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Final Regulation
Agency Background Document

Agency name	Virginia Board of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-230-10 *et seq.*
VAC Chapter title(s)	State Medical Facilities Plan
Action title	Update the regulatory chapter following periodic review
Date this document prepared	February 9, 2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory action will update the State Medical Facilities Plan to correct the definition of “cardiac catheterization” and add definitions for “simple therapeutic”, “complex therapeutic”, and “diagnostic” cardiac catheterizations, as well as updating the definition of a Diagnostic Equivalent Procedure to reflect the differentiation between the types of cardiac catheterization. New review criteria will also be added for projects relating to cardiac catheterization and the new differentiation. The action will also make the appropriate changes to the occupancy standard utilized for determining the need for new nursing home beds.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

"Board" means the Virginia Board of Health.

"COPN" means Certificate of Public Need.

"DMAS" means the Virginia Department of Medical Assistance Services.

"SMFP" means State Medical Facilities Plan.

"VDH" means the Virginia Department of Health

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Board approved Final Amendments to the State Medical Facilities Plan (12VAC5-230-10 *et seq.*) on September 5, 2019.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

This final action follows the Proposed Stage published in the Register on January 8, 2018. The impetus that prompted the initiation of the action was the 2014 Task Force review of the SMFP.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The regulation is promulgated under the authority of Code of Virginia §§ 32.1-12 and 32.1-102.2. Code of Virginia § 32.1-12 permits the Board to make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of Title 32.1 of the Code of Virginia and other laws of the Commonwealth administered by it, the State Health Commissioner or VDH. Code of Virginia § 32.1-102.2 requires the Board to promulgate regulations that establish concise procedures for the prompt review of applications for certificates of public need consistent with Article 1.1 (§ 32.1-102.1 *et seq.*) of Chapter 4 of Title 32.1 of the Code of Virginia. Chapter 1271 (2020 Acts of Assembly)—which was enacted between the Proposed Stage and this Final Stage—changed the State Medical Facilities Plan to the State Health Services Plan, with revised requirements for the generation of project specific criteria and a requirement that the State Health Services Plan Task Force make recommendation for a comprehensive State Health Services Plan to the Board of Health by November 1, 2022. Pending that recommendation and promulgation of the State Health Services Plan, the State Medical Facilities Plan remains the project specific criteria by which the State Health Commissioner can make a determination of public need.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

It is necessary to amend these regulations to update definitions within the regulations related to cardiac catheterization and update the occupancy standard utilized for determining the need for new nursing home beds.

Updated regulations to implement the SMFP are essential to protect the health of Virginians as the Board has determined that excess capacity or underutilization of medical facilities are detrimental to both cost effectiveness and quality of medical services in Virginia. The Board seeks to promote the availability and accessibility of proven technologies through planned geographical distribution of medical facilities; the development and maintenance of services and access to those services by all Virginians who need them without respect to their ability to pay; the conversion of facilities to new and efficient uses and the reallocation of resources to meet evolving community needs. The Board wishes to discourage the proliferation of services that would undermine the ability of essential community providers to maintain their financial viability.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

This regulatory action:

- Amends the existing definitions for "Cardiac Catheterization" and "Diagnostic Equivalent Procedure (DEP)";
- Adds new definitions for "Diagnostic Cardiac Catheterization", "Complex Therapeutic Cardiac Catheterization", and "Simple Therapeutic Cardiac Catheterization";
- Establishes requirements for proposals to provide simple and complex therapeutic cardiac catheterization;
- Amends requirements for calculating need for additional nursing facility beds in a health planning district by requiring the analysis of both the average and median occupancy levels of Medicaid-certified nursing facility beds; and
- Reduces the occupancy level required to approve expansion of beds in an existing nursing facility from 93 percent to 90 percent.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantages of the regulatory action to the public are that the criteria for demonstrating public need for the included facilities will more closely reflect changes in technology, as well as application of service and utilization patterns, and will therefore help increase access to the services for the citizens of

the Commonwealth. The Board does not foresee any disadvantages to the public. The primary advantage to the agency and the Commonwealth is the promotion of access to health care services. There are no disadvantages associated with the proposed regulatory action in relation to the agency or the Commonwealth.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There is no change in the information reported in the Requirements that is more restrictive than the federal section of the Agency Background Document from the previous stage

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

There is no change in the information reported in the *Localities particularly affected* section of the Agency Background Document from the previous stage.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
Susan Puglisi, on behalf of DMAS	DMAS indicated concerns with the amendments to 12VAC5-230-610 The Department is concerned with the change from permissive to mandatory language. DMAS believes this change will cause an unintended and undesired consequence. When two or more facilities apply for a certificate of public need (COPN) and the certificate is only issued to one facility, the other applicant(s) could simply wait and reapply for a certificate. The occupancy of the facility that was issued a certificate would be excluded from the calculation, which means the newly built facility would not have had a chance to ramp up to meet the previously identified need. This would allow a calculated identified need to	VDH concurs with the recommended change to Section 610.

	stand for two application periods. During the second application period, the certificate that was issued to meet the need would not be taken into account. DMAS suggests changing the language in the following manner: "Exception: When there are facilities that have been in operation less than ~~three years~~ one year in the health planning district, their occupancy [~~can shall~~ can] be excluded from the calculation of average occupancy ~~if the facilities had an annual occupancy of at least 93% in one of its first three years of operation~~." Allowing the exception to be permissive once again.	
Thomas J. Stallings, HCA Virginia	Mr. Stallings expressed concerns that the language being amended could be applied retrospectively to limit the operations of cardiac catheterization providers already authorized to provide services before the effective date of the regulations. He noted that SMFP language is not to be used to limit how COPN-approved cardiac catheterization providers can use their approved laboratories.	VDH will not retroactively enforce newly amended SMFP language to change or limit the operations of COPN-approved cardiac catheterization providers.
R. Brent Rawlings, Virginia Hospital and Healthcare Association	Mr. Rawlings also expressed concerns that the language being amended could be applied retrospectively to limit the operations of cardiac catheterization providers already authorized to provide services before the effective date of the regulations. He noted that SMFP language is not to be used to limit how COPN-approved cardiac catheterization providers can use their approved laboratories. He recommended that VDH reassign the cardiac catheterization regulations to the 2018 Task Force.	VDH will not retroactively enforce newly amended SMFP language to change or limit the operations of COPN-approved cardiac catheterization providers. These changes were developed as a result of a previous SMFP Task Force and review.

