Annual Report to the Joint Commission on Health Care On the Impact and Effectiveness of the Pilot Programs to Expand Access to Obstetric, Prenatal, and Pediatric Services

Virginia Department of Health

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EXECUTIVE SUMMARY

As an alternative way to improve access to obstetrical and pediatric care in areas without inpatient maternity services, the 2005 General Assembly (GA) passed HB2656 authorizing the State Board of Health to approve birthing center pilot projects. The passage of HB2656 permitted the pilot projects to employ certified nurse midwives (CNM) licensed by the Board of Medicine and Nursing to practice in collaboration with a physician rather than requiring a supervisory relationship with a physician. Pilot projects have been developed in Emporia and in the Northern Neck.

HB2656 requires the Virginia Department of Health (VDH) to prepare an annual report to the Joint Commission on Health Care on the impact and effectiveness of the pilot programs to expand access to obstetrical and pediatric services in these communities. VDH issued reports in 2006, 2007 and 2008 to the Joint Commission on Health Care on the progress made to date on the development of birthing centers.

In FY09, new Memoranda of Agreements (MOA) were established with Southern Dominion Health Systems, Inc. (SDHS) for the Emporia/Greensville project and with Rappahannock Rural Health Development Center (RRHDC), formerly known as Rappahannock Area Health Education Center (RAHEC) for the Northern Neck project. The MOAs contained provisions to administer start-up funds and provide management oversight for the two projects. Over the past 12 months, stakeholders in both communities have continued to perform work in support of establishing birthing centers utilizing the services of CNMs in accordance with the Board of Health's recommendations.

Each project coordinator has worked with VDH to assure that the required work plan deliverables have been accomplished within the given time frames. While each center has moved closer to establishing a birth center, neither became operational in 2008.

In 2008 SDHS (a federally qualified health center) received approval from the U.S. Department of Health and Human Services, Health Resources and Services Administration (HRSA) to expand its scope of service to provide women's health and obstetrical services. The women's health and birthing center facility will be located in Emporia.

The United States Department of Agriculture approved construction bids for The Family Maternity Center of Northern Neck (FMCNN) in April, 2009. The new facility will be located in Lancaster County. An application has been submitted for certification as a rural health clinic, serving both as a birthing center and as a primary care center for women's and children's services.

HB2656 stipulated that there must be mutually agreed upon practice protocols and that a Level III perinatal center must agree to provide administrative oversight and clinical consultation when requested. Both projects work with Virginia Commonwealth University (VCU), Obstetrics and Gynecology Department to develop the policies, procedures, and protocols that will govern the care provided in the proposed birthing centers.

U.S. Representatives Susan Davis, (D, CA) and Gus Bilirakis (R, FL) have introduced H.R. 2358, the Medical Birth Center Reimbursement Act, to ensure Medicaid birth center facility fee payment to states. The Family Center of Northern Neck is preparing to submit a Medicare application for certification as a rural health care clinic. SDHS will receive cost based reimbursement for obstetrical services rendered during its first year of operation. The facility uses a sliding scale fee-for-service for eligible patients and accepts all insurances.

The issue of Medicaid reimbursement for the two birthing centers continues to present challenges. Birthing centers are not licensed in Virginia therefore they are unable to seek a separate payment for a "facility fee". Clinician services are not included in the facility fee; Medicaid reimburses the professional services of a physician or nurse practitioner for prenatal and delivery care separately. Promulgation of any enhanced professional fee would require a state plan amendment from the Centers for Medicaid and Medicare and this is considered to be unlikely at this time.

VDH continues to serve as a primary contact for identifying and working on the implementation of project tasks and priorities and will provide technical assistance to expedite the project. VDH will continue to monitor the progress of the pilot projects and report on the impact and effectiveness of the pilot projects in meeting the program goals.

