



townhall.virginia.gov

Fast-Track Regulation Agency Background Document

Agency name	State Board of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-220-10 <i>et seq.</i>
VAC Chapter title(s)	Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations
Action title	Promulgation of Fee Schedule
Date this document prepared	July 1, 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.

Chapter 1271 (2020 Acts of Assembly) made extensive revisions to Article 1.1 (§ 32.1-102.1 *et seq.*) of Chapter 4 of Title 32.1 of the Code of Virginia, which governs the Certificate of Public Need program in VDH. The amendments removed the prior statutory cap on fees and included authority for the State Board of Health to establish a fee schedule for the applications that it receives. This regulatory action creates a fee schedule for the COPN program and revises the fee cap on applications.

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.

“Agency” means the Virginia Department of Health.

“Board” means the State Board of Health.

“COPN” means Certificate of Public Need.

“ICF/IID” means intermediate care facility for individuals with intellectual disabilities.

“RHPA” means regional health planning agency.

“SHSP” means the State Health Services 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 the fast-track amendments for 12VAC5-220 Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations on March 18, 2021.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

Chapter 1271 (2020 Acts of Assembly) made extensive revisions to Article 1.1 (§ 32.1-102.1 *et seq.*) of Chapter 4 of Title 32.1 of the Code of Virginia, which governs the COPN program in VDH. Va. Code § 32.1-102.2(A)(5) previously granted the Board the authority to establish a fee schedule for COPN applications, but the fees were capped at “the lesser of one percent of the proposed expenditure for the project or \$20,000”; this fee cap was created in 1996 and was an increase from the prior fee cap of \$10,000. With the amendments introduced by Chapter 1271 (2020 Acts of Assembly), the authority to establish a fee schedule has been renumbered as Va. Code § 32.1-102.2(A)(5), expanded to include registration applications, and removed the fee cap. Chapter 1271 (2020 Acts of Assembly) also increased the review interval for the SHSP (formerly the State Medical Facilities Plan) from four years to two years and placed new requirements on VDH to have a publicly available electronic inventory of COPN-authorized capacity. These changes require an additional two FTEs and the Board is establishing a new fee schedule to support the existing COPN program, the new program obligations, and the new FTEs.

It is anticipated that this action will be noncontroversial and therefore appropriate for the fast-track process because:

- the fee being charged for registration applications is nominal; and
- the fee being charged for COPN applications retains a fee cap (though it has been adjusted higher) and still utilizes a formula of the lesser of one percent of the proposed project expenditure or the fee cap.

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.

This regulation is promulgated under the authority of §§ 32.1-12 and 32.1-102.2(A)(4) of the Code of Virginia. Va. Code § 32.1-12 grants the Board the legal authority “to make, adopt, promulgate, and enforce such regulations...as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by it, the Commissioner, or the Department.”

Va. Code § 32.1-102.2(A)(4) states that the Board shall promulgate regulations that are consistent with this article and....[m]ay establish a schedule of fees for applications for certificates or registration of a project to be applied to expenses for the administration and operation of the Certificate of Public Need Program[.]”

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.

The rationale or justification of the regulatory change is that the COPN program should be primarily, if not entirely, supported by fee revenue rather than general funds. The specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens is that the continued financial health of the COPN program ensures that the healthcare marketplace is not flooded with unneeded medical facilities or equipment and that charity care is being provided to indigent patients. There is a minimum patient volume needed to ensure continued competency of staff providing care, which is a consideration of COPN programs staff when evaluating COPN requests; COPNs are also conditioned on the provision of a prescribed amount of charity care to indigent patients, which allows healthcare to be accessible to more patients. The goals of the regulatory change is to ensure that VDH receives sufficient revenue to support its COPN program and the mandated activities that the COPN program carries out. The problem the regulatory change is intended to solve is to update a fee cap that has not been changed in over 20 years and to create a fee for the registration process that currently lacks one.

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.

12VAC5-220-10. Definitions.

Repeal of the definition for “application fee.”

12VAC5-220-95. Fee schedule.

A new section; creates a fee schedule for COPN applications and registration applications.

12VAC5-220-105. Requirements for registration of the replacement of existing medical equipment.

Specifies that the registration has to be accompanied by the fee prescribed in 12VAC5-220-95.

12VAC5-220-110. Requirements for registration of certain capital expenditures.

Specifies that the registration has to be accompanied by the fee prescribed in 12VAC5-220-95.

12VAC5-220-180. Application forms.

Specifies that the registration has to be accompanied by the fee prescribed in 12VAC5-220-95.

12VAC5-220-355. RFA project application forms.

Specifies that the registration has to be accompanied by the fee prescribed in 12VAC5-220-95.

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 to the public are a sufficiently funded COPN program that can regulate the healthcare marketplace, that maintains and updates the SHSP, and that monitors compliance with charity care conditions on COPNs. The primary disadvantages to the public is the assessment of higher fees for COPN projects if the project cost is in excess of \$2 million. The primary advantages to VDH and the Commonwealth are that the COPN program will have sufficient fee revenue to support its current staff, the two new FTEs, and the new mandates that the COPN program must meet. There are no primary disadvantages to the Commonwealth. There are no other pertinent matters of interest to the regulated community, government officials, and the public

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agencies are particularly affected by this proposed regulatory change.

Localities Particularly Affected

No localities are particularly affected by this proposed regulatory change.