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements

12VAC5-230-610	N/A	A. A health planning district should be considered to have a need for additional nursing facility beds when: 1. The bed need forecast exceeds the current inventory of existing and authorized beds for the health planning district; and 2. The ~~average~~ median annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 93%, and the average annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 90%, excluding the bed inventory and utilization of the Virginia Veterans Care Centers. Exception: When there are facilities that have been in operation less than ~~three years~~ one year in the health planning district, their occupancy ~~can~~ shall be excluded from the calculation of average occupancy ~~if the facilities had an annual occupancy of at least 93% in one of its first three years of operation~~. B. No health planning district should be considered in need of additional beds if there are unconstructed beds designated as Medicaid certified. This presumption of 'no	A. A health planning district should be considered to have a need for additional nursing facility beds when: 1. The bed need forecast exceeds the current inventory of existing and authorized beds for the health planning district; and 2. The ~~average~~ median annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 93%, and the average annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 90%, excluding the bed inventory and utilization of the Virginia Veterans Care Centers. Exception: When there are facilities that have been in operation less than ~~three years~~ one year in the health planning district, their occupancy [~~can~~ ~~shall~~ c an] be excluded from the calculation of average occupancy ~~if the facilities had an annual occupancy of at least 93% in one of its first three years of operation~~. B. No health planning district should be considered in need of additional beds if there are unconstructed beds designated as Medicaid certified. This	**CHANGE:** The Board is proposing to restore the permissive language that is already in the current regulatory text. **INTENT:** The intent of the updated requirements is to avoid unintended and undesired consequences of changing the language from permissive to mandatory. **RATIONALE:** The rationale of the updated requirements is to avoid a situation where two or more facilities apply for a COPN and the COPN is only issued to one facility, the other applicant(s) could simply wait and reapply for a certificate. The occupancy of the facility that was issued a COPN would be excluded from the calculation, which means the newly built facility would not have had a chance to ramp up to meet the previously identified need. This would allow a calculated identified need to stand for two application periods. During the second application period, the certificate that was issued to meet the need would not be taken into account. **LIKELY IMPACT:** The likely impact of the updated requirements is a more accurate assessment of need for additional nursing home

		need' for additional beds extends for three years from the issuance date of the certificate. C. The bed need forecast will be computed as follows: PDBN = (UR64 x PP64) + (UR69 x PP69) + (UR74 x PP74) + (UR79 x PP79) + (UR84 x PP84) + (UR85 x PP85) Where: PDBN = Planning district bed need. UR64 = The nursing home bed use rate of the population aged 0 to 64 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP64 = The population aged 0 to 64 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR69 = The nursing home bed use rate of the population aged 65 to 69 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP69 = The population aged 65 to 69 projected	presumption of 'no need' for additional beds extends for three years from the issuance date of the certificate. C. The bed need forecast will be computed as follows: PDBN = (UR64 x PP64) + (UR69 x PP69) + (UR74 x PP74) + (UR79 x PP79) + (UR84 x PP84) + (UR85 x PP85) Where: PDBN = Planning district bed need. UR64 = The nursing home bed use rate of the population aged 0 to 64 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP64 = The population aged 0 to 64 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR69 = The nursing home bed use rate of the population aged 65 to 69 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP69 = The population aged	beds will be made for each planning district.

		for the health planning district three years from the current year as most recently published by ~~the~~ a demographic program as determined by the commissioner. UR74 = The nursing home bed use rate of the population aged 70 to 74 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP74 = The population aged 70 to 74 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR79 = The nursing home bed use rate of the population aged 75 to 79 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP79 = The population aged 75 to 79 projected for the health planning district three years from the current year as most recently	65 to 69 projected for the health planning district three years from the current year as most recently published by ~~the~~ a demographic program as determined by the commissioner. UR74 = The nursing home bed use rate of the population aged 70 to 74 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP74 = The population aged 70 to 74 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR79 = The nursing home bed use rate of the population aged 75 to 79 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP79 = The population aged 75 to 79 projected for the health planning district three years from the current year as	

		published by a demographic program as determined by the commissioner. UR84 = The nursing home bed use rate of the population aged 80 to 84 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP84 = The population aged 80 to 84 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR85+ = The nursing home bed use rate of the population aged 85 and older in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP85+ = The population aged 85 and older projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.	most recently published by a demographic program as determined by the commissioner. UR84 = The nursing home bed use rate of the population aged 80 to 84 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP84 = The population aged 80 to 84 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR85+ = The nursing home bed use rate of the population aged 85 and older in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP85+ = The population aged 85 and older projected for the health planning district three years from the current year as most recently published by a demographic program as	

