

Client Alert

STATE MEDICAL FACILITIES PLAN PERIODIC REVIEW

Executive Summary

State health planners have initiated a periodic review of the State Medical Facilities Plan (“SMFP”), which is used as the foundation for Certificate of Public Need (“COPN”) decisions. This Alert describes the periodic review process and identifies certain regulations that may be subject to change as a result of the review process.

Background

Virginia’s COPN law requires that health care providers receive state authorization before implementing certain “projects,” such as building a new medical care facility or new operating rooms, adding a new MRI or CT scanner, or introducing services, including lithotripsy, neonatal care, cardiac catheterization, or open heart surgery. The SMFP incorporates the regulations that set standards for review and approval of COPN applications. The COPN law requires the Virginia Department of Health’s (“VDH’s”) SMFP Task Force to complete a review of the SMFP at least once every four years. Pursuant to this mandate, the SMFP Task Force is currently conducting a periodic review of the SMFP for the first time since April 2009.

The purpose of the review is to determine if the SMFP should be terminated, amended, or retained in its current form. The SMFP Task Force consists of representatives from VDH, the Division of Certificate of Public Need, regional health planning agencies, the health care provider community (including hospitals, nursing homes, and physicians), the academic medical community, and health insurers. A list of task force members is attached.

SMFP Task Force Meeting

On June 18, 2013, the SMFP Task Force met in Richmond, Virginia, to identify potential revisions to the SMFP. The meeting followed the end of the public comment period, during which time the public submitted comments on the SMFP. VDH received several specific suggestions pertaining to, among other topics, the criteria of need for radiation therapy services and rehabilitation services and the open-heart surgery back-up requirement for therapeutic cardiac catheterization procedures.

During the meeting, the SMFP Task Force identified potential revisions to the SMFP and considered suggestions received during the public comment period. Among the topics discussed were:¹

- the need for volume standards for linear accelerators with and without stereotactic radiosurgery services;
- the removal from the SMFP of the special care nursery occupancy standard and the calculation of utilization of services provided with mobile equipment;
- the criteria of need for radiation therapy services, rehabilitation beds, and inpatient beds;
- the appropriate source of population data;
- the collection of patient origin data and corresponding changes to the 93% occupancy standard for new nursing facilities; and
- the need to change the “average” annual occupancy standard to the “median” annual occupancy standard.

To help facilitate review of certain topics, the SMFP Task Force created sub-committees for radiation therapy, long-term care/nursing facilities, and rehabilitation/inpatient beds. The sub-committees may include individuals who are not members of the SMFP Task Force.

The SMFP Task Force plans to meet quarterly, with its next meeting scheduled for October 2013. In the meantime, sub-committees will meet to discuss their respective topics and will report to the SMFP Task Force in October. For additional information about the periodic review, including upcoming SMFP Task Force meetings, please see the Virginia Regulatory Town Hall website at <http://townhall.virginia.gov/index.cfm>.

Conclusion

Any recommended revisions to the SMFP will proceed through the routine process for development of regulations, including publication of proposed regulations and additional public comment.

If you would like more information about the periodic review or the SMFP in general, please contact a member of McCandlish Holton’s Health Care Team at (804) 775-3100. Individual contact information for each Health Care Team attorney is provided below.

¹ The full meeting agenda is attached.

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State Medical Facilities Plan Task Force
Meeting Agenda: June, 18 2013 1:00 p.m. - 4:00 p.m.
Department of Health – Perimeter Center 9960 Mayland Drive, Henrico
2nd Floor Conference Center

1:00 - 1:15 – Welcome/Introductions

1:15 - 3:30 – Identify SMFP issues to address and Periodic Review Comments

OLC's short list:

- Need volume standards for:
 - Linear Accelerator with SRS vs. without SRS
 - Other “medical equipment for the provision of . . . radiation therapy” such as:
 - High Dose Rate Afterloader
 - Intraoperative radiation therapy devices
 - Superficial radiation therapy devices
- Remove from SMFP:
 - Special Care Nursery Occupancy Standard
 - Calculation of utilization of services provided with mobile equipment

Specific Suggestions from Periodic Review Comments

- Examination of need criteria for radiation therapy, rehabilitation and inpatient beds
- Determining the appropriate source of population data (VEC is using the Weldon Cooper Center population projections) and management of emerging technologies
- Move forward with the collection of recent patient origin data and to wait to evaluate the impact of managed care implementation on occupancy before making changes to the 93 percent occupancy threshold
- Recommends that “average” annual occupancy should be changed to the “median” annual occupancy
- Review the SMFP criteria for Stereotactic Radiosurgery and Stereotactic Body Radiotherapy (“SRS/SBRT”)
- Remove open-heart surgery back up requirement for therapeutic cardiac catheterization procedures

3:30 - 4:00 – Wrap Up - Next Meeting:

2013 SMFP Task Force Committee

5/31/2013

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