



COMMONWEALTH of VIRGINIA

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August 3, 2009

Ms. Carolyn C. Eddy
Office of Licensure and Certification
Virginia Department of Health
9960 Mayland Drive, Suite 401
Richmond, Virginia 23233

**Re: Non-Discretionary Amendments for the Medical Care Facilities Certificate of Public Need Rules and Regulations
12 VAC 5-220-10 *et seq.***

Dear Ms. Eddy:

I have reviewed the proposed non-discretionary amendments to the Medical Care Facilities Certificate of Public Need Rules and Regulations, 12 VAC 5-220-10, *et seq.* The amendments are constitutional and do not conflict with existing state or federal statutes or regulations.

The Board of Health has the authority to promulgate the regulations under Va. Code §§ 32.1-12 and 32.1-102.2. The regulations are consistent with the Board's mandate as set forth in these sections. The regulations are exempt from the public participation provisions of the Administrative Process Act under Va. Code § 2.2-4006(a)(4), because they are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Board of Health will not exceed its statutory authority in promulgating these regulatory amendments

If I may be of further assistance, please do not hesitate to contact me.

Very truly yours,

Matthew M. Cobb
Assistant Attorney General

cc: Chris Durrer, Director
Office of Licensure and Certification
Douglas R. Harris
Adjudication Officer and
Administrative Coordinator