		Health planning district bed need forecasts will be rounded as follows: Health Planning Distri 1-29 30-44 45-84 85-104 105-134 135-164 165-194 195-224 225+ Exception: When a health planning district has: 1. Two or more nursing facilities; 2. Had ~~an average~~ a median annual occupancy rate ~~in excess~~ of 93% of all existing and authorized Medicaid-certified nursing facility beds and an annual average occupancy rate of at least 90% of all existing and authorized Medicaid-certified nursing facility beds for each of the most recent two years for which bed utilization has been reported to VHI; and 3. Has a forecasted bed need of 15 to 29 beds, then the bed need for this health planning district will be rounded to 30. D. No new freestanding nursing facilities of less than 90 beds should be authorized. However, consideration may be given to a new freestanding facility with fewer than 90 nursing facility beds when the applicant can	determined by the commissioner. Health planning district bed need forecasts will be rounded as follows: Health Planning Distri 1-29 30-44 45-84 85-104 105-134 135-164 165-194 195-224 225+ Exception: When a health planning district has: 1. Two or more nursing facilities; 2. Had ~~an average~~ a median annual occupancy rate ~~in excess~~ of 93% of all existing and authorized Medicaid-certified nursing facility beds and an annual average occupancy rate of at least 90% of all existing and authorized Medicaid-certified nursing facility beds for each of the most recent two years for which bed utilization has been reported to VHI; and 3. Has a forecasted bed need of 15 to 29 beds, then the bed need for this health planning district will be rounded to 30. D. No new freestanding nursing facilities of less than 90 beds should be authorized. However, consideration may be given to a new freestanding facility with fewer than 90 nursing	

		demonstrate that such a facility is justified based on a locality's preference for such smaller facility and there is a documented poor distribution of nursing facility beds within the health planning district. E. When evaluating the capital cost of a project, consideration may be given to projects that use the current methodology as determined by the Department of Medical Assistance Services. F. Preference may be given to projects that replace outdated and functionally obsolete facilities with modern facilities that result in the more cost-efficient resident services in a more aesthetically pleasing and comfortable environment.	facility beds when the applicant can demonstrate that such a facility is justified based on a locality's preference for such smaller facility and there is a documented poor distribution of nursing facility beds within the health planning district. E. When evaluating the capital cost of a project, consideration may be given to projects that use the current methodology as determined by the Department of Medical Assistance Services. F. Preference may be given to projects that replace outdated and functionally obsolete facilities with modern facilities that result in the more cost-efficient resident services in a more aesthetically pleasing and comfortable environment.	

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
12VAC5-230-10	N/A	**12VAC5-230-10. Definitions.** The following words and terms when used in this chapter shall have the following meanings	**CHANGE:** The Board is proposing the following updated requirements:

		unless the context clearly indicates otherwise: "Acute psychiatric services" means hospital-based inpatient psychiatric services provided in distinct inpatient units in general hospitals or freestanding psychiatric hospitals. "Acute substance abuse disorder treatment services" means short-term hospital-based inpatient treatment services with access to the resources of (i) a general hospital, (ii) a psychiatric unit in a general hospital, (iii) an acute care addiction treatment unit in a general hospital licensed by the Department of Health, or (iv) a chemical dependency specialty hospital with acute care medical and nursing staff and life support equipment licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. "Bassinet" means an infant care station, including warming stations and isolettes. "Bed" means that unit, within the complement of a medical care facility, subject to COPN review as required by § 32.1-102.1 of the Code of Virginia and designated for use by patients of the facility or service. For the purposes of this chapter, bed does include cribs and bassinets used for pediatric patients, but does not include cribs and bassinets in the newborn nursery or neonatal special care setting. "Cardiac catheterization" means a procedure where a flexible tube is inserted into the patient through an extremity blood vessel and advanced under fluoroscopic guidance into the heart chambers. Cardiac catheterization may include therapeutic intervention, but does	**12VAC5-230-10. Definitions.** The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise: "Acute psychiatric services" means hospital-based inpatient psychiatric services provided in distinct inpatient units in general hospitals or freestanding psychiatric hospitals. "Acute substance abuse disorder treatment services" means short-term hospital-based inpatient treatment services with access to the resources of (i) a general hospital, (ii) a psychiatric unit in a general hospital, (iii) an acute care addiction treatment unit in a general hospital licensed by the Department of Health, or (iv) a chemical dependency specialty hospital with acute care medical and nursing staff and life support equipment licensed by the Department of ~~Mental~~ Behavioral Health~~, Mental Retardation~~ and ~~Substance Abuse~~ Developmental Services. "Bassinet" means an infant care station, including warming stations and isolettes. "Bed" means that unit, within the complement of a medical care facility, subject to COPN review as required by Article 1.1 (§ 32.1-102.1 et seq.) of the Code of Virginia and designated for use by patients of the facility or service. For the purposes of this chapter, bed does include cribs and bassinets used for pediatric patients~~,~~ but does not include cribs and bassinets in the newborn nursery or neonatal special care setting. "Cardiac catheterization" means ~~a~~ an invasive procedure where a flexible tube is inserted

		not include a simple right heart catheterization for monitoring purposes as might be performed in an electrophysiology laboratory, pulmonary angiography as an isolated procedure, or cardiac pacing through a right electrode catheter. "Commissioner" means the State Health Commissioner. "Competing applications" means applications for the same or similar services and facilities that are proposed for the same health planning district, or same health planning region for projects reviewed on a regional basis, and are in the same batch review cycle. "Computed tomography" or "CT" means a noninvasive diagnostic technology that uses computer analysis of a series of cross-sectional scans made along a single axis of a bodily structure or tissue to construct an image of that structure. "Continuing care retirement community" or "CCRC" means a retirement community consistent with the requirements of Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia. "COPN" means a Medical Care Facilities Certificate of Public Need for a project as required in Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia. "COPN program" means the Medical Care Facilities Certificate of Public Need Program implementing Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia. "DEP" means diagnostic equivalent procedure, a method for weighing the relative value of	into the patient through an extremity blood vessel and advanced under fluoroscopic guidance into the heart chambers or coronary arteries. ~~Cardiac~~ A cardiac catheterization may ~~include therapeutic intervention,~~ be conducted for diagnostic or therapeutic purposes but does not include a simple right heart catheterization for monitoring purposes as might be performed in an electrophysiology laboratory, pulmonary angiography as an isolated procedure, or cardiac pacing through a right electrode catheter. "Commissioner" means the State Health Commissioner. "Competing applications" means applications for the same or similar services and facilities that are proposed for the same health planning district, or same health planning region for projects reviewed on a regional basis, and are in the same batch review cycle. "Complex therapeutic cardiac catheterization" means the performance of cardiac catheterization for the purpose of correcting or improving certain conditions that have been determined to exist in the heart or great arteries or veins of the heart, specifically catheter-based procedures for structural treatment to correct congenital or acquired structural or valvular abnormalities. "Computed tomography" or "CT" means a noninvasive diagnostic technology that uses computer analysis of a series of cross-sectional scans made along a single axis of a bodily structure or tissue to construct an image of that structure.

