

During the 2026 General Assembly Session, legislators sought to make targeted updates to Virginia's Certificate of Public Need program. This document provides a summary of the changes to law and provides background and guidance to assist you in compliance.

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Summary

AMENDS EXISTING LAW

HB606 (Willett) removes certain limitations on the meaning of “reviewable service” as it relates to charity care data reporting requirements for medical care facilities and specifies that the value of charity care for such reporting is to be based on gross patient charges. **The law is effective July 1, 2026.**

HB1337 (Clark)/SB239 (Head) would have inserted in law a definition of “medical deserts” and established that any projects in such areas would be subject to expedited review. It was subsequently amended to direct the State Health Services Plan Task Force to develop recommendations for designating areas of the state with an identifiable need for additional projects, taking into account numerous barriers of access to health care. The Commissioner is to report such recommendations to the Chair and members of the Senate Committee on Education and Health by October 1, 2026. The legislation also directs the Board of Health to promulgate updated regulations for expedited application and review processes for certain projects by January 1, 2027. **The law is effective July 1, 2026.**

Action Required

HB606

Hospitals with COPN approvals or renewals will need to update charity care valuation methodology from Medicare reimbursement rates to gross patient charges and ensure internal reporting systems reflect this change.

HB1337/SB239

This legislation does not impose new operational requirements on hospitals but signals forthcoming regulatory changes that may affect future COPN applications. Hospitals planning future capital projects should monitor the State Health Services Plan Task Force recommendations due October 1, 2026, and regulatory updates required by January 1, 2027, to determine whether upcoming projects may qualify for expedited review under the revised criteria.

Background Information

HB606

This legislation was introduced amid ongoing legislative focus on COPN reform, hospital charity care, and behavioral health capacity. The legislation aims to increase transparency and accountability by expanding reporting requirements and changing how COPN related charity care is valued. VHHA supported this measure and viewed it as a way to simplify oversight and eliminate administrative barriers to distribution of charity care funds to free clinics and other recipients.

HB1337/SB239

This legislation was a continuation of legislation passed in the 2025 Session seeking to create a “medical desert” designation as a means of identifying projects for which expedited review would be appropriate. During the legislative process, VHHA expressed concerns that creating a state-level “medical desert” framework may depart from existing federal designations which are standardized, data-driven, and tied to federal workforce funding and incentives. Additionally, VHHA highlighted that regulations on expedited review have not been updated to reflect recent changes to law and do not provide sufficient detail on how applications will be reviewed and approved.

Statutory Text

(NOTE: The language in *italics* and ~~strike through~~ are the only changes to the law. All other language and requirements under the law remain unchanged.)

HB606

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:

...

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*.

...

§ 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.

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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.

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.

HB1337/HB239

1. § 1. That the State Health Commissioner (the Commissioner) shall direct the State Health Services Plan Task Force (the Task Force) to develop recommendations on options for designating areas of the state with an identifiable need for additional projects, taking into account the unique geographic, socioeconomic, cultural, transportation, and other barriers to access to health care. The Task Force shall also develop recommendations on specific criteria for determining when expedited review should apply to projects located in such areas. The Commissioner shall report such recommendations to the Chair and members of the Senate Committee on Education and Health by October 1, 2026.

§ 2. That the Board of Health shall promulgate updated regulations to implement the expedited application and review process for any certificate for projects reviewable pursuant to subdivision A 5 of § 32.1-102.2, including criteria and considerations that the State Health Commissioner shall apply when making a determination to approve or disapprove such expedited application, by January 1, 2027.

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