Background

Statewide, overall birth rates have remained relatively stable from 13.9 per 1,000 population in 1996 to the current rate of 14.1 per 1,000 population in 2007. In 2007 there was a 1.9% increase in the total number of pregnancies over the previous year (2006). A percentage of women who become pregnant will reside in rural areas of the Commonwealth, where access to prenatal care is limited, affecting their ability to receive prenatal care in the first trimester. As noted in earlier reports, rural populations have higher infant and maternal morbidity rates, especially in localities designated as health professional shortage areas due in part to the lack of available and accessible health care. In 2007, the total infant death rates by residence for Planning Districts 17, and 18, comprising the Northern Neck area, were 8.9 and 11.2, respectively. Planning District 19, which includes the Emporia/Greensville area, reported a total infant death rate of 10.7 in 2007. For the same time period, the total number of infant deaths reported for Northern Neck and Emporia/Greensville was significantly higher than Virginia's rate of 7.7 per 1,000 live births. Preliminary data for 2008 reports the total infant deaths by place of residence for Lancaster County at 10.5 and Emporia City at 16.9 (VDH, Division of Health Statistics).

Due to the ongoing lack of access to inpatient obstetrical health care in the Northern Neck and Emporia/Greensville areas, the majority of pregnant women must travel outside their locality to deliver. According to the Virginia Health Statistics 2007 report, Total Live Births by Place of Occurrence and Place of Residence, Planning Districts 17 & 18 (Northern Neck area) reported 1,542 live births by place of residence, of which only 20 actually occurred in the Northern Neck area. Likewise, for Planning District 18 (Emporia/Greensville area) of the 2, 334 live births reported by place of residence, 1, 430 (61%) occurred at hospitals located outside that

area. The demand for easily accessible prenatal care continues to present a challenge, particularly in these two rural communities

According to a report published by the Virginia Department of Health's Office of Family Health Services, minorities, who may or may not also be immigrants, have much lower rates of prenatal care utilization. Three out of ten Hispanic women enter prenatal care after the first trimester. In 2007, slightly more than 25% of pregnant women residing in Emporia and Greensville County began prenatal care in the first 13 weeks of pregnancy, as compared to 18.4% of the pregnant women residing in Lancaster County (Northern Neck area) who entered care in the first trimester. Lower utilization often is due to lack of insurance coverage and decreased access to health care providers.

Virginia has worked hard to reduce barriers to obstetrical care. Effective July 1, 2009 Virginia expanded eligibility for the FAMIS Moms' program to 200 percent of the federal poverty level. Expanding access to health care coverage through FAMIS for pregnant women should have a positive impact on increasing access to care,

To the extent that reimbursement rates under both public and private insurance groups fail to cover the actual cost of providing services to enrollees, local hospitals may continue to reduce or eliminate obstetrical services. Unfortunately, one more hospital's obstetrical care unit closed its services in 2009. Shenandoah Memorial Hospital closed its birthing center in June 2009, attributing the closing to the fact that the service "operated in a deficit since its inception". Maternity services were shifted to Warren Memorial Hospital.

Expanding access to prenatal care in two targeted high-risk, medically underserved, rural areas (Emporia/Greensville and Northern Neck) has been a funding priority since 2005. The 2005 General Assembly enacted legislation to increase access to prenatal care and reduce infant

mortality by creating pilot projects in several localities throughout the state. HB2656 authorized the State Board of Health to approve pilot projects to improve access to prenatal, obstetrical (OB), and pediatric care (see Appendix A). In FY06, an appropriation of $150,000 provided funds to support increased access to delivery services in the Northern Neck and Emporia/Greensville areas. Both communities elected to develop birthing centers as a program strategy.

An initial report was submitted to the Joint Commission on Health Care, in accordance with § 32.1-11.5, on the impact and effectiveness of these two pilot programs to expand access to OB care. In FY07, an additional appropriation of $150,000 provided further funding to be used for start-up costs related to pilot projects in Northern Neck and Emporia/Greensville. New agreements were executed making SDHS the fiscal agent for the development of the pilot project birthing center in Emporia (see Appendix B), and RAHEC the fiscal agent for the Northern Neck pilot project birthing center (see Appendix C).