Other Entities Particularly Affected

No entities are particularly affected by this proposed regulatory change.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources 	<p>There are no projected costs, savings, or revenue loss resulting from the regulatory change.</p> <p>The SFY2020 budget to administer the COPN program was \$981,368. COPN application fee revenue in SFY2020 was \$1,022,030, a 4.1% margin (\$40,662) over budget. The SFY2021 budget includes an additional two FTEs for the COPN program to provide support to the production of the State Health Services Plan and to provide community outreach and education on the COPN program; therefore, there is not sufficient revenue from the current fee structure to support the COPN program. The annual number of COPN applications cannot be accurately predicted and the number of applications received in just the last five years has varied from a low of 38 applications to a high of 61 applications.</p> <p>In SFY1995 (the year before the last increase in COPN application fees), the average proposed capital expenditure for a proposed COPN project was \$3,132,053 (range \$0 - \$54,524,000) and the average COPN application fee was \$6,215 (range \$0 - \$10,000). In SFY1995, only 37% of COPN application fees were at the maximum allowed. In SFY2020, the average proposed capital expenditure for a proposed COPN project was \$9,100,992 (range \$0 - \$155,764,458) and the average COPN application fee was \$15,254 (range \$1,000 - \$20,000). In SFY2020, 63% of projects seeking COPN authorization had estimated capital costs greater than \$2,000,000.</p> <p>With the inclusion of two new FTEs, the COPN program budget's "annual revenue target" is now \$1,189,849. Setting the maximum COPN</p>
--	--

	<p>application fee at \$60,000 will be just \$4,751 short of target in a year with the lowest expected number (38) of COPN applications and would exceed the target in a year with an average number (46) of expected applications by \$244,743. Item 300 of the State Budget provides that any COPN application fees in excess of the amount required to operate the COPN program (less one month's operating expenses) shall be provided to RHPAs as supplemental funding, which in a year with an average number of expected applications would result in \$145,589 (\$244,743 less one month's operating expenses) being provided to the RHPAs.</p> <p>The projected fees resulting from the regulatory change are a fee of \$70 for registration and a fee of 1% of the estimated capital expenditure for the project (with a minimum of \$1,000 and maximum of \$60,000) for all other projects.</p> <p>The projected total revenue resulting from the regulatory change is at least \$1,189,489 annually, which is an increase of \$167,819 compared to SFY2020's fee revenue.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>None.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>VDH will have sufficient fee revenue to support its COPN program activities and staff.</p>

Impact on Localities

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>There are no projected savings, fees or revenues resulting from the regulatory change resulting from the regulatory change for localities. The projected costs for localities are identical to those being assess on other entities, which is a fee of \$70 for registration and a fee of 1% of the estimated capital expenditure for the project (with a minimum of \$1,000 and maximum of \$60,000) for all other projects.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>VDH will have sufficient fee revenue to support its COPN program activities and staff.</p>

Impact on Other Entities

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>The individuals, business, or other entities likely to be affected by the regulatory change are any that seek to apply for a COPN or for registration of qualified projects. This potentially includes hospitals, nursing homes, ICF/IIDs, and some physician's offices.</p>
--	---

<p>Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p> <ul style="list-style-type: none"> 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. 	<p>There are 104 general hospitals, 65 outpatient surgical hospitals, 8 psychiatric hospitals, 283 nursing homes, 61 ICF/IIDs, and 37,567 doctors of medicine.</p> <p>There is not data available about how many doctors of medicine operate a physician's office and how many of that number would be engaging in services or utilizing equipment that would require either registration or a COPN; however, it is likely that all doctors of medicine would qualify as a small business if they did operate a physician's office. Over the past five years, COPN requests from physician groups make up an average of 18.8% of all requests (an average of 8.8 requests per year over the last five years).</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:</p> <ul style="list-style-type: none"> a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements. 	<p>There are no projected savings, fees or revenues resulting from the regulatory change resulting from the regulatory change for affected individuals, businesses, or other entities. The projected costs are a fee of \$70 for registration and a fee of 1% of the estimated capital expenditure for the project (with a minimum of \$1,000 and maximum of \$60,000) for all other projects.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>VDH will have sufficient fee revenue to support its COPN program activities and staff.</p>

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

There are no viable alternatives to the regulatory change as the Board has no other method other than the promulgation of regulations to create a fee schedule.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

There are no alternative regulatory methods. The Board is required by the General Assembly to regulate the COPN program. The Board has no other method other than the promulgation of regulations to create a fee schedule.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

As required by § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, Office of Licensure and Certification, 9960 Mayland Drive, Suite 401, Henrico, VA 23233; email: regulatorycomment@vdh.virginia.gov; fax: (804) 527-4502. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. 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. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-	New chapter-	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
------------------	--------------	-----------------------------	--