		various cardiac catheterization procedures as follows: a diagnostic procedure equals 1 DEP, a therapeutic procedure equals 2 DEPs, a same session procedure (diagnostic and therapeutic) equals 3 DEPs, and a pediatric procedure equals 2 DEPs. "Direction" means guidance, supervision or management of a function or activity. "Gamma knife®" means the name of a specific instrument used in stereotactic radiosurgery. "Health planning district" means the same contiguous areas designated as planning districts by the Virginia Department of Housing and Community Development or its successor. "Health planning region" means a contiguous geographic area of the Commonwealth as designated by the Board of Health with a population base of at least 500,000 persons, characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts. "Health system" means an organization of two or more medical care facilities, including but not limited to hospitals, that are under common ownership or control and are located within the same health planning district, or health planning region for projects reviewed on a regional basis. "Hospital" means a medical care facility licensed as an inpatient hospital or outpatient surgical center by the Department of Health or as a psychiatric hospital by the Department of Mental Health, Mental	"Continuing care retirement community" or "CCRC" means a retirement community consistent with the requirements of Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia. "COPN" means a Medical Care Facilities Certificate of Public Need for a project as required in Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia. "COPN program" means the Medical Care Facilities Certificate of Public Need Program implementing Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia. "DEP" means diagnostic equivalent procedure, a method for weighing the relative value of various cardiac catheterization procedures as follows: a diagnostic ~~procedure~~ cardiac catheterization equals 1 DEP, a simple therapeutic ~~procedure~~ cardiac catheterization equals 2 DEPs, a same session procedure (diagnostic and simple therapeutic) equals 3 DEPs, and a ~~pediatric procedure~~ complex therapeutic cardiac catheterization equals ~~2~~ 5 DEPs. A multiplier of 2 will be applied for a pediatric procedure (i.e., a pediatric diagnostic cardiac catheterization equals 2 DEPs, a pediatric simple therapeutic cardiac catheterization equals 4 DEPs, and a pediatric complex therapeutic cardiac catheterization equals 10 DEPs.) "Diagnostic cardiac catheterization" means the performance of cardiac catheterization for the purpose of detecting and identifying defects in the great arteries or veins of the heart or abnormalities in the heart structure, whether congenital or acquired.

		Retardation, and Substance Abuse Services. "ICF/MR" means an intermediate care facility for the mentally retarded. "Indigent" means any person whose gross family income is equal to or less than 200% of the federal Nonfarm Poverty Level or income levels A through E of 12VAC5-200-10 and who is uninsured. "Inpatient" means a patient who is hospitalized longer than 24 hours for health or health related services. "Intensive care beds" or "ICU" means inpatient beds located in the following units or categories: 1. General intensive care units are those units where patients are concentrated by reason of serious illness or injury regardless of diagnosis. Special lifesaving techniques and equipment are immediately available and patients are under continuous observation by nursing staff; 2. Cardiac care units, also known as Coronary Care Units or CCUs, are units staffed and equipped solely for the intensive care of cardiac patients; and 3. Specialized intensive care units are any units with specialized staff and equipment for the purpose of providing care to seriously ill or injured patients based on age selected categories of diagnoses, including units established for burn care, trauma care, neurological care, pediatric care, and cardiac surgery recovery, but does not include bassinets in neonatal special care units.	"Direction" means guidance, supervision, or management of a function or activity. "Gamma knife®" means the name of a specific instrument used in stereotactic radiosurgery. "Health planning district" means the same contiguous areas designated as planning districts by the Virginia Department of Housing and Community Development or its successor. "Health planning region" means a contiguous geographic area of the Commonwealth as designated by the State Board of Health with a population base of at least 500,000 persons, characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts. "Health system" means an organization of two or more medical care facilities, including ~~but not limited to~~ hospitals, that are under common ownership or control and are located within the same health planning district, or health planning region for projects reviewed on a regional basis. "Hospital" means a medical care facility licensed as an inpatient hospital or outpatient surgical center by the Department of Health or as a psychiatric hospital by the Department of ~~Mental~~ Behavioral Health~~, Mental Retardation,~~ and ~~Substance Abuse~~ Developmental Services. "ICF/MR" means an intermediate care facility for the mentally retarded. "Indigent" means any person whose gross family income is equal to or less than 200% of the federal Nonfarm Poverty Level or