Funding was unchanged in FY 08. In July 2008, RAHEC's Board of Directors began doing business as the Rappahannock Rural Health Development Center (RRHDC). In accordance with the provisions of each agreement, a pilot project manager from each site was awarded $75,000 to fund a coordinator and provide management oversight. Both SDHC and RRHDC agreed not to charge VDH any indirect costs or other administrative expenses.

In FY 09 the GA budget appropriation for the two birthing centers was reduced by $22,500.00. SDHS remained the fiscal agent for the development of the pilot project birthing center in Emporia (see Appendix B), and RRHDC remained the fiscal agent for the Northern Neck pilot project birthing center (see Appendix C).

The contractor hired for the Northern Neck area in November 2006 was retained in the same capacity for FY09 and the contractor hired in 2008 for SDHS remained in the same capacity for FY 09. Neither birth center has yet become operational.

Progress to Date – Emporia/Greensville

SDHS continues to work towards the establishment of a birthing center in the City of Emporia. In August 2008, Senate Finance Committee staff met with SDHS and Southern Virginia Regional Medical Center (SVRMC) senior management teams to review the progress made on developing the birthing center. Over the past 12 months, SDHS's CEO has negotiated with principal community partners to begin construction of a new health care facility on property donated to SDHS. The center will house a medical center on one side and a birthing center on the other. It is anticipated the new facility will be open to occupancy in 2010.

SDHS continues to network with physicians in the local and extended health care community, including maternal and child health care specialists in Franklin, Richmond, and Petersburg. Contracts or memoranda of agreement specifying the referral and physician back-up agreements between and among all involved providers and health care facilities are being discussed. A Letter of Understanding between SVRMC and SDHS was signed on April 30, 2009, to provide basic non-obstetrical ancillary services to the Emporia/Greensville Birthing Center (EGBC). In addition, a Letter of Understanding between SDHS and Greensville Volunteer Rescue Squad to provide emergency medical transfer services from the birth center to a tertiary care facility was signed on May 5, 2009.

Clinical practice guidelines, antepartum care, intrapartum care, postpartum and newborn care protocols have been written but have not been approved by SDHS's Medical Director or Virginia Commonwealth's Health System (VCUHS), Chairman of the Department of Obstetric

and Gynecology. A community specific uniform prenatal risk assessment tool has been drafted and is waiting final approval by the responsible parties. Job descriptions for the certified nurse midwife and registered nurses have been written as have draft performance review tools. An orientation outline for prospective birthing center clients was submitted to the CEO for review March 4, 2009. A quality assurance and continuous quality improvement plan were developed and sent to the medical director in December 2008.

SDHS has maintained membership in the American Association of Birth Centers (AABC). Steps will be taken in the upcoming fiscal year to work on items required for accreditation as an approved birthing center, by the time EGBC is open for business.

Marketing efforts to promote awareness of this project and build community support continue. The project coordinator developed and presented childbearing education programs to groups throughout the community, including the Rotary Club, the Chamber of Commerce, the United Way and Hands of Love Ministry. In April, 2009 SDHS participated in a Healthy Kids Fair sponsored by the local YMCA. The local newspaper, The *Emporia Independent Messenger*, has published several news articles written by the project coordinator, related to preconceptual health, prenatal nutrition, healthy babies and children, the centering pregnancy model, infant mortality, and progress on the birthing center. Information on the birthing center is also available on SDHS's web site http://www.sdhsinc.com/birthing_center.htm.

In January 2009, the March of Dimes awarded a $14,000 grant to SHSH to establish the Centering Pregnancy model grant. Three employees (Delores Flowers, MD, Lynn Crisman, RN and Terri Chambers, RN, CNM) attended training at Providence Hospital in Washington, D.C. Plans to offer Centering Pregnancy group sessions are scheduled for January 2010. The Centering Pregnancy model provides care to groups of pregnant women with similar due dates.

