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**HOUSE BILL NO. 2279**

Offered January 11, 2023

Prefiled January 11, 2023

*A BILL to amend and reenact § 32.1-102.2 of the Code of Virginia, relating to certificate of public need program; regulations; charity care.*

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Patron—Byron

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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 of the Code of Virginia is amended and reenacted as follows:****§ 32.1-102.2. Regulations.**

A. The Board shall promulgate regulations that 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, stereotactic radiotherapy other than radiotherapy performed using a linear accelerator or other medical equipment that uses concentrated doses of high-energy X-rays to perform external beam radiation therapy, and proton beam therapy shall be considered in the radiation therapy batch. A single application may be filed for a combination of (i) radiation therapy, stereotactic radiotherapy other than radiotherapy performed using a linear accelerator or other medical equipment that uses concentrated doses of high-energy X-rays to perform external beam radiation therapy, and proton beam therapy and (ii) any or all of the computed tomographic (CT) scanning, magnetic resonance imaging (MRI), and positron emission tomographic (PET) scanning;

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. May establish a schedule of fees for applications for certificates or registration of a project to be applied to expenses for the administration and operation of the Certificate of Public Need Program;

5. Shall establish an expedited application and review process for any certificate for projects reviewable pursuant to subdivision B 8 of § 32.1-102.1:3. Regulations establishing the expedited application and review procedure shall include provisions for notice and opportunity for public comment on the application for a certificate, and criteria pursuant to which an application that would normally undergo the review process would instead undergo the full certificate of public need review process set forth in § 32.1-102.6;

6. Shall establish an exemption from the requirement for a certificate for a project involving a temporary increase in the total number of beds in an existing hospital or nursing home, including a temporary increase in the total number of beds resulting from the addition of beds at a temporary structure or satellite location operated by the hospital or nursing home, provided that the ability remains to safely staff services across the existing hospital or nursing home, (i) for a period of no more than the duration of the Commissioner's determination plus 30 days when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds or (ii) for a period of no more than the duration of the emergency order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the Board, pursuant to § 32.1-13, or the Commissioner, pursuant to § 32.1-20, has entered an emergency order for the purpose of suppressing a nuisance dangerous to public health or a communicable, contagious, or infectious disease or other danger to the public life and health; and

7. Shall require every medical care facility subject to the requirements of this article, other than a nursing home, that is not a medical care facility for which a certificate with conditions imposed pursuant to subsection B of § 32.1-102.4 has been issued and that provides charity care, as defined in § 32.1-102.1, to annually report the amount of charity care provided.

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

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59 complies with the Board's regulations. However, the Commissioner may approve a significant change in  
60 cost for an approved project that exceeds the authorized capital expenditure by more than 20 percent,  
61 provided the applicant has demonstrated that the cost increases are reasonable and necessary under all  
62 the circumstances and do not result from any material expansion of the project as approved.

63 C. The Board shall also promulgate regulations authorizing the Commissioner to condition approval  
64 of a certificate on the agreement of the applicant to provide a level of charity care to indigent persons or  
65 accept patients requiring specialized care. Such regulations shall include a methodology and formulas for  
66 uniform application of, active measuring and monitoring of compliance with, and approval of alternative  
67 plans for satisfaction of such conditions. In addition, the Board's licensure regulations shall direct the  
68 Commissioner to condition the issuing or renewing of any license for any applicant whose certificate  
69 was approved upon such condition on whether such applicant has complied with any agreement to  
70 provide a level of charity care to indigent persons or accept patients requiring specialized care. *Except in*  
71 *the case of hospitals, charity care shall include care provided to individuals who are covered under the*  
72 *state plan for medical assistance.* Except in the case of nursing homes, the value of charity care  
73 provided to individuals pursuant to this subsection shall be based on the provider reimbursement  
74 methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title  
75 XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.

76 D. The Board shall also promulgate regulations to require the registration of a project; for  
77 introduction into an existing medical care facility of any new lithotripsy, stereotactic radiosurgery,  
78 stereotactic radiotherapy performed using a linear accelerator or other medical equipment that uses  
79 concentrated doses of high-energy X-rays to perform external beam radiation therapy, obstetrical, or  
80 nuclear imaging services that the facility has never provided or has not provided in the previous 12  
81 months; and for the addition by an existing medical care facility of any medical equipment for  
82 lithotripsy, stereotactic radiosurgery, stereotactic radiotherapy performed using a linear accelerator or  
83 other medical equipment that uses concentrated doses of high-energy X-rays to perform external beam  
84 radiation therapy, or nuclear imaging services. Replacement of existing equipment for lithotripsy,  
85 stereotactic radiosurgery, stereotactic radiotherapy other than radiotherapy performed using a linear  
86 accelerator or other medical equipment that uses concentrated doses of high-energy X-rays to perform  
87 external beam radiation therapy, or nuclear imaging services shall not require registration. Such  
88 regulations shall include provisions for (i) establishing the agreement of the applicant to provide a level  
89 of care in services or funds that matches the average percentage of indigent care provided in the  
90 appropriate health planning region and to participate in Medicaid at a reduced rate to indigents, (ii)  
91 obtaining accreditation from a nationally recognized accrediting organization approved by the Board for  
92 the purpose of quality assurance, and (iii) reporting utilization and other data required by the Board to  
93 monitor and evaluate effects on health planning and availability of health care services in the  
94 Commonwealth.