		"Lithotripsy" means a noninvasive therapeutic procedure to (i) crush renal and biliary stones using shock waves, i.e., renal lithotripsy or (ii) treat certain musculoskeletal conditions and to relieve the pain associated with tendonitis, i.e., orthopedic lithotripsy. "Long-term acute care hospital" or "LTACH" means an inpatient hospital that provides care for patients who require a length of stay greater than 25 days and is, or proposes to be, certified by the Centers for Medicare and Medicaid Services as a long-term care inpatient hospital pursuant to 42 CFR Part 412. An LTACH may be either a free standing facility or located within an existing or host hospital. "Magnetic resonance imaging" or "MRI" means a noninvasive diagnostic technology using a nuclear spectrometer to produce electronic images of specific atoms and molecular structures in solids, especially human cells, tissues and organs. "Medical rehabilitation" means those services provided consistent with 42 CFR 412.23 and 412.24. "Medical/surgical" means those services available for the care and treatment of patients not requiring specialized services. "Minimum survival rates" means the base percentage of transplant recipients who survive at least one year or for such other period of time as specified by the United Network for Organ Sharing (UNOS). "Neonatal special care" means care for infants in one or more of the higher service levels designated in 12VAC5-410-443 of	income levels A through E of 12VAC5-200-10 and who is uninsured. "Inpatient" means a patient who is hospitalized longer than 24 hours for health or health related services. "Intensive care beds" or "ICU" means inpatient beds located in the following units or categories: 1. General intensive care units are those units where patients are concentrated by reason of serious illness or injury regardless of diagnosis. Special lifesaving techniques and equipment are immediately available and patients are under continuous observation by nursing staff; 2. Cardiac care units, also known as Coronary Care Units or CCUs, are units staffed and equipped solely for the intensive care of cardiac patients; and 3. Specialized intensive care units are any units with specialized staff and equipment for the purpose of providing care to seriously ill or injured patients based on age selected categories of diagnoses, including units established for burn care, trauma care, neurological care, pediatric care, and cardiac surgery recovery~~,~~ but does not include bassinets in neonatal special care units. "Lithotripsy" means a noninvasive therapeutic procedure to (i) crush renal and biliary stones using shock waves~~,~~ (i.e., renal lithotripsy) or (ii) treat certain musculoskeletal conditions and ~~to~~ relieve the pain associated with tendonitis~~,~~ (i.e., orthopedic lithotripsy). "Long-term acute care hospital" or "LTACH" means an inpatient

		the Rules and Regulations for the Licensure of Hospitals. "Nursing facility" means those facilities or components thereof licensed to provide long-term nursing care. "Obstetrical services" means the distinct organized program, equipment and care related to pregnancy and the delivery of newborns in inpatient facilities. "Off-site replacement" means the relocation of existing beds or services from an existing medical care facility site to another location within the same health planning district. "Open heart surgery" means a surgical procedure requiring the use or immediate availability of a heart-lung bypass machine or "pump." The use of the pump during the procedure distinguishes "open heart" from "closed heart" surgery. "Operating room" means a room used solely or principally for the provision of surgical procedures involving the administration of anesthesia, multiple personnel, recovery room access, and a fully controlled environment. "Operating room use" means the amount of time a patient occupies an operating room and includes room preparation and cleanup time. "Operating room visit" means one session in one operating room in an inpatient hospital or outpatient surgical center, which may involve several procedures. Operating room visit may be used interchangeably with "operation" or "case."	hospital that provides care for patients who require a length of stay greater than 25 days and is, or proposes to be, certified by the Centers for Medicare and Medicaid Services as a long-term care inpatient hospital pursuant to 42 CFR Part 412. An LTACH may be either a ~~free standing~~ freestanding facility or located within an existing or host hospital. "Magnetic resonance imaging" or "MRI" means a noninvasive diagnostic technology using a nuclear spectrometer to produce electronic images of specific atoms and molecular structures in solids, especially human cells, tissues and organs. "Medical rehabilitation" means those services provided consistent with 42 CFR 412.23 ~~and 412.24~~. "Medical/surgical" means those services available for the care and treatment of patients not requiring specialized services. "Minimum survival rates" means the base percentage of transplant recipients who survive at least one year or for such other period of time as specified by the United Network for Organ Sharing (UNOS). "Neonatal special care" means care for infants in one or more of the higher service levels designated in 12VAC5-410-443 ~~of the Rules and Regulations for the Licensure of Hospitals~~. "Nursing facility" means those facilities or components thereof licensed to provide long-term nursing care. "Obstetrical services" means the distinct organized program, equipment and care related to

		"Outpatient" means a patient who visits a hospital, clinic, or associated medical care facility for diagnosis or treatment, but is not hospitalized 24 hours or longer. "Pediatric" means patients younger than 18 years of age. Newborns in nurseries are excluded from this definition. "Perinatal services" means those resources and capabilities that all hospitals offering general level newborn services as described in 12VAC5-410-443 of the Rules and Regulations for the Licensure of Hospitals must provide routinely to newborns. "PET/CT scanner" means a single machine capable of producing a PET image with a concurrently produced CT image overlay to provide anatomic definition to the PET image. For the purpose of granting a COPN, the Board of Health pursuant to § 32.1-102.2 A 6 of the Code of Virginia has designated PET/CT as a specialty clinical service. A PET/CT scanner shall be reviewed under the PET criteria as an enhanced PET scanner unless the CT unit will be used independently. In such cases, a PET/CT scanner that will be used to take independent PET and CT images will be reviewed under the applicable PET and CT services criteria. "Planning horizon year" means the particular year for which bed or service needs are projected. "Population" means the census figures shown in the most current series of projections published by a demographic entity as determined by the commissioner. "Positron emission tomography" or "PET" means a noninvasive diagnostic or imaging	pregnancy and the delivery of newborns in inpatient facilities. "Off-site replacement" means the relocation of existing beds or services from an existing medical care facility site to another location within the same health planning district. "Open heart surgery" means a surgical procedure requiring the use or immediate availability of a heart-lung bypass machine or "pump." The use of the pump during the procedure distinguishes "open heart" from "closed heart" surgery. "Operating room" means a room used solely or principally for the provision of surgical procedures involving the administration of anesthesia, multiple personnel, recovery room access, and a fully controlled environment. "Operating room use" means the amount of time a patient occupies an operating room and includes room preparation and cleanup time. "Operating room visit" means one session in one operating room in an inpatient hospital or outpatient surgical center, which may involve several procedures. Operating room visit may be used interchangeably with "operation" or "case." "Outpatient" means a patient who visits a hospital, clinic, or associated medical care facility for diagnosis or treatment, but is not hospitalized 24 hours or longer. "Pediatric" means patients younger than 18 years of age. Newborns in nurseries are excluded from this definition.

