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HOUSE BILL NO. 606

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations on March 9, 2026)

(Patron Prior to Substitute—Delegate Willett)

A BILL to amend and reenact §§ 32.1-102.2, 32.1-102.4, and 32.1-276.5 of the Code of Virginia, relating to medical care facility data reporting; value of charity care.

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-102.2, 32.1-102.4, and 32.1-276.5 of the Code of Virginia are 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 (i) subdivision B 1 of § 32.1-102.1:3 for the establishment of a new medical care facility described in subdivision A 2 of § 32.1-102.1:3 by an existing medical care facility described in subdivision A 1 or 2 of § 32.1-102.1:3 that has an existing certificate to provide psychiatric services pursuant to subdivision B 6 of § 32.1-102.1:3, provided such new medical care facility is located in the same planning district as the existing medical care facility; (ii) subdivision B 2 of § 32.1-102.1:3 for the addition of psychiatric beds at an existing medical care facility described in subdivision A 1 or 2 of § 32.1-102.1:3 that has an existing certificate to provide psychiatric services pursuant to subdivision B 5 of § 32.1-102.1:3, not to exceed 10 beds or 10 percent of all beds at the medical care facility, whichever is greater, and provided that the applicant has not been awarded a certificate for the addition of psychiatric beds pursuant to this provision in the previous two-year period; (iii) subdivision B 3 of § 32.1-102.1:3 for the relocation of psychiatric beds to an existing medical care facility described in subdivision A 1 or 2 of § 32.1-102.1:3 that has had an existing certificate to introduce a psychiatric service for at least the previous 12 months pursuant to subdivision B 5 of § 32.1-102.1:3 and that is within the same planning district; (iv) and subdivision B 8 of § 32.1-102.1:3. Regulations establishing the expedited application and review procedure shall include provisions for (a) notice and opportunity for public comment on the application for a certificate, (b) a review cycle that is complete within 90 days, (c) the filing of an expedited application in four batch cycles specifically for expedited applications, (d) the ability of a member of the public to request a public hearing for the expedited application, and (e) 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 complies with the Board's regulations. However, the Commissioner may approve a significant change in cost for an approved project that exceeds the authorized capital expenditure by more than 20 percent, provided the applicant has demonstrated that the cost increases are reasonable and necessary under all the circumstances and do not result from any material expansion of the project as approved.

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 charity care to indigent persons or accept patients requiring specialized care. Such regulations shall include a methodology and formulas for uniform application of, active measuring and monitoring of compliance with, and approval of alternative plans for satisfaction of such conditions. 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 charity care to indigent persons or accept patients requiring specialized care. Except in the case of nursing homes, the value of charity care provided to individuals pursuant to this subsection shall be based on ~~the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq~~ *gross patient charges*.

D. The Board shall also promulgate regulations to require the registration of a project; for introduction into an existing medical care facility of any new lithotripsy, stereotactic radiosurgery, stereotactic 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, obstetrical, or nuclear imaging services that the facility has never provided or has not provided in the previous 12 months; and for the addition by an existing medical care facility of any medical equipment for lithotripsy, stereotactic radiosurgery, stereotactic 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, or nuclear imaging services. Replacement of existing equipment for lithotripsy, stereotactic radiosurgery, 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, or nuclear imaging services shall not require registration. Such regulations shall include provisions for (i) establishing the agreement of the applicant to provide a level of care in services or funds that matches the average percentage of indigent care provided in the appropriate health planning region and to participate in Medicaid at a reduced rate to indigents, (ii) obtaining accreditation from a nationally recognized accrediting organization approved by the Board for the purpose of quality assurance, and (iii) reporting utilization and other data required by the Board to monitor and evaluate effects on health planning and availability of health care services in the Commonwealth.

§ 32.1-102.4. Conditions of certificates; monitoring; revocation of certificates; civil penalties.

A. The Commissioner may, in accordance with regulations of the Board, condition issuance of a certificate on compliance with a schedule for the completion of the proposed project and a maximum capital expenditure amount for the proposed project. The approved schedule and maximum capital expenditure for a proposed project shall be issued together with the certificate. The approved schedule may not be extended and the maximum capital expenditure may not be exceeded without the approval of the Commissioner in accordance with the regulations of the Board. The Commissioner shall not approve an extension for a schedule for completion of any project or the exceeding of the maximum capital expenditure of any project unless such extension or excess complies with the limitations provided in the regulations promulgated by the Board pursuant to § 32.1-102.2.

The Commissioner shall monitor each project to determine its progress and compliance with the approved schedule and with the maximum capital expenditure, and may revoke the certificate for (i) lack of substantial and continuing progress toward completion of the project in accordance with the schedule or (ii) expenditures in excess of the approved maximum capital expenditure for the project.

Any person willfully violating conditions imposed pursuant to this subsection shall be subject to a civil penalty of up to $100 per violation per day until the date of completion of the project which shall be collected by the Commissioner and paid into the Literary Fund.