section number	section number, if applicable		
12VAC5-220-10	N/A	<p>12VAC5-220-10. Definitions.</p> <p>The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:</p> <p>"Acquisition" means an expenditure of \$600,000 or more that changes the ownership of a medical care facility. It shall also include the donation or lease of a medical care facility. An acquisition of a medical care facility shall not include a capital expenditure involving the purchase of stock. See 12VAC5-220-120.</p> <p>"Amendment" means any modification to an application that is made following the public hearing and prior to the issuance of a certificate and includes those factors that constitute a significant change as defined in this chapter. An amendment shall not include a modification to an application that serves to reduce the scope of a project.</p> <p>"Applicant" means the owner of an existing medical care facility or the sponsor of a proposed medical care facility project submitting an application for a certificate of public need.</p> <p>"Application" means a prescribed format for the presentation of data and information deemed necessary by the board to determine a public need for a medical care facility project.</p> <p>"Application fees" means fees required for a project application and application for a significant change. Fees shall not exceed the lesser of 1.0% of the proposed capital expenditure or cost increase for the project or \$20,000.</p> <p>"Board" means the State Board of Health.</p> <p>"Capital expenditure" means any expenditure by or in behalf of a medical care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of</p>	<p>CHANGE: The Board is proposing the following change:</p> <p>12VAC5-220-10. Definitions.</p> <p>The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:</p> <p>"Acquisition" means an expenditure of \$600,000 or more that changes the ownership of a medical care facility. It shall also include the donation or lease of a medical care facility. An acquisition of a medical care facility shall not include a capital expenditure involving the purchase of stock. See 12VAC5-220-120.</p> <p>"Amendment" means any modification to an application that is made following the public hearing and prior to the issuance of a certificate and includes those factors that constitute a significant change as defined in this chapter. An amendment shall not include a modification to an application that serves to reduce the scope of a project.</p> <p>"Applicant" means the owner of an existing medical care facility or the sponsor of a proposed medical care facility project submitting an application for a certificate of public need.</p> <p>"Application" means a prescribed format for the presentation of data and information deemed necessary by the board to determine a public need for a medical care facility project.</p> <p>"Application fees" means fees required for a project application and application for a significant change. Fees shall not exceed the lesser of 1.0% of the proposed capital expenditure or cost increase for the project or \$20,000.</p> <p>"Board" means the State Board of Health.</p> <p>"Capital expenditure" means any expenditure by or in behalf of a medical care facility that, under</p>

	<p>operation and maintenance. Such expenditure shall also include a series of related expenditures during a 12-month period or a financial obligation or a series of related financial obligations made during a 12-month period by or in behalf of a medical care facility. Capital expenditures need not be made by a medical care facility so long as they are made in behalf of a medical care facility by any person. See definition of "person."</p> <p>"Certificate of public need" means a document that legally authorizes a medical care facility project as defined herein and which is issued by the commissioner to the owner of such project.</p> <p>"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure as defined in § 32.1-102.1 of the Code of Virginia.</p> <p>"Commissioner" means the State Health Commissioner who has authority to make a determination respecting the issuance or revocation of a certificate.</p> <p>"Competing applications" means applications for the same or similar services and facilities that are proposed for the same planning district or medical service area and which are in the same review cycle. See 12VAC5-220-220.</p> <p>"Completion" means conclusion of construction activities necessary for substantial performance of the contract.</p> <p>"Construction" means the building of a new medical facility or the expansion, remodeling, or alteration of an existing medical care facility.</p> <p>"Construction, initiation of" means that a project shall be considered under construction for the purpose of certificate extension determinations upon the presentation of evidence by the owner of: (i) a signed construction contract; (ii) the completion of short term financing and a commitment for long term (permanent) financing when applicable; (iii) the completion of predevelopment site work; and</p>	<p>generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance. Such expenditure shall also include a series of related expenditures during a 12-month period or a financial obligation or a series of related financial obligations made during a 12-month period by or in behalf of a medical care facility. Capital expenditures need not be made by a medical care facility so long as they are made in behalf of a medical care facility by any person. See definition of "person."</p> <p>"Certificate of public need" means a document that legally authorizes a medical care facility project as defined herein and which is issued by the commissioner to the owner of such project.</p> <p>"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure as defined in § 32.1-102.1 of the Code of Virginia.</p> <p>"Commissioner" means the State Health Commissioner who has authority to make a determination respecting the issuance or revocation of a certificate.</p> <p>"Competing applications" means applications for the same or similar services and facilities that are proposed for the same planning district or medical service area and which are in the same review cycle. See 12VAC5-220-220.</p> <p>"Completion" means conclusion of construction activities necessary for substantial performance of the contract.</p> <p>"Construction" means the building of a new medical facility or the expansion, remodeling, or alteration of an existing medical care facility.</p> <p>"Construction, initiation of" means that a project shall be considered under construction for the purpose of certificate extension determinations upon the presentation of evidence by the owner of: (i) a signed construction contract; (ii) the completion of short</p>
--	---	--

	<p>(iv) the completion of building foundations.</p> <p>"Date of issuance" means the date of the commissioner's decision awarding a certificate of public need.</p> <p>"Department" means the Virginia Department of Health.</p> <p>"Designated medically underserved areas" means (i) areas designated as medically underserved areas pursuant to § 32.1-122.5 of the Code of Virginia; (ii) federally designated Medically Underserved Areas (MUA); or (iii) federally designated Health Professional Shortage Areas (HPSA).</p> <p>"Ex parte" means any meeting that takes place between (i) any person acting in behalf of the applicant or holder of a certificate of public need or any person opposed to the issuance or in favor of the revocation of a certificate of public need and (ii) any person who has authority in the department to make a decision respecting the issuance or revocation of a certificate of public need for which the department has not provided 10 days written notification to opposing parties of the time and place of such meeting. An ex parte contact shall not include a meeting between the persons identified in (i) and staff of the department.</p> <p>"Gamma knife surgery" means stereotactic radiosurgery, where stereotactic radiosurgery is the noninvasive therapeutic procedure performed by directing radiant energy beams from any source at a treatment target in the head to produce tissue destruction. See definition of "project."</p> <p>"Health planning region" means a contiguous geographical area of the Commonwealth as defined in § 32.1-102.1 of the Code of Virginia.</p> <p>"Informal fact-finding conference" means a conference held pursuant to § 2.2-4019 of the Code of Virginia.</p> <p>"Inpatient beds" means accommodations within a medical</p>	<p>term financing and a commitment for long term (permanent) financing when applicable; (iii) the completion of predevelopment site work; and (iv) the completion of building foundations.</p> <p>"Date of issuance" means the date of the commissioner's decision awarding a certificate of public need.</p> <p>"Department" means the Virginia Department of Health.</p> <p>"Designated medically underserved areas" means (i) areas designated as medically underserved areas pursuant to § 32.1-122.5 of the Code of Virginia; (ii) federally designated Medically Underserved Areas (MUA); or (iii) federally designated Health Professional Shortage Areas (HPSA).</p> <p>"Ex parte" means any meeting that takes place between (i) any person acting in behalf of the applicant or holder of a certificate of public need or any person opposed to the issuance or in favor of the revocation of a certificate of public need and (ii) any person who has authority in the department to make a decision respecting the issuance or revocation of a certificate of public need for which the department has not provided 10 days written notification to opposing parties of the time and place of such meeting. An ex parte contact shall not include a meeting between the persons identified in (i) and staff of the department.</p> <p>"Gamma knife surgery" means stereotactic radiosurgery, where stereotactic radiosurgery is the noninvasive therapeutic procedure performed by directing radiant energy beams from any source at a treatment target in the head to produce tissue destruction. See definition of "project."</p> <p>"Health planning region" means a contiguous geographical area of the Commonwealth as defined in § 32.1-102.1 of the Code of Virginia.</p> <p>"Informal fact-finding conference" means a conference held pursuant</p>
--	---	---