Women will receive their pregnancy check-ups while receiving support and education of women who are in the same stage of pregnancy. In each of the 10 sessions, a pregnant woman has private time with her health care provider and then meets to discuss questions, concerns, and solutions within a group setting. In addition to on-going pregnancy assessment, the women will receive pertinent health education and have access to related services.

The issue of professional liability coverage for SDHS birthing center providers was resolved with the HRSA approved change in scope. The Bureau of Primary Health Care grantees now have malpractice liability protection for medical related functions under the Federal Tort Claims Act. The approved budget for FY 10 included $63,750.00 for Emporia/Greensville project.

Progress to Date – Northern Neck

The United States Department of Agriculture (USDA) awarded a $1.6 million, low-interest loan to construct the Family Maternity Center. The new 5,200 square foot facility will be located in Kilmarnock, on Rt. 3 near the Lancaster Primary School on land donated by Kilmarnock resident Jones Felvey. Contract went to bids and bids were read on May 11, 2009, and a Richmond contractor awarded the contract. A grand opening of January, 2010 is anticipated.

Federal funding in the amount of $186,677 from the Department of Health and Human Services was received in August 2008. This money was to be used for design and equipment for the new building to include telemedicine equipment for both the clinic and educational purposes, as well as ultrasound equipment. A second USDA grant for $50,000 was targeted to purchase the facility's equipment. The FMCNN has also obtained external funding from local foundations

such as: River Counties Community Foundation, The Wiley Foundation, and the Campbell Memorial Community Fund.

An application for designation as a Rural Health Care Clinic was submitted in early 2009. The FMCNN's medical director's practice site will be used as the temporary location of the clinic. Three satellite outreach offices offering prenatal care using the Centering Pregnancy Model opened in the spring 2009. One office located at Cook's Corner in Middlesex County serves residents in the Middle Peninsula. A second office located at the north end in Kilmarnock serves Lancaster County residents, and the third satellite office located in Callao serves pregnant women residing in Northumberland, Richmond and Westmorland Counties. A $65.000 Kellogg Grant funded the services of a certified nurse midwife to provide the prenatal care in these three sites.

Contracts or memoranda of agreement specifying the referral and physician back-up agreements between and among all involved providers and health care facilities have been signed. The Chairman of Virginia Commonwealth University Health System, Department of Obstetrics and Gynecology has reviewed the requirement contained within HB 2656 to provide administrative oversight by (i) assisting in the development of appropriate clinical care protocols and clinical collaboration, (ii) accepting transfers when necessary, and (iii) providing clinical consultation when requested. In April 2009, he signed a letter of commitment to provide tertiary care and support to the FMCNN. VCUHS has agreed to be available for ongoing consultation and referrals, and facilitate ease of patient transfer and collaboration in the provision of high quality obstetrical care.

Protocols and clinical pathways that support the delivery of low-risk births, utilizing the services of a certified nurse midwife in collaboration with a physician have been developed

along with a prenatal risk assessment tool. Emergency procedure guidelines have been developed and signed by the FMCNN's Medical Director, VCUHS's perinatologist, and Rappahannock General Hospital representatives. Additionally, a local pediatrician and the Department of Neonatology at VCUHS have agreed to assist the FMCNN develop neonatal protocols.

Membership in the American Association of Birth Centers (AABC) has been maintained by the FMCNN over the past three years. Steps have been taken to work on items required for accreditation as an approved birthing center.

The FMCNN has continued to strengthen strategic partnerships with community partners. In an effort to generate client referrals and to educate the public on the birth center's progress, the project coordinator has met with the YMCA, the Boys & Girls Club and five local churches. Weekly articles were submitted to the local newspaper, the *Rappahannock Record.* Two fundraisers, sponsored by the local community: the Chesapeake Breeze and the Fall Festival were also held.