		modality using the computer-generated image of local metabolic and physiological functions in tissues produced through the detection of gamma rays emitted when introduced radio-nuclids decay and release positrons. A PET device or scanner may include an integrated CT to provide anatomic structure definition. "Primary service area" means the geographic territory from which 75% of the patients of an existing medical care facility originate with respect to a particular service being sought in an application. "Procedure" means a study or treatment or a combination of studies and treatments identified by a distinct ICD-9 or CPT code performed in a single session on a single patient. "Qualified" means meeting current legal requirements of licensure, registration or certification in Virginia or having appropriate training, including competency testing, and experience commensurate with assigned responsibilities. "Radiation therapy" means treatment using ionizing radiation to destroy diseased cells and for the relief of symptoms. Radiation therapy may be used alone or in combination with surgery or chemotherapy. "Relevant reporting period" means the most recent 12-month period, prior to the beginning of the applicable batch review cycle, for which data is available from VHI or a demographic entity as determined by the commissioner. "Rural" means territory, population, and housing units that are classified as "rural" by the Bureau of the Census of the	"Perinatal services" means those resources and capabilities that all hospitals offering general level newborn services as described in 12VAC5-410-443 ~~of the Rules and Regulations for the Licensure of Hospitals~~ must provide routinely to newborns. "PET/CT scanner" means a single machine capable of producing a PET image with a concurrently produced CT image overlay to provide anatomic definition to the PET image. For the purpose of granting a COPN, the State Board of Health pursuant to § 32.1-102.2 A 6 of the Code of Virginia has designated PET/CT as a specialty clinical service. A PET/CT scanner shall be reviewed under the PET criteria as an enhanced PET scanner unless the CT unit will be used independently. In such cases, a PET/CT scanner that will be used to take independent PET and CT images will be reviewed under the applicable PET and CT services criteria. "Planning horizon year" means the particular year for which bed or service needs are projected. "Population" means the census figures shown in the most current series of projections published by a demographic entity as determined by the commissioner. "Positron emission tomography" or "PET" means a noninvasive diagnostic or imaging modality using the computer-generated image of local metabolic and physiological functions in tissues produced through the detection of gamma rays emitted when introduced ~~radio-nuclids~~ radionuclides decay and release positrons. A PET device or scanner may include an

		United States Department of Commerce, Economic and Statistics Administration. "SMFP" means the state medical facilities plan as contained in Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia used to make medical care facilities and services needs decisions. "Stereotactic radiosurgery" or "SRS" means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a therapeutic dose to a tissue volume. SRS may be delivered in a single session or in a fractionated course of treatment up to five sessions. "Stereotactic radiotherapy" or "SRT" means more than one session of stereotactic radiosurgery. "Substance abuse disorder treatment services" means services provided to individuals for the prevention, diagnosis, treatment, or palliation of chemical dependency, which may include attendant medical and psychiatric complications of chemical dependency. Substance abuse disorder treatment services are licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services. "Supervision" means to direct and watch over the work and performance of others. "Use rate" means the rate at which an age cohort or the population uses medical facilities and services. The rates are determined from periodic patient origin surveys conducted for the department by the regional health planning agencies, or other health statistical reports authorized by	integrated CT to provide anatomic structure definition. "Primary service area" means the geographic territory from which 75% of the patients of an existing medical care facility originate with respect to a particular service being sought in an application. "Procedure" means a study or treatment or a combination of studies and treatments identified by a distinct ~~ICD-9~~ ICD-10 or CPT code performed in a single session on a single patient. "Qualified" means meeting current legal requirements of licensure, registration, or certification in Virginia or having appropriate training, including competency testing, and experience commensurate with assigned responsibilities. "Radiation therapy" means treatment using ionizing radiation to destroy diseased cells and for the relief of symptoms. Radiation therapy may be used alone or in combination with surgery or chemotherapy. "Relevant reporting period" means the most recent 12-month period, prior to the beginning of the applicable batch review cycle, for which data is available from VHI or a demographic entity as determined by the commissioner. "Rural" means territory, population, and housing units that are classified as "rural" by the Bureau of the Census of the ~~United States~~ U.S. Department of Commerce, Economic and Statistics Administration. "Simple therapeutic cardiac catheterization" means the performance of cardiac catheterization for the purpose of correcting or improving certain

		Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1 of the Code of Virginia. "VHI" means the health data organization defined in § 32.1-276.4 of the Code of Virginia and under contract with the Virginia Department of Health.	conditions that have been determined to exist in the heart, specifically catheter-based treatment procedures for relieving coronary artery narrowing. "SMFP" means the state medical facilities plan as contained in Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia used to make medical care facilities and services needs decisions. "Stereotactic radiosurgery" or "SRS" means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a therapeutic dose to a tissue volume. SRS may be delivered in a single session or in a fractionated course of treatment up to five sessions. "Stereotactic radiotherapy" or "SRT" means more than one session of stereotactic radiosurgery. "Substance abuse disorder treatment services" means services provided to individuals for the prevention, diagnosis, treatment, or palliation of chemical dependency, which may include attendant medical and psychiatric complications of chemical dependency. Substance abuse disorder treatment services are licensed by the Department of ~~Mental~~ Behavioral Health~~, Mental Retardation,~~ and ~~Substance Abuse~~ Developmental Services. "Supervision" means to direct and watch over the work and performance of others. "Use rate" means the rate at which an age cohort or the population uses medical facilities and services. The rates are determined from periodic patient origin surveys conducted for the