	<p>care facility with continuous support services (such as food, laundry, housekeeping) and staff to provide health or health-related services to patients who generally remain in the medical care facility in excess of 24 hours. Such accommodations are known by varying nomenclatures including but not limited to: nursing beds, intensive care beds, minimal or self care beds, isolation beds, hospice beds, observation beds equipped and staffed for overnight use, and obstetric, medical, surgical, psychiatric, substance abuse, medical rehabilitation and pediatric beds, including pediatric bassinets and incubators. Bassinets and incubators in a maternity department and beds located in labor or birthing rooms, recovery rooms, emergency rooms, preparation or anesthesia inductor rooms, diagnostic or treatment procedures rooms, or on-call staff rooms are excluded from this definition.</p> <p>"Medical care facility" means any institution, place, building, or agency as defined in § 32.1-102.1 of the Code of Virginia.</p> <p>"Medical service area" means the geographic territory from which at least 75% of patients come or are expected to come to existing or proposed medical care facilities, the delineation of which is based on such factors as population characteristics, natural geographic boundaries, and transportation and trade patterns, and all parts of which are reasonably accessible to existing or proposed medical care facilities.</p> <p>"Modernization" means the alteration, repair, remodeling, replacement or renovation of an existing medical care facility or any part thereto, including that which is incident to the initial and subsequent installation of equipment in a medical care facility. See definition of "construction."</p> <p>"Operating expenditure" means any expenditure by or in behalf of a medical care facility that, under</p>	<p>to § 2.2-4019 of the Code of Virginia.</p> <p>"Inpatient beds" means accommodations within a medical care facility with continuous support services (such as food, laundry, housekeeping) and staff to provide health or health-related services to patients who generally remain in the medical care facility in excess of 24 hours. Such accommodations are known by varying nomenclatures including but not limited to: nursing beds, intensive care beds, minimal or self care beds, isolation beds, hospice beds, observation beds equipped and staffed for overnight use, and obstetric, medical, surgical, psychiatric, substance abuse, medical rehabilitation and pediatric beds, including pediatric bassinets and incubators. Bassinets and incubators in a maternity department and beds located in labor or birthing rooms, recovery rooms, emergency rooms, preparation or anesthesia inductor rooms, diagnostic or treatment procedures rooms, or on-call staff rooms are excluded from this definition.</p> <p>"Medical care facility" means any institution, place, building, or agency as defined in § 32.1-102.1 of the Code of Virginia.</p> <p>"Medical service area" means the geographic territory from which at least 75% of patients come or are expected to come to existing or proposed medical care facilities, the delineation of which is based on such factors as population characteristics, natural geographic boundaries, and transportation and trade patterns, and all parts of which are reasonably accessible to existing or proposed medical care facilities.</p> <p>"Modernization" means the alteration, repair, remodeling, replacement or renovation of an existing medical care facility or any part thereto, including that which is incident to the initial and subsequent installation of</p>
--	--	---

		<p>generally accepted accounting principles, is properly chargeable as an expense of operation and maintenance and is not a capital expenditure.</p> <p>"Operator" means any person having designated responsibility and legal authority from the owner to administer and manage a medical care facility. See definition of "owner."</p> <p>"Other plans" means any plan(s) which is formally adopted by an official state agency or regional health planning agency and which provides for the orderly planning and development of medical care facilities and services and which is not otherwise defined in this chapter.</p> <p>"Owner" means any person who has legal responsibility and authority to construct, renovate or equip or otherwise control a medical care facility as defined herein.</p> <p>"Person" means an individual, corporation, partnership, association or any other legal entity, whether governmental or private. Such person may also include the following:</p> <ol style="list-style-type: none"> 1. The applicant for a certificate of public need; 2. The regional health planning agency for the health planning region in which the proposed project is to be located; 3. Any resident of the geographic area served or to be served by the applicant; 4. Any person who regularly uses health care facilities within the geographic area served or to be served by the applicant; 5. Any facility or health maintenance organization (HMO) established under § 38.2-4300 et seq. of the Code of Virginia that is located in the health planning region in which the project is proposed and that provides services similar to the services of the 	<p>equipment in a medical care facility. See definition of "construction."</p> <p>"Operating expenditure" means any expenditure by or in behalf of a medical care facility that, under generally accepted accounting principles, is properly chargeable as an expense of operation and maintenance and is not a capital expenditure.</p> <p>"Operator" means any person having designated responsibility and legal authority from the owner to administer and manage a medical care facility. See definition of "owner."</p> <p>"Other plans" means any plan(s) which is formally adopted by an official state agency or regional health planning agency and which provides for the orderly planning and development of medical care facilities and services and which is not otherwise defined in this chapter.</p> <p>"Owner" means any person who has legal responsibility and authority to construct, renovate or equip or otherwise control a medical care facility as defined herein.</p> <p>"Person" means an individual, corporation, partnership, association or any other legal entity, whether governmental or private. Such person may also include the following:</p> <ol style="list-style-type: none"> 1. The applicant for a certificate of public need; 2. The regional health planning agency for the health planning region in which the proposed project is to be located; 3. Any resident of the geographic area served or to be served by the applicant; 4. Any person who regularly uses health care facilities within the geographic area served or to be served by the applicant; 5. Any facility or health maintenance organization (HMO) established under § 38.2-4300 et seq. of the Code of Virginia that is located in
--	--	---	---

