Proposed Regulation
Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation(s)	12VAC5-230
Regulation title(s)	State Medical Facilities Plan
Action title	Update the regulatory chapter following periodic review
Date this document prepared	May 10, 2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual.*

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulatory action will update the regulatory chapter pertaining to the State Medical Facilities Plan in order to correct several definitions in relation to cardiac catheterization, and add some new definitions. It will also make the appropriate changes to the occupancy standard utilized for determining the need for new nursing home beds.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

There are no technical terms or acronyms utilized in this document.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

The regulation is promulgated under the authority of § 32.1-102.2 of the Code of Virginia. Section 32.1-102.2 of the Code of Virginia requires the Board promulgate regulations that establish concise procedures for the prompt review of applications for certificates of public need consistent with Article 1.1 of Chapter 4 of Title 32.1. Section 32.1-102.2 of the Code of Virginia further requires the Board to promulgate regulations which establish specific criteria for determining need in rural areas, giving due consideration to distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care in such areas.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is 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 State Medical Facilities Plan are essential to protect the health of Virginians as the Department has determined that excess capacity or underutilization of medical facilities are detrimental to both cost effectiveness and quality of medical services in Virginia; the Department seeks to promote the availability and accessibility of proven technologies through planned geographical distribution of medical facilities; the Department seeks to promote 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 Department seeks to encourage the conversion of facilities to new and efficient uses and the reallocation of resources to meet evolving community needs; and the Department discourages the proliferation of services that would undermine the ability of essential community providers to maintain their financial viability.

Substance

Please 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.
• Reduces the occupancy level required to approve expansion of beds in an existing nursing facility from 93 percent to 90 percent.

Issues

Please identify the issues associated with the proposed regulatory action, 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, please indicate.

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 Virginia Department of Health 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

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no federal requirements related to certificate of public need (COPN)

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality shall be particularly affected by the proposed amendments. No particular locality shall bear any identified disproportionate material impact which would not be experienced by other localities.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

The agency is seeking comments on this regulatory action, including but not limited to 1) ideas to be considered in the development of this proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also

seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) the probable effect of the regulation on affected small businesses, and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so by mail, email, or fax to **Domica Winstead, Policy Analyst, 9960 Mayland Drive Suite 401, Richmond, Virginia 23233, phone: 804-367-2157, and email: Domica.Winstead@vdh.virginia.gov** or via the Regulatory Town Hall website (**http://www.townhall.virginia.gov**). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including: **a) fund source / fund detail; and** **b) a delineation of one-time versus on-going expenditures**	None
Projected cost of the new regulations or changes to existing regulations on localities.	None
Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.	Individuals or businesses that own medical care facilities subject to COPN review. More specifically, inpatient acute care hospitals and nursing homes, as well as those proposing to develop inpatient acute care hospitals and nursing homes.
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million.	105 hospitals currently provide, or may seek to provide at some time in the future, cardiac catheterization services. 284 existing nursing homes and an unknown number of future applicants for the development of nursing homes in the Commonwealth.
All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: **a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and** **b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.**	No additional costs are anticipated for affected entities to comply with the amended regulations over the current cost to comply.

Beneficial impact the regulation is designed to produce.	The proposed amendments to the regulation are not expected to have any economic impact. The amendments to the cardiac catheterization provisions are designed to help improve clinical service quality. The amendments to the nursing facility provisions are designed to provide a more accurate assessment of need for additional nursing facility beds in each health planning district, in response to federal policy changes that have resulted in shortened average lengths of stay and reduced occupancy levels. Specifically, the Centers for Medicare and Medicaid Services now pay for short-stay rehabilitation patients in nursing facilities, which has served to help reduce average length of stays and occupancy levels.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no other viable alternatives other than the intended regulatory action to carry out the Board's statutory mandate to promulgate regulations which establish concise procedures for the prompt review of applications for certificates of public need consistent with Article 1.1 of Chapter 4 of Title 32.1 and regulations which establish specific criteria for determining need in rural areas, giving due consideration to distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care in such areas. The regulations are mandated by § 32.1-102.2 of the Code of Virginia.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The proposed amendments are clearly and directly mandated by law. The alternative regulatory methods are not permitted due to the statutory mandate.

Periodic review and small business impact review report of findings

If you are using this form to report the result of a periodic review/small business impact review that was announced during the NOIRA stage, please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

The regulation meets the criteria set out in Executive Order 17 (2014) as the regulation is necessary for the protection of public health, safety and welfare and is clearly written and easily understandable. There is a continued need for the regulation as the regulation is required by § 32.1-102.2 of the Code of Virginia. The Department has not received complaints from the public concerning the regulation. The regulatory chapter is written as simply as possible. The regulation does not overlap, duplicate or conflict with any federal or state law or regulation. The regulation was reviewed and evaluated during the periodic review held from April 22, 2013 until May 14, 2013. The proposed amendments address factors which have changed in the area affected by the regulation.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response

No public comment was received during the public comment period following the publication of the NOIRA.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The Board has assessed the impact the proposed regulatory action will have on the institution of the family and family stability. The Board anticipates no impact to the family or family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below

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For changes to existing regulation(s), please use the following chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
12VAC5-230-10-Definitions		"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 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.	"Cardiac catheterization" means an invasive procedure where a flexible tube is inserted into the patient through an extremity blood vessel and advanced under fluoroscopic guidance into the heart chambers or coronary arteries. A ~~C~~cardiac catheterization may be conducted for diagnostic or therapeutic purposes ~~include therapeutic intervention~~, 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. Intent: To clarify the language and to designate cardiac catheterizations as either diagnostic or therapeutic. Likely Impact: Provides clarification for language proposed in the regulations.
12VAC5-230-10-Definitions		N/A	"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. Intent: To bring the regulations up to date with current cardiac catheterization practices.

