized by the Department, any
241 sheltered workshop, any independent living center, or the ~~Woodrow~~ *Wilson Workforce and*
242 *-Rehabilitation Center*. The regulations shall require the human research review committee, as provided
243 in § 32.1-162.19, to submit to the Governor, the General Assembly, and the Commissioner or his
244 designee, at least annually, a report on the human research projects reviewed and approved by the

245 committee and shall require the committee to report any significant deviations from the proposals as
246 approved.