In partnership with the Three Rivers Health District, the FMCNN will offer Women Infant and Children (WIC) Nutrition Services, participate in referring high risk pregnant teens to the Resource Mothers program and become certified as a Baby Care site. WIC Nutrition Services provides supplemental foods, health care referrals, and nutrition education for low-income pregnant, breastfeeding, and non-breastfeeding postpartum women, and to infants and children up to age five who are found to be at nutritional risk. Resource Mothers are lay community health workers who mentor pregnant teens through their pregnancy to help them make the transition to parenthood. The Resource Mothers Program is a partner in the Virginia Home Visiting Consortium. The BabyCare Program provides pregnant women with the support and

services they need through intensive case management and coordination of care. The program aims to improve birth outcomes by ensuring pregnant women and infants receive all the services they need.

Once the FMCNN is granted Rural Health Clinic status the issue of professional liability coverage for their birth center providers will be resolved as providers will be covered under the Federal Tort Claims Act.

No funding was provided in the approved FY 10 Budget for the Northern Neck project. Therefore state funding for the FMCNN ended on June 30, 2009.

Continuing Challenges

Both OB pilot projects have progressed to facility construction and securing long-term financial support to sustain obstetrical service delivery. VDH will continue to monitor the progress of the funded pilot project to provide arrangements for prenatal and delivery services in the Emporia/Greensville area. A final report will be submitted to the Governor and General Assembly at the end of project funding, identifying advancements towards improving access to prenatal, obstetrical, and pediatric services that have contributed to improving the health and well-being of women, infants, children, and families throughout the Commonwealth.

APPENDIX A

Appendix A

CHAPTER 926

An Act to amend and reenact §§ 54.1-2901 and 54.1-2957.01 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-11.5, relating to pilot programs for obstetrical and pediatric care in certain areas.

[H 2656]

Approved April 6, 2005

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2901 and 54.1-2957.01 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 32.1-11.5 as follows:

§ 32.1-11.5. Pilot programs for obstetrical and pediatric care in underserved areas.

A. The Board may approve pilot programs to improve access to (i) obstetrical care, which for the purposes of this section includes prenatal, delivery, and post-partum care; and (ii) pediatric care in areas of the Commonwealth where these services are severely limited. The proposals for such pilot programs shall be jointly developed and submitted to the Board by nurse practitioners licensed in the category of certified nurse midwife, certain perinatal centers as determined by the Board, obstetricians, family physicians, and pediatricians.

B. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife who participate in a pilot program shall associate with perinatal centers recommended by the Board and community obstetricians, family physicians, and pediatricians and, notwithstanding any provision of law or regulation to the contrary, shall not be required to have physician supervision to provide obstetrical services to women with low-risk pregnancies who consent to receive care under the pilot program arrangements. Further, notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife holding a license for prescriptive authority may prescribe Schedules III through VI controlled substances without the requirement for either medical direction or supervision or a written agreement between the licensed nurse practitioner and a licensed physician. Such perinatal center shall provide administrative oversight by (i) assisting in the development of appropriate clinical care protocols and clinical collaboration, (ii) accepting transfers when necessary, and (iii) providing clinical consultation when requested. Removal of the requirement for physician supervision for participating nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife shall not extend beyond the pilot programs or be granted to certified nurse midwives who do not participate in approved pilot programs. Further, the removal of the requirement of physician supervision shall not authorize nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife to provide care to women with high-risk pregnancies or care that is not directly related to a low-risk pregnancy and delivery. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife participating in a pilot program shall maintain professional

liability insurance as recommended by the Division of Risk Management of the Department of the Treasury.

C. The Department shall convene stakeholders, including nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife, obstetricians, family physicians and pediatricians to establish protocols to be used in the pilot programs no later than October 1, 2005. The protocols shall include a uniform risk-screening tool for pregnant women to assure that women are referred to the appropriate provider based on their risk factors.