			Likely Impact: Provides clarification for language proposed in the regulations.
12VAC5-230-10-Definitions		"DEP" means diagnostic equivalent procedure, a method for weighing the relative value of 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.	"DEP" means diagnostic equivalent procedure, a method for weighing the relative value of various cardiac catheterization procedures as follows: a diagnostic cardiac catheterization equals 1 DEP, a simple therapeutic cardiac catheterization equals 2 DEPs, a same session procedure (diagnostic and simple therapeutic) equals 3 DEPs, ~~and a pediatric procedure equals 2 DEPs~~ and a complex therapeutic cardiac catheterization equals 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.) Intent: 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. Likely Impact: Provides clarification for language proposed in the regulations.
12VAC5-230-10-Definitions		N/A	"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. Intent: To define diagnostic cardiac catheterization as opposed to therapeutic cardiac catheterizations. Likely Impact: Provides clarification for language proposed in the regulations.

12VAC5-230-10-Definitions		N/A	"Simple 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, specifically catheter-based treatment procedures for relieving coronary artery narrowing. Intent: To bring the regulations up to date with current cardiac catheterization practices. Likely Impact: Provides clarification for language proposed in the regulations.
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.	~~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 will be expected to adhere to the following guidelines based on the most recent version of the American Heart Association/American Stroke Association's Percutaneous Coronary Intervention (PCI) without Surgical Back-up Policy Guidance: 1. Participation in the Virginia Cardiac Services Quality Initiative as well as the Action Registry-Get With the Guideline (AR-G) and/or National Cardiovascular Data Registry (NCDR) to monitor quality and outcomes; 2. adherence to strict patient-selection criteria; 3. annual institutional volumes of 300 cardiac catheterization procedures, of which at least 75 should be PCI (or as dictated by American Heart

			Association (AHA)/American College of Cardiology (ACC) guidelines); 4. use of only AHA/ACC-qualified operators who meet the standards for training and competency; 5. demonstration of appropriate planning for program development and completion of both a primary PCI development program and an elective PCI development program which includes routine care process and case selection review; 6. development and maintenance of a quality and error management program; 7. provision of PCI 24 hours a day, seven days a week; 8. development and maintenance of necessary agreements with a tertiary facility (which must agree to accept emergent and non-emergent transfers for additional medical care, cardiac surgery, or intervention); 9. development and maintenance of agreements with an ambulance service capable of advanced life support and intra-aortic balloon pump (IABP) transfer that guarantees a 30-minute-or less response time; and 10. participation in the Virginia Heart Attack Council and the Virginia Cardiac Services Quality Initiative Intent: To list the circumstances under which a facility can provide simple therapeutic cardiac catheterizations. Likely Impact: This will prevent hospitals without open heart surgery back up from performing complex therapeutic catheterizations. 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 Council.

			Intent: To list circumstances under which a facility can provide complex therapeutic cardiac catheterizations. Likely Impact: This will allow hospitals that meet the required standards to perform complex therapeutic cardiac catheterizations.
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: PDBN = (UR64 x PP64) + (UR69 x PP69) + (UR74 x PP74) + (UR79 x PP79) +	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 <u>existing and authorized</u> beds for the health planning district; and Intent: To clarify that authorized but non-operational beds should be included in the inventory for health planning districts. Likely Impact: This will allow for a more accurate forecast of net need. 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%, <u>and the average annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 90%</u>, 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~~ one year~~s~~ 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~~. Intent: The proposed changes to the calculation of need will smooth the assessment of individual planning districts by contrasting average utilization with median occupancy, which reduces the influence of facility outliers at both ends of the spectrum. Likely Impact: A more accurate assessment of need for additional nursing home beds will be made for each planning district.

		(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. PP74 = The population aged 70 to 74 projected for the health planning district three years from the current year	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: 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. 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.

		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. 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	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. 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

		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	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 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. Intent: The proposed changes to the calculation of need will smooth the assessment of individual planning districts by contrasting average utilization with median occupancy, which reduces the influence of facility outliers at both ends of the spectrum. Likely Impact: A more accurate assessment of need for additional nursing home beds will be made for each planning district. 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.

		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.	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.
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.	Proposals to increase an existing nursing 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~~.0~~% in the relevant reporting period as reported to VHI. Note: Exceptions will be considered for facilities that operated at less than ~~93%~~ 90~~.0~~% 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~~.0~~% for the facility. Intent: To allow for an increase the lead time needed for the development and construction of new nursing homes. Likely Impact: Lower threshold occupancy will result in a determination of need for the planning district earlier, allowing for more time to develop the new facility.