		<p>medical care facility project under review;</p> <p>6. Third party payors who provide health care insurance or prepaid coverage to 5.0% or more patients in the health planning region in which the project is proposed to be located; and</p> <p>7. Any agency that reviews or establishes rates for health care facilities.</p> <p>"Physician's office" means a place, owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever, which is designed and equipped solely for the provision of fundamental medical care whether diagnostic, therapeutic, rehabilitative, preventive or palliative to ambulatory patients and which does not participate in cost-based or facility reimbursement from third party health insurance programs or prepaid medical service plans excluding pharmaceuticals and other supplies administered in the office. See definition of "medical care facility."</p> <p>"Planning district" means a contiguous area within the boundaries established by the Department of Housing and Community Development as set forth in § 15.2-4202 of the Code of Virginia, except that for purposes of this chapter, Planning District 23 shall be divided into two planning districts: Planning District 20, consisting of the counties of Isle of Wight and Southampton and the cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and Virginia Beach; and Planning District 21, consisting of the counties of James City and York and the cities of Hampton, Newport News, Poquoson and Williamsburg.</p> <p>"Predevelopment site work" means any preliminary activity directed towards preparation of the site prior to the completion of the building foundations. This includes, but is not limited to, soil testing,</p>	<p>the health planning region in which the project is proposed and that provides services similar to the services of the medical care facility project under review;</p> <p>6. Third party payors who provide health care insurance or prepaid coverage to 5.0% or more patients in the health planning region in which the project is proposed to be located; and</p> <p>7. Any agency that reviews or establishes rates for health care facilities.</p> <p>"Physician's office" means a place, owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever, which is designed and equipped solely for the provision of fundamental medical care whether diagnostic, therapeutic, rehabilitative, preventive or palliative to ambulatory patients and which does not participate in cost-based or facility reimbursement from third party health insurance programs or prepaid medical service plans excluding pharmaceuticals and other supplies administered in the office. See definition of "medical care facility."</p> <p>"Planning district" means a contiguous area within the boundaries established by the Department of Housing and Community Development as set forth in § 15.2-4202 of the Code of Virginia, except that for purposes of this chapter, Planning District 23 shall be divided into two planning districts: Planning District 20, consisting of the counties of Isle of Wight and Southampton and the cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and Virginia Beach; and Planning District 21, consisting of the counties of James City and York and the cities of Hampton, Newport News, Poquoson and Williamsburg.</p> <p>"Predevelopment site work" means any preliminary activity</p>
--	--	--	--

	<p>clearing, grading, extension of utilities and power lines to the site.</p> <p>"Primary medical care services" means first-contact, whole-person medical and health services delivered by broadly trained, generalist physicians, nurses and other professionals, intended to include, without limitation, obstetrics/gynecology, family practice, internal medicine and pediatrics.</p> <p>"Progress" means actions that are required in a given period of time to complete a project for which a certificate of public need has been issued. See 12VAC5-220-450, Demonstration of progress.</p> <p>"Project" means any plan or proposal as defined in § 32.1-102.1 of the Code of Virginia that is subject to Certificate of Public Need approval.</p> <p>"Public hearing" means a proceeding conducted by a regional health planning agency at which an applicant for a certificate of public need and members of the public may present oral or written testimony in support or opposition to the application that is the subject of the proceeding and for which a verbatim record is made. See subsection A of 12VAC5-220-230.</p> <p>"Regional health plan" means the regional plan adopted by the regional health planning agency board.</p> <p>"Regional health planning agency" means the regional agency as defined in § 32.1-102.1 of the Code of Virginia.</p> <p>"Rural" means territory, population, and housing units that are classified as "rural" by the Bureau of the Census of the United States Department of Commerce, Economics and Statistics Administration.</p> <p>"Schedule for completion" means the timetable that identifies the major activities required to complete a project as identified by the applicant and set forth on the certificate of public need. The timetable is used by the</p>	<p>directed towards preparation of the site prior to the completion of the building foundations. This includes, but is not limited to, soil testing, clearing, grading, extension of utilities and power lines to the site.</p> <p>"Primary medical care services" means first-contact, whole-person medical and health services delivered by broadly trained, generalist physicians, nurses and other professionals, intended to include, without limitation, obstetrics/gynecology, family practice, internal medicine and pediatrics.</p> <p>"Progress" means actions that are required in a given period of time to complete a project for which a certificate of public need has been issued. See 12VAC5-220-450, Demonstration of progress.</p> <p>"Project" means any plan or proposal as defined in § 32.1-102.1 of the Code of Virginia that is subject to Certificate of Public Need approval.</p> <p>"Public hearing" means a proceeding conducted by a regional health planning agency at which an applicant for a certificate of public need and members of the public may present oral or written testimony in support or opposition to the application that is the subject of the proceeding and for which a verbatim record is made. See subsection A of 12VAC5-220-230.</p> <p>"Regional health plan" means the regional plan adopted by the regional health planning agency board.</p> <p>"Regional health planning agency" means the regional agency as defined in § 32.1-102.1 of the Code of Virginia.</p> <p>"Rural" means territory, population, and housing units that are classified as "rural" by the Bureau of the Census of the United States Department of Commerce, Economics and Statistics Administration.</p> <p>"Schedule for completion" means the timetable that identifies the major activities required to complete</p>
--	--	---