For the purposes of this subsection, "completion" means conclusion of construction activities necessary

for the substantial performance of the contract.

B. The Commissioner shall, pursuant to the regulations of the Board, condition the approval of a certificate upon the agreement of the applicant to provide care to individuals who are eligible for benefits under Title XVIII of the Social Security Act (42 U.S.C. § 1395 et seq.), Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.), and 10 U.S.C. § 1071 et seq. In addition, the Commissioner shall condition the approval of a certificate upon the agreement of the applicant to (i) provide a specified level of charity care to indigent persons or accept patients requiring specialized care, (ii) facilitate the development and operation of primary and specialty medical care services in designated medically underserved areas of the applicant's service area, or (iii) all of the above. Except in the case of nursing homes, the value of charity care provided to individuals pursuant to this subsection shall be based on ~~the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq~~ *gross patient charges*.

Every certificate holder shall develop a financial assistance policy that includes specific eligibility criteria and procedures for applying for charity care, which shall be provided to a patient at the time of admission or discharge or at the time services are provided, included with any billing statements sent to uninsured patients, posted conspicuously in public areas of the medical care facility for which the certificate was issued and posted on a website maintained by the certificate holder.

The certificate holder shall annually provide documentation to the Department demonstrating that the certificate holder has satisfied the conditions of the certificate, including documentation of the amount of charity care provided to patients. If the certificate holder is unable or fails to satisfy the conditions of a certificate, the Department may approve alternative methods to satisfy the conditions pursuant to a plan of compliance, which shall identify a timeframe within which the certificate holder will satisfy the conditions of the certificate, and identify how the certificate holder will satisfy the conditions of the certificate, which may include (a) making direct payments to an organization authorized under a memorandum of understanding with the Department to receive contributions satisfying conditions of a certificate, (b) making direct payments to a private nonprofit foundation that funds basic insurance coverage for indigents authorized under a memorandum of understanding with the Department to receive contributions satisfying conditions of a certificate, or (c) other documented efforts or initiatives to provide primary or specialized care to underserved populations. In cases in which the certificate holder holds more than one certificate with conditions pursuant to this subsection, and the certificate holder is unable to satisfy the conditions of one certificate, such plan of compliance may provide for satisfaction of the conditions on that certificate by providing care at a reduced rate to indigent individuals in excess of the amount required by another certificate issued to the same holder, in an amount approved by the Department provided such care is offered at the same facility. Nothing in the preceding sentence shall prohibit the satisfaction of conditions of more than one certificate among various affiliated facilities or certificates subject to a system-wide or all-inclusive charity care condition established by the Commissioner. In determining whether the certificate holder has met the conditions of the certificate pursuant to a plan of compliance, only such actions undertaken after issuance of the conditioned certificate shall be counted towards satisfaction of conditions.

Any person refusing, failing, or neglecting to honor such agreement shall be subject to a civil penalty of up to $100 per violation per day until the date of compliance which shall be collected by the Commissioner and paid into the Literary Fund. For the purpose of determining the amount of a civil penalty imposed pursuant to this subsection, the date on which the person began providing services in accordance with the original certificate shall be the date from which the period of noncompliance shall be calculated.

C. The Commissioner may, pursuant to the regulations of the Board, condition the approval of a certificate for any project to (i) establish a medical care facility pursuant to subdivision A 2 of § 32.1-102.1:3; (ii) introduce a psychiatric service pursuant to subdivision B 5 of § 32.1-102.1:3; or (iii) add psychiatric beds to an existing medical care facility described in subdivision A 1 or 2 of § 32.1-102.1:3 upon the agreement of the applicant to provide care to individuals who are the subject of an involuntary temporary detention under § 37.2-809.

D. The Commissioner shall (i) review every certificate of public need upon which conditions were imposed pursuant to subsection B at least once every three years to determine whether such conditions continue to be appropriate or should be revised and (ii) notify each certificate holder of his conclusions regarding (a) the appropriateness of conditions imposed on the certificate and whether such conditions should be revised and (b) the process by which the certificate holder may request amendments to conditions imposed on a certificate in accordance with subsection E.

E. Pursuant to regulations of the Board, the Commissioner may accept requests for and approve amendments to conditions of existing certificates related to the provision of care at reduced rates or to patients requiring specialized care or related to the development and operation of primary medical care services in designated medically underserved areas of the certificate holder's service area.

F. In determining whether conditions imposed on a certificate of public need pursuant to subsection B are appropriate for the purposes of subsection D or should be amended in response to a request submitted pursuant to subsection E, the Commissioner shall consider any changes in the circumstances of the certificate

holder resulting from changes in the financing or delivery of health care services, including changes to the Commonwealth's program of medical assistance services, and any other specific circumstances of the certificate holder.

§ 32.1-276.5. Providers to submit data; civil penalty.