D. Pilot program proposals submitted for areas where access to obstetrical and pediatric care services is severely limited shall include mutually agreed upon protocols consistent with evidence-based practice and based on national standards that describe criteria for risk assessment, referral, and backup and shall also document how the pilot programs will evaluate their model and quality of care.

E. Pilot sites that elect to include birthing centers as part of the system of care shall be in close proximity to a health care facility equipped to perform emergency surgery, if needed. Birthing centers are facilities outside hospitals that provide maternity services. Any birthing center that is part of the pilot program shall, at a minimum, maintain membership in the National Association of Childbearing Centers and annually submit such information as may be required by the Commissioner. The pilot programs shall not provide or promote home births.

F. The Department shall evaluate and report on the impact and effectiveness of the pilot programs in meeting the program goals. The evaluation shall include the number of births, the number of referrals for emergency treatment services, successes and problems encountered, the overall operation of the pilot programs, and recommendations for improvement of the program. The Department shall submit a report to the Joint Commission on Health Care by November 15, 2006, and annually thereafter.

§ 54.1-2901. Exceptions and exemptions generally.

A. The provisions of this chapter shall not prevent or prohibit:

1. Any person entitled to practice his profession under any prior law on June 24, 1944, from continuing such practice within the scope of the definition of his particular school of practice;

2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice in accordance with regulations promulgated by the Board;

3. Any licensed nurse practitioner from rendering care under the supervision of a duly licensed physician when such services are authorized by regulations promulgated jointly by the Board of Medicine and the Board of Nursing;

4. Any registered professional nurse, licensed nurse practitioner, graduate laboratory technician or other technical personnel who have been properly trained from rendering care or services within the scope of their usual professional activities which shall include the taking of blood, the

giving of intravenous infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine;

5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his usual professional activities;

6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;

7. The rendering of medical advice or information through telecommunications from a physician licensed to practice medicine in Virginia or an adjoining state to emergency medical personnel acting in an emergency situation;

8. The domestic administration of family remedies;

9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in public or private health clubs and spas;

10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists or druggists;

11. The advertising or sale of commercial appliances or remedies;

12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant bracemaker or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracemaker or prosthetist has received a prescription from a licensed physician directing the fitting of such casts and such activities are conducted in conformity with the laws of Virginia;

13. Any person from the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

14. The practice of the religious tenets of any church in the ministration to the sick and suffering by mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for compensation;

15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally licensed practitioners in this Commonwealth;

16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia temporarily and such practitioner has been issued a temporary license or certification by the Board from practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer camp or in conjunction with patients who are participating in recreational activities, (ii) while participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any site any health care services within the limits of his license, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106;

17. The performance of the duties of any commissioned or contract medical officer, or podiatrist in active service in the army, navy, coast guard, marine corps, air force, or public health service of the United States while such individual is so commissioned or serving;

18. Any masseur, who publicly represents himself as such, from performing services within the scope of his usual professional activities and in conformance with state law;

19. Any person from performing services in the lawful conduct of his particular profession or business under state law;

20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;

21. Qualified emergency medical services personnel, when acting within the scope of their certification, and licensed health care practitioners, when acting within their scope of practice, from following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of Health regulations, or licensed health care practitioners from following any other written order of a physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

22. Any commissioned or contract medical officer of the army, navy, coast guard or air force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;

23. Any provider of a chemical dependency treatment program who is certified as an "acupuncture detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent certifying body, from administering auricular acupuncture treatment under the appropriate supervision of a National Acupuncture Detoxification Association certified licensed physician or licensed acupuncturist;

24. Any employee of any assisted living facility who is certified in cardiopulmonary resuscitation (CPR) acting in compliance with the patient's individualized service plan and with the written order of the attending physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