			department by the regional health planning agencies~~,~~ or other health statistical reports authorized by Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1 of the Code of Virginia. "VHI" means the health data organization defined in § 32.1-276.4 of the Code of Virginia and under contract with the Virginia Department of Health. **INTENT:** The intent of the updated requirements is to update the definitions and to more appropriately apply diagnostic equivalent procedure calculations to differentiate between the relative value of different acuity level and severity of different types of cardiac catheterization procedures. **RATIONALE:** The rationale of the updated requirements is to make sure the definitions reflect current cardiac catheterization practices. **LIKELY IMPACT:** The likely impact of the updated requirements is improved clarity about the meaning of specific terms in the regulations.
12VAC5-230-420	N/A	**12VAC5-230-420. Nonemergent cardiac catheterization.** Proposals to provide elective interventional cardiac procedures such as PTCA, transseptal puncture, transthoracic left ventricle puncture, myocardial biopsy or any valvuoplasty procedures, diagnostic pericardiocentesis or therapeutic procedures should be approved only when open heart surgery services are available on-site in the same hospital in which the proposed non-emergent cardiac service will be located.	**CHANGE:** The Board is proposing the following changes: **12VAC5-230-420. Nonemergent cardiac catheterization.** ~~Proposals to provide elective interventional cardiac procedures such as PTCA, transseptal puncture, transthoracic left ventricle puncture, myocardial biopsy or any valvuoplasty procedures, diagnostic pericardiocentesis or therapeutic procedures should be approved only when open heart surgery services are available on-site in the same hospital in which the proposed non-emergent cardiac service will be located.~~

			A. Simple therapeutic cardiac catheterization. Proposals to provide simple therapeutic cardiac catheterization are not required to offer open heart surgery service available on-site in the same hospital in which the proposed simple therapeutic service will be located. However, these programs shall adhere to the requirements described in subdivisions 1 through 9 of this subsection. The programs shall: 1. Participate in the Virginia Heart Attack Coalition, the Virginia Cardiac Services Quality Initiative, and the Action Registry-Get with the Guidelines or National Cardiovascular Data Registry to monitor quality and outcomes; 2. Adhere to strict patient-selection criteria; 3. Perform annual institutional volumes of 300 cardiac catheterization procedures, of which at least 75 should be percutaneous coronary intervention (PCI) or as dictated by American College of Cardiology (ACC)/American Heart Association (AHA) Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories effective 1991; 4. Use only AHA/ACC-qualified operators who meet the standards for training and competency; 5. Demonstrate appropriate planning for program development and complete both a primary PCI development program and an elective PCI development program that includes

			routine care process and case selection review; 6. Develop and maintain a quality and error management program; 7. Provide PCI 24 hours a day, seven days a week; 8. Develop and maintain necessary agreements with a tertiary facility that must agree to accept emergent and nonemergent transfers for additional medical care, cardiac surgery, or intervention; and 9. Develop and maintain agreements with an ambulance service capable of advanced life support and intra-aortic balloon pump transfer that guarantees a 30-minute or less response time. B. Complex therapeutic cardiac catheterization. Proposals to provide complex therapeutic cardiac catheterization should be approved only when open heart surgery services are available on-site in the same hospital in which the proposed complex therapeutic service will be located. Additionally, these complex therapeutic cardiac catheterization programs will be required to participate in the Virginia Cardiac Services Quality Initiative and the Virginia Heart Attack Coalition. **INTENT:** The intent of the updated requirements is list the circumstances under which a facility can provide simple and complex therapeutic cardiac catheterizations. **RATIONALE:** The rationale of the updated requirements is to reflect current cardiac catheterization practices and standards of care.

			LIKELY IMPACT: The likely impact of the updated requirements is improved clarity on what applicants must do to demonstrate public need for simple and complex cardiac catheterizations.
12VAC5-230-610	N/A	**12VAC5-230-610. Need for new service.** A. A health planning district should be considered to have a need for additional nursing facility beds when: 1. The bed need forecast exceeds the current inventory of beds for the health planning district; and 2. The average annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 93%, excluding the bed inventory and utilization of the Virginia Veterans Care Centers. Exception: When there are facilities that have been in operation less than three years in the health planning district, their occupancy can be excluded from the calculation of average occupancy if the facilities had an annual occupancy of at least 93% in one of its first three years of operation. B. No health planning district should be considered in need of additional beds if there are unconstructed beds designated as Medicaid certified. This presumption of 'no need' for additional beds extends for three years from the issuance date of the certificate. C. The bed need forecast will be computed as follows:	**CHANGE:** The Board is proposing the following changes: **12VAC5-230-610. Need for new service.** A. A health planning district should be considered to have a need for additional nursing facility beds when: 1. The bed need forecast exceeds the current inventory of existing and authorized beds for the health planning district; and 2. The ~~average~~ median annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 93%, and the average annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 90%, excluding the bed inventory and utilization of the Virginia Veterans Care Centers. Exception: When there are facilities that have been in operation less than ~~three years~~ one year in the health planning district, their occupancy can be excluded from the calculation of average occupancy ~~if the facilities had an annual occupancy of at least 93% in one of its first three years of operation~~. B. No health planning district should be considered in need of additional beds if there are unconstructed beds designated as Medicaid certified. This presumption of 'no need' for

		PDBN = (UR64 x PP64) + (UR69 x PP69) + (UR74 x PP74) + (UR79 x PP79) + (UR84 x PP84) + (UR85 x PP85) Where: PDBN = Planning district bed need. UR64 = The nursing home bed use rate of the population aged 0 to 64 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP64 = The population aged 0 to 64 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR69 = The nursing home bed use rate of the population aged 65 to 69 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP69 = The population aged 65 to 69 projected for the health planning district three years from the current year as most recently published by the a demographic program as determined by the commissioner. UR74 = The nursing home bed use rate of the population aged 70 to 74 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.	additional beds extends for three years from the issuance date of the certificate. C. The bed need forecast will be computed as follows: PDBN = (UR64 x PP64) + (UR69 x PP69) + (UR74 x PP74) + (UR79 x PP79) + (UR84 x PP84) + (UR85 x PP85) Where: PDBN = Planning district bed need. UR64 = The nursing home bed use rate of the population aged 0 to 64 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP64 = The population aged 0 to 64 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR69 = The nursing home bed use rate of the population aged 65 to 69 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP69 = The population aged 65 to 69 projected for the health planning district three years from the current year as most recently published by ~~the~~ a demographic program as determined by the commissioner. UR74 = The nursing home bed use rate of the