	<p>commissioner to evaluate the applicant's progress in completing an approved project.</p> <p>"Significant change" means any alteration, modification or adjustment to a reviewable project for which a certificate of public need has been issued or requested following the public hearing which:</p> <ol style="list-style-type: none"> 1. Changes the site; 2. Increases the capital expenditure amount authorized by the commissioner on the certificate of public need issued for the project by 10% or more; 3. Changes the service(s) proposed to be offered; 4. Extends the schedule for completion of the project beyond three years (36 months) from the date of certificate issuance or beyond the time period approved by the commissioner at the date of certificate issuance, whichever is greater. See 12VAC5-220-440 and 12VAC5-220-450. <p>"Standard review process" means the process utilized in the review of all certificate of public need requests with the exception of:</p> <ol style="list-style-type: none"> 1. Certain bed relocations as specified in 12VAC5-220-280; 2. Certain projects that involve an increase in the number of beds in which nursing facility or extended care services are provided as specified in 12VAC5-220-325. <p>"State Medical Facilities Plan" means the planning document 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.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.</p>	<p>a project as identified by the applicant and set forth on the certificate of public need. The timetable is used by the commissioner to evaluate the applicant's progress in completing an approved project.</p> <p>"Significant change" means any alteration, modification or adjustment to a reviewable project for which a certificate of public need has been issued or requested following the public hearing which:</p> <ol style="list-style-type: none"> 1. Changes the site; 2. Increases the capital expenditure amount authorized by the commissioner on the certificate of public need issued for the project by 10% or more; 3. Changes the service(s) proposed to be offered; 4. Extends the schedule for completion of the project beyond three years (36 months) from the date of certificate issuance or beyond the time period approved by the commissioner at the date of certificate issuance, whichever is greater. See 12VAC5-220-440 and 12VAC5-220-450. <p>"Standard review process" means the process utilized in the review of all certificate of public need requests with the exception of:</p> <ol style="list-style-type: none"> 1. Certain bed relocations as specified in 12VAC5-220-280; 2. Certain projects that involve an increase in the number of beds in which nursing facility or extended care services are provided as specified in 12VAC5-220-325. <p>"State Medical Facilities Plan" means the planning document 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.</p> <p>Statutory Authority</p>
--	---	--

			<p>§§ 32.1-12 and 32.1-102.2 of the Code of Virginia.</p> <p>INTENT: The intent of this change is to remove the definition of application fee and instead create a fee schedule in a separate new regulatory section.</p> <p>RATIONALE: The rationale of this change is that since the application fee is no longer set in statute and is now within the discretion of the Board, it is inappropriate for this requirement to remain in the definition sections as it is a substantive requirement.</p> <p>LIKELY IMPACT: The likely impact of this change is clarity regarding which fee a COPN applicant must pay through the creation of a fee schedule.</p>
<p>N/A</p>	<p>12VAC5-220-95</p>	<p>This is a new section.</p>	<p>CHANGE: The Board is proposing the following change:</p> <p><u>12VAC5-220-95. Fee schedule.</u></p> <p><u>A. Unless otherwise provided, fees established by the board shall not be refundable.</u></p> <p><u>B. The fee for any application that requests a certificate of public need shall be 1.0% of the proposed expenditure for the project, but not less than \$1,000 and no more than \$60,000.</u></p> <p><u>C. The fee for any application that requests registration of certain capital expenditures under 12VAC5-220-110 shall be \$70.</u></p> <p><u>D. The fee for any application that requests registration of the addition of medical equipment and services shall be \$70.</u></p> <p><u>E. The fee for any application that requests registration of replacement of existing medical equipment shall be \$70.</u></p> <p>Statutory Authority §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.</p> <p>INTENT: The intent of this change is to create a fee schedule for the</p>

			<p>different types of applications that the COPN program processes.</p> <p>RATIONALE: The rationale of this change is that the fee cap for COPN projects is outdated and that the agency should be collecting fees for the processing of registration applications.</p> <p>LIKELY IMPACT: The likely impact of this change is clarity regarding which fee a COPN applicant or registration applicant must pay through the creation of a fee schedule.</p>
<p>12VAC5-220-105</p>	<p>N/A</p>	<p>12VAC5-220-105. Requirements for registration of the replacement of existing medical equipment. Within 30 days of any person contracting to make, or otherwise legally obligating to make, a capital expenditure for the replacement of medical equipment or otherwise acquiring replacement medical equipment for the provision of services listed in subdivision 7 of the definition of "project" in 12VAC5-220-10, the person shall register in writing such equipment replacement with the commissioner and the appropriate regional health planning agency. Such registration shall be made on forms provided by the department. The registration shall identify the specific unit of equipment to be replaced and the estimated capital cost of the replacement and shall include documentation that the equipment to be replaced has previously been authorized or exempted as allowed by law.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.</p>	<p>CHANGE: The Board is proposing the following change:</p> <p>12VAC5-220-105. Requirements for registration of the replacement of existing medical equipment. Within 30 days of any person contracting to make, or otherwise legally obligating to make, a capital expenditure for the replacement of medical equipment or otherwise acquiring replacement medical equipment for the provision of services listed in subdivision 7 of the definition of "project" in 12VAC5-220-10, the person shall register in writing such equipment replacement with the commissioner and the appropriate regional health planning agency. Such registration shall be made on forms provided by the department. The registration shall identify the specific unit of equipment to be replaced and the estimated capital cost of the replacement, and shall include documentation that the equipment to be replaced has previously been authorized or exempted as allowed by law, <u>and shall include the fee prescribed by subsection E of 12VAC5-220-95.</u></p> <p>Statutory Authority §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.</p> <p>INTENT: The intent of this change is to specify that the registration must</p>

