

HOUSE BILL NO. 770

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions

on _____)

(Patron Prior to Substitute--Delegate Hodges)

A BILL to amend and reenact § 32.1-123 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 5 of Title 32.1 a section numbered 32.1-137.09, relating to freestanding emergency departments.

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-123 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 5 of Title 32.1 a section numbered 32.1-137.09 as follows:

§ 32.1-123. Definitions.

As used in this article, unless a different meaning or construction is clearly required by the context or otherwise:

"Certified nursing facility" means any skilled nursing facility, skilled care facility, intermediate care facility, nursing or nursing care facility, or nursing home, whether freestanding or a portion of a freestanding medical care facility, that is certified as a Medicare or Medicaid provider, or both, pursuant to § 32.1-137.

"Children's hospital" means a hospital (i) whose inpatients are predominantly under 18 years of age and (ii) which is excluded from the Medicare prospective payment system pursuant to the Social Security Act.

"Class I violation" means failure of a nursing home or certified nursing facility to comply with one or more requirements of state or federal law or regulations which creates a situation that presents an immediate and serious threat to patient health or safety.

26 "Class II violation" means a pattern of noncompliance by a nursing home or certified nursing
27 facility with one or more federal conditions of participation which indicates delivery of substandard
28 quality of care but does not necessarily create an immediate and serious threat to patient health and safety.
29 Regardless of whether the facility participates in Medicare or Medicaid, the federal conditions of
30 participation shall be the standards for Class II violations.

31 "Freestanding emergency department" means a facility located in the Commonwealth that (i)
32 provides emergency services as defined in § 38.2-3438, (ii) is owned and operated by a hospital and
33 operates under the hospital's license, and (iii) is located on separate premises from the primary campus of
34 the hospital.

35 "Hospital" means any facility licensed pursuant to this article in which the primary function is the
36 provision of diagnosis, of treatment, and of medical and nursing services, surgical or nonsurgical, for two
37 or more nonrelated individuals, including hospitals known by varying nomenclature or designation such
38 as children's hospitals, sanatoriums, sanitariums and general, acute, rehabilitation, chronic disease, short-
39 term, long-term, outpatient surgical, and inpatient or outpatient maternity hospitals.

40 "Immediate and serious threat" means a situation or condition having a high probability that serious
41 harm or injury to patients could occur at any time, or already has occurred, and may occur again, if patients
42 are not protected effectively from the harm, or the threat is not removed.

43 "Inspection" means all surveys, inspections, investigations and other procedures necessary for the
44 Department of Health to perform in order to carry out various obligations imposed on the Board or
45 Commissioner by applicable state and federal laws and regulations.

46 "Nursing home" means any facility or any identifiable component of any facility licensed pursuant
47 to this article in which the primary function is the provision, on a continuing basis, of nursing services and
48 health-related services for the treatment and inpatient care of two or more nonrelated individuals,
49 including facilities known by varying nomenclature or designation such as convalescent homes, skilled
50 nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing
51 or nursing care facilities.

52 "Nonrelated" means not related by blood or marriage, ascending or descending or first degree full
53 or half collateral.

54 "Substandard quality of care" means deficiencies in practices of patient care, preservation of
55 patient rights, environmental sanitation, physical plant maintenance, or life safety which, if not corrected,
56 will have a significant harmful effect on patient health and safety.

57 **§ 32.1-137.09. Freestanding emergency departments; data reporting.**

58 Every freestanding emergency department shall report, on a quarterly basis, the following
59 information on a website that is easily accessible to the general public: payor mix; volume of outpatient
60 encounters; breakdown of outpatient encounters originating on a walk-in basis as opposed to via
61 ambulance service transport to the freestanding emergency department; billed charges for all services;
62 breakdown of outpatient encounters by acuity level with sufficient detail to determine whether the
63 freestanding emergency department is providing services that would be more appropriately provided in a
64 non-hospital setting or in an on-campus emergency department with greater service capabilities;
65 percentage of encounters that resulted in an inpatient admission at a hospital; consumer complaints on a
66 de-identified basis; mortality rates; bed capacity; staffing levels; relevant patient demographic
67 information, including age, sex, race, ethnicity, zip code, type of insurance coverage, and the presence of
68 any health care condition that would qualify as part of a hierarchical condition category under Part C of
69 the federal Medicare program; and how many patients were transferred from the freestanding emergency
70 department to other facilities, which facilities received the transfers, and the clinical reasons for the
71 transfers.

72 #