A. Every health care provider shall submit data as required pursuant to regulations of the Board, consistent with the recommendations of the nonprofit organization in its strategic plans submitted and approved pursuant to § 32.1-276.4, and as required by this section. Such data shall include relevant data and information for any parent or subsidiary company of the health care provider that operates in the Commonwealth. Notwithstanding the provisions of Chapter 38 (§ 2.2-3800 et seq.) of Title 2.2, it shall be lawful to provide information in compliance with the provisions of this chapter.

B. In addition, health maintenance organizations shall annually submit to the Commissioner, to make available to consumers who make health benefit enrollment decisions, audited data consistent with the latest version of the Health Employer Data and Information Set (HEDIS), as required by the National Committee for Quality Assurance, or any other quality of care or performance information set as approved by the Board. The Commissioner, at his discretion, may grant a waiver of the HEDIS or other approved quality of care or performance information set upon a determination by the Commissioner that the health maintenance organization has met Board-approved exemption criteria. The Board shall promulgate regulations to implement the provisions of this section.

The Commissioner shall also negotiate and contract with a nonprofit organization authorized under § 32.1-276.4 for compiling, storing, and making available to consumers the data submitted by health maintenance organizations pursuant to this section. The nonprofit organization shall assist the Board in developing a quality of care or performance information set for such health maintenance organizations and shall, at the Commissioner's discretion, periodically review this information set for its effectiveness.

C. Every medical care facility as that term is defined in § 32.1-3 that furnishes, conducts, operates, or offers any reviewable service shall report data on utilization of such service to the Commissioner, who shall contract with the nonprofit organization authorized under this chapter to collect and disseminate such data. ~~For purposes of this section, "reviewable service" shall mean inpatient beds, operating rooms, nursing home services, cardiac catheterization, computed tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging, medical rehabilitation, neonatal special care, obstetrical services, open heart surgery, positron emission tomographic (PET) scanning, psychiatric services, organ and tissue transplant services, radiation therapy, stereotactic radiotherapy, proton beam therapy, nuclear medicine imaging except for the purpose of nuclear cardiac imaging, and substance abuse treatment.~~

Every medical care facility for which a certificate of public need with conditions imposed pursuant to § 32.1-102.4 is issued shall report to the Commissioner data on charity care, as that term is defined in § 32.1-102.1, provided to satisfy a condition of a certificate of public need, including (i) the total amount of such charity care the facility provided to indigent persons; (ii) the number of patients to whom such charity care was provided; (iii) the specific services delivered to patients that are reported as charity care recipients; and (iv) the portion of the total amount of such charity care provided that each service represents. The value of charity care reported shall be based on ~~the medical care facility's submission of applicable Diagnosis Related Group codes and Current Procedural Terminology codes aligned with methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq~~ *gross patient charges*. Notwithstanding the foregoing, every nursing home as defined in § 32.1-123 for which a certificate of public need with conditions imposed pursuant to § 32.1-102.4 is issued shall report data on utilization and other data in accordance with regulations of the Board.

A medical care facility that fails to report data required by this subsection shall be subject to a civil penalty of up to $100 per day per violation, which shall be collected by the Commissioner and paid into the Literary Fund.

D. Every continuing care retirement community established pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 that includes nursing home beds shall report data on utilization of such nursing home beds to the Commissioner, who shall contract with the nonprofit organization authorized under this chapter to collect and disseminate such data.

E. Every hospital that receives a disproportionate share hospital adjustment pursuant to § 1886(d)(5)(F) of the Social Security Act shall report, in accordance with regulations of the Board consistent with recommendations of the nonprofit organization in its strategic plan submitted and provided pursuant to § 32.1-276.4, the number of inpatient days attributed to patients eligible for Medicaid but not Medicare Part A and the total amount of the disproportionate share hospital adjustment received.

F. Every hospital shall annually report, in accordance with regulations of the Board consistent with recommendations of the nonprofit organization in its strategic plan submitted and provided pursuant to § 32.1-276.4, data and information regarding (i) the amount of charity care, discounted care, or other financial assistance provided by the hospital under its financial assistance policy pursuant to § 32.1-137.09 and (ii) the amount of uncollected bad debt, including any uncollected bad debt from payment plans entered into in accordance with subsection C of § 32.1-137.09.

G. *The Commissioner shall annually report to the Governor and the Chairs of the House Committees on Health and Human Services and Appropriations and the Senate Committees on Education and Health and Finance and Appropriations, on each medical care facility required to satisfy a condition of a certificate of public need, for the most recent completed reporting period, (i) the total amount of charity care charges provided; (ii) the total cost of charity care, calculated using the hospital's cost-to-charge ratio; (iii) the percentage of total operating expenses represented by charity care; (iv) the number of patients receiving charity care, including the number of applications submitted, approved, and denied; (v) the amount of charity care provided by household income category, expressed as a percentage of the federal poverty level; and (vi) the amount of bad debt attributable to patient services and the ratio of bad debt to charity care. Such annual report shall be submitted no later than December 1 of each year.*

H. The Board shall evaluate biennially the impact and effectiveness of such data collection.