			<p>be accompanied by the prescribed fee.</p> <p>RATIONALE: The rationale of this change is that the registration provisions should identify where applicants can locate the fee schedule.</p> <p>LIKELY IMPACT: The likely impact of this change is clarity regarding which fee a registration applicant must pay through the creation of a fee schedule.</p>
<p>12VAC5-220-110</p>	<p>N/A</p>	<p>12VAC5-220-110. Requirements for registration of certain capital expenditures.</p> <p>A. At least 30 days before any person contracts to make or is otherwise legally obligated to make a capital expenditure by or on behalf of a medical care facility as defined in this chapter that has not been previously authorized by the commissioner, such expenditure shall be registered in writing with the commissioner. The threshold amount for capital expenditure project registration shall be determined using the formula contained in subsection B of this section.</p> <p>B. The threshold contained in subsection A of this section shall be adjusted annually using the percentage increase listed in the Consumer Price Index for All Urban Consumers (CPI-U) for the most recent year as follows: $A \times (1 + B)$ where: A = the capital expenditure threshold amount for the previous year and B = the percent increase for the expense category "Medical Care" listed in the most recent year available of the CPI-U of the U.S. Bureau of Labor Statistics.</p> <p>C. The format for registration shall include information concerning the purpose of such expenditure and projected impact that the expenditure will have upon the</p>	<p>CHANGE: The Board is proposing the following change:</p> <p>12VAC5-220-110. Requirements for registration of certain capital expenditures.</p> <p>A. At least 30 days before any person contracts to make or is otherwise legally obligated to make a capital expenditure by or on behalf of a medical care facility as defined in this chapter that has not been previously authorized by the commissioner, such expenditure shall be registered in writing with the commissioner. The threshold amount for capital expenditure project registration shall be determined using the formula contained in subsection B of this section.</p> <p>B. The threshold contained in subsection A of this section shall be adjusted annually using the percentage increase listed in the Consumer Price Index for All Urban Consumers (CPI-U) for the most recent year as follows: $A \times (1 + B)$ where: A = the capital expenditure threshold amount for the previous year and B = the percent increase for the expense category "Medical Care" listed in the most recent year available of the CPI-U of the U.S. Bureau of Labor Statistics.</p>

		<p>charges for services. For purposes of registration, the owner shall include any person making the affected capital expenditure. See definition of "project."</p> <p>D. Annually, the department shall (i) publish the threshold amount in the General Notices section of the Virginia Register of Regulations and (ii) post the threshold amount on its website.</p> <p>Statutory Authority § 32.1-102.2 of the Code of Virginia.</p>	<p>C. The format for <u>application requesting</u> registration shall include information concerning the purpose of such expenditure, and the <u>projected impact that the</u> expenditure will have upon the charges for services, and the fee prescribed by subsection C of 12VAC5-220-95 . For purposes of registration, the owner shall include any person making the affected capital expenditure. See definition of "project."</p> <p>D. Annually, the department shall (i) publish the threshold amount in the General Notices section of the Virginia Register of Regulations and (ii) post the threshold amount on its website.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.</p> <p>INTENT: The intent of this change is to specify that the COPN applicants are obligated to pay the prescribed fee.</p> <p>RATIONALE: The rationale of this change is that the COPN provisions should identify where applicants can locate the fee schedule.</p> <p>LIKELY IMPACT: The likely impact of this change is clarity regarding which fee an COPN applicant must pay through the creation of a fee schedule.</p>
<p>12VAC5-220-180</p>	<p>N/A</p>	<p>12VAC5-220-180. Application forms. A. Letter of intent. An applicant shall file a letter of intent with the commissioner to request appropriate application forms, and submit a copy of that letter to the appropriate regional health planning agency, by the later of (i) 30 days prior to the submission of an application for a project included within a particular batch group or (ii) 10 days after the first letter of intent is filed for a project within a particular batch group for the same or similar services and facilities which are proposed for the same</p>	<p>CHANGE: The Board is proposing the following change:</p> <p>12VAC5-220-180. Application forms. A. Letter of intent. An applicant shall file a letter of intent with the commissioner to request appropriate application forms, and submit a copy of that letter to the appropriate regional health planning agency, by the later of (i) 30 days prior to the submission of an application for a project included within a particular batch group or (ii) 10 days after the first letter of intent is filed for a project within a</p>