		PP74 = The population aged 70 to 74 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR79 = The nursing home bed use rate of the population aged 75 to 79 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP79 = The population aged 75 to 79 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR84 = The nursing home bed use rate of the population aged 80 to 84 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP84 = The population aged 80 to 84 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR85+ = The nursing home bed use rate of the population aged 85 and older in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.	population aged 70 to 74 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP74 = The population aged 70 to 74 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR79 = The nursing home bed use rate of the population aged 75 to 79 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP79 = The population aged 75 to 79 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR84 = The nursing home bed use rate of the population aged 80 to 84 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI. PP84 = The population aged 80 to 84 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner. UR85+ = The nursing home bed use rate of the population aged 85 and older

PP85+ = The population aged 85 and older projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.

Health planning district bed need forecasts will be rounded as follows:

Health Planning District Bed Need	Rounded Bed Need
1-29	0
30-44	30
45-84	60
85-104	90
105-134	120
135-164	150
165-194	180
195-224	210
225+	240

Exception: When a health planning district has:

1. Two or more nursing facilities;

2. Had an average annual occupancy rate in excess of 93% for the most recent two years for which bed utilization has been reported to VHI; and

3. Has a forecasted bed need of 15 to 29 beds, then the bed need for this health planning district will be rounded to 30.

D. No new freestanding nursing facilities of less than 90 beds should be authorized. However, consideration may be given to a new freestanding facility with fewer than 90 nursing facility beds when the applicant can demonstrate that such a facility is justified based on a locality's preference for such smaller facility and there is a documented poor distribution of

in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.

PP85+ = The population aged 85 and older projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.

Health planning district bed need forecasts will be rounded as follows:

Health Planning District Bed Need	Rounded Bed Need
1-29	0
30-44	30
45-84	60
85-104	90
105-134	120
135-164	150
165-194	180
195-224	210
225+	240

Exception: When a health planning district has:

1. Two or more nursing facilities;

2. Had ~~an average~~ a median annual occupancy rate ~~in excess~~ of 93% of all existing and authorized Medicaid-certified nursing facility beds and an annual average occupancy rate of at least 90% of all existing and authorized Medicaid-certified nursing facility beds for each of the most recent two years for which bed utilization has been reported to VHI; and

3. Has a forecasted bed need of 15 to 29 beds, then the bed

		nursing facility beds within the health planning district. E. When evaluating the capital cost of a project, consideration may be given to projects that use the current methodology as determined by the Department of Medical Assistance Services. F. Preference may be given to projects that replace outdated and functionally obsolete facilities with modern facilities that result in the more cost-efficient resident services in a more aesthetically pleasing and comfortable environment.	need for this health planning district will be rounded to 30. D. No new freestanding nursing facilities of less than 90 beds should be authorized. However, consideration may be given to a new freestanding facility with fewer than 90 nursing facility beds when the applicant can demonstrate that such a facility is justified based on a locality's preference for such smaller facility and there is a documented poor distribution of nursing facility beds within the health planning district. E. When evaluating the capital cost of a project, consideration may be given to projects that use the current methodology as determined by the Department of Medical Assistance Services. F. Preference may be given to projects that replace outdated and functionally obsolete facilities with modern facilities that result in the more cost-efficient resident services in a more aesthetically pleasing and comfortable environment. **INTENT:** The intent of the updated requirements is to clarify that authorized but nonoperational beds should be included in the inventory for health planning districts and to smooth the assessment of individual planning districts by contrasting average utilization with median occupancy. **RATIONALE:** The rationale of the updated requirements is to reduce the influence of facility outliers at both ends of the spectrum. **LIKELY IMPACT:** The likely impact of the updated requirements is a more accurate assessment of need for additional nursing home beds will be made for each planning district.

12VAC5-230-620	N/A	**12VAC5-230-620. Expansion of services.** Proposals to increase existing nursing facility bed capacity should not be approved unless the facility has operated for at least two years and the average annual occupancy of the facility's existing beds was at least 93% in the relevant reporting period as reported to VHI. Note: Exceptions will be considered for facilities that operated at less than 93% average annual occupancy in the most recent year for which bed utilization has been reported when the facility offers short stay services causing an average annual occupancy lower than 93% for the facility.	**CHANGE:** The Board is proposing the following changes: **12VAC5-230-620. Expansion of services.** Proposals to increase an existing nursing ~~facility~~ facility's bed capacity should not be approved unless the facility has operated for at least two years and the average annual occupancy of the facility's existing beds was at least ~~93%~~ 90% in the relevant reporting period as reported to VHI. Note: Exceptions will be considered for facilities that operated at less than ~~93%~~ 90% average annual occupancy in the most recent year for which bed utilization has been reported when the facility offers short stay services causing an average annual occupancy lower than ~~93%~~ 90% for the facility. **INTENT:** The intent of the updated requirements is to increase the lead time needed for the development and construction of new nursing homes. **RATIONALE:** The rationale of the updated requirements is that lower threshold occupancy will result in a earlier determinations of need for a planning district. **LIKELY IMPACT:** The likely impact of the updated requirements is more time will be given to develop a new facility.
N/A	DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-230)	None	**CHANGE:** The Board is proposing the following changes: **DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-230)** ACC/AHA Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories, American College of

			Cardiology/American Heart Association Ad Hoc Task Force on Cardiac Catheterization, JACC Vol. 18 No. 5, November 1, 1991: 1149-82 **INTENT:** The intent of the updated requirements is to incorporate documents referenced in the regulatory text. **RATIONALE:** The rationale of the updated requirements is that the documents incorporated by reference section should be an accurate listing of all documents referenced by the regulatory text. **LIKELY IMPACT:** The likely impact of the updated requirements is improved clarity about what specific document is incorporated by reference.