	<p>planning district or medical service area. The letter shall identify the owner, the type of project for which an application is requested, and the proposed scope (size) and location of the proposed project. The department shall transmit application forms to the applicant within seven days of the receipt of the letter of intent. A letter of intent filed with the department shall be considered void one year after the date of receipt of such letter. (See 12VAC5-220-310 C.)</p> <p>B. Application fees. The department shall collect application fees for applications that request a certificate of public need. The fee required for an application shall be 1.0% of the proposed expenditure for the project, but not less than \$1,000 and no more than \$20,000. No application will be deemed to be complete for review until the required application fee is paid. (See 12VAC5-220-310 C.)</p> <p>C. Filing application forms. Applications must be submitted at least 40 days prior to the first day of a scheduled review cycle to be considered for review in the same cycle. In order to verify the date of the department's and the appropriate regional health planning agency's receipt of the application, the applicant shall transmit the document electronically, or prepare in triplicate two copies to be submitted to the department and one copy to be submitted to the appropriate regional health planning agency and sent by certified mail or a delivery service, return receipt requested, or by hand, with a signed receipt to be provided. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency. (See 12VAC5-220-200.)</p> <p>Statutory Authority §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.</p>	<p>particular batch group for the same or similar services and facilities which are proposed for the same planning district or medical service area. The letter shall identify the owner, the type of project for which an application is requested, and the proposed scope (size) and location of the proposed project. The department shall transmit application forms to the applicant within seven days of the receipt of the letter of intent. A letter of intent filed with the department shall be considered void one year after the date of receipt of such letter. (See 12VAC5-220-310 C.)</p> <p>B. Application fees. The department shall collect application fees for applications that request a certificate of public need. The <u>applicant shall pay the fee required prescribed by subsection B of 12VAC5-220-95 for an any application that requests a certificate of public need shall be 1.0% of the proposed expenditure for the project, but not less than \$1,000 and no more than \$20,000.</u> No application will be deemed to be complete for review until the required application fee is paid. (See 12VAC5-220-310 C.)</p> <p>C. Filing application forms. Applications must be submitted at least 40 days prior to the first day of a scheduled review cycle to be considered for review in the same cycle. In order to verify the date of the department's and the appropriate regional health planning agency's receipt of the application, the applicant shall transmit the document electronically, or prepare in triplicate two copies to be submitted to the department and one copy to be submitted to the appropriate regional health planning agency and sent by certified mail or a delivery service, return receipt requested, or by hand, with a signed receipt to be provided. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate</p>
--	---	---

			<p>regional health planning agency. (See 12VAC5-220-200.)</p> <p>Statutory Authority §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.</p> <p>INTENT: The intent of this change is to specify that the COPN applicants are obligated to pay the prescribed fee.</p> <p>RATIONALE: The rationale of this change is that the COPN provisions should identify where applicants can locate the fee schedule.</p> <p>LIKELY IMPACT: The likely impact of this change is clarity regarding which fee an COPN applicant must pay through the creation of a fee schedule.</p>
<p>12VAC-220-355</p>	<p>N/A</p>	<p>12VAC5-220-355. RFA project application forms. A. Letter of intent. A RFA project applicant shall file a letter of intent with the commissioner to request appropriate application forms, and submit a copy of that letter to the appropriate regional health planning agency by the letter of intent deadline specified in the RFA. The letter shall identify the owner, the type of project for which an application is requested, and the proposed scope (size) and location of the proposed project. The department shall transmit application forms to the applicant within seven days of the receipt of the letter of intent. A letter of intent filed with the department shall be considered void if an application is not filed for the project by the application deadline specified in the RFA. B. Application fees. The department shall collect application fees for RFA applications that request a certificate of public need. The fee required for an application is 1.0% of the proposed capital expenditure for the project but no less than \$1,000 and no more than \$20,000. No application will be deemed to be</p>	<p>CHANGE: The Board is proposing the following change:</p> <p>12VAC5-220-355. RFA project application forms. A. Letter of intent. A RFA project applicant shall file a letter of intent with the commissioner to request appropriate application forms, and submit a copy of that letter to the appropriate regional health planning agency by the letter of intent deadline specified in the RFA. The letter shall identify the owner, the type of project for which an application is requested, and the proposed scope (size) and location of the proposed project. The department shall transmit application forms to the applicant within seven days of the receipt of the letter of intent. A letter of intent filed with the department shall be considered void if an application is not filed for the project by the application deadline specified in the RFA. B. Application fees. The department shall collect application fees for RFA applications that request a certificate of public need. The <u>applicant shall pay the fee required prescribed by subsection B of 12VAC5-220-95 for an application is</u></p>

		<p>complete for review until the required application fee is paid. C. Filing application forms. Applications must be submitted to the department and the appropriate regional health planning agency by the application filing deadline specified in the RFA. In order to verify the department and the appropriate regional health planning agency's receipt of the application, the applicant shall transmit the document electronically, or prepare in triplicate two copies to be submitted to the department and one copy to be submitted to the appropriate regional health planning agency and sent by certified mail or a delivery service, return receipt requested, or by hand, with a signed receipt to be provided. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.</p>	<p>1.0% of the proposed capital expenditure for the project but no less than \$1,000 and no more than \$20,000. No application will be deemed to be complete for review until the required application fee is paid. C. Filing application forms. Applications must be submitted to the department and the appropriate regional health planning agency by the application filing deadline specified in the RFA. In order to verify the department and the appropriate regional health planning agency's receipt of the application, the applicant shall transmit the document electronically, or prepare in triplicate two copies to be submitted to the department and one copy to be submitted to the appropriate regional health planning agency and sent by certified mail or a delivery service, return receipt requested, or by hand, with a signed receipt to be provided. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.</p> <p>INTENT: The intent of this change is to specify that the RFA applicants are obligated to pay the prescribed fee.</p> <p>RATIONALE: The rationale of this change is that the RFA provisions should identify where applicants can locate the fee schedule.</p> <p>LIKELY IMPACT: The likely impact of this change is clarity regarding which fee an RFA applicant must pay through the creation of a fee schedule.</p>
--	--	--	---