25. Any person working as a health assistant under the direction of a licensed medical or osteopathic doctor within the Department of Corrections, the Department of Juvenile Justice or local correctional facilities;

26. Any employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents as defined in § 22.1-1, assisting with the administration of insulin or administrating glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia;

27. Any practitioner of the healing arts or other profession regulated by the Board from rendering free health care to an underserved population of Virginia who (i) does not regularly practice his profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world, (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v) notifies the Board at least 15 days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts whose license or certificate has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations;

28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division of Consolidated Laboratories or other public health laboratories, designated by the State Health Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in § 32.1-49.1; or

29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered nurse under his supervision the screening and testing of children for elevated blood-lead levels when such testing is conducted (i) in accordance with a written protocol between the physician or nurse practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or nurse practitioner.

B. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Nursing and Medicine in the category of certified nurse midwife may practice without the requirement for physician supervision while participating in a pilot program approved by the Board of Health pursuant to § 32.1-11.5.

§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed nurse practitioners.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.) of this title, a licensed nurse practitioner, other than a certified registered nurse anesthetist, shall have the authority to prescribe controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.) of this title as follows: (i) Schedules V and VI controlled substances on and after July 1, 2000; (ii) Schedules IV through VI on and after January 1, 2002; and (iii) Schedules III through VI controlled substances on and after July 1, 2003. Nurse practitioners shall have such prescriptive authority upon the provision to the Board of Medicine and the Board of Nursing of such evidence as they may jointly require that the nurse practitioner has entered into and is, at the time of writing a prescription, a party to a written agreement with a licensed physician which provides for the direction and supervision by such physician of the prescriptive practices of the nurse practitioner. Such written agreements shall include the controlled substances the nurse practitioner is or is not authorized to prescribe and may restrict such prescriptive authority as deemed appropriate by the physician providing direction and supervision.

B. It shall be unlawful for a nurse practitioner to prescribe controlled substances or devices pursuant to this section unless such prescription is authorized by the written agreement between the licensed nurse practitioner and the licensed physician.

C. The Board of Nursing and the Board of Medicine, in consultation with the Board of Pharmacy, shall promulgate such regulations governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

The Board of Medicine and the Board of Nursing shall be assisted in this process by an advisory committee composed of two representatives of the Board of Nursing and one nurse practitioner appointed by the Board of Nursing, and four physicians, three of whom shall be members of the Board of Medicine appointed by the Board of Medicine. The fourth physician member shall be jointly appointed by the Boards of Medicine and Nursing. Regulations promulgated pursuant to this section shall include, at a minimum, (i) such requirements as may be necessary to ensure continued nurse practitioner competency which may include continuing education, testing, and/or any other requirement, and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients, and (ii) requirements for periodic site visits by physicians who supervise and direct nurse practitioners who provide services at a location other than where the physician regularly practices.

D. This section shall not limit the functions and procedures of certified registered nurse anesthetists or of any nurse practitioners which are otherwise authorized by law or regulation.

E. The following restrictions shall apply to any nurse practitioner authorized to prescribe drugs and devices pursuant to this section:

1. The nurse practitioner shall disclose to his patients the name, address and telephone number of the supervising physician, and that he is a licensed nurse practitioner.

2. Physicians, other than physicians employed by, or under contract with, local health departments, federally funded comprehensive primary care clinics, or nonprofit health care clinics or programs to provide supervisory services, shall not supervise and direct at any one time more than four nurse practitioners. In the case of nurse practitioners, other than certified nurse midwives, the supervising physician shall regularly practice in any location in which the nurse practitioner exercises prescriptive authority pursuant to this section. A separate office for the nurse practitioner shall not be established. In the case of certified nurse midwives, the supervising physician either shall regularly practice in the location in which the certified nurse midwife practices, or in the event that the certified nurse midwife has established a separate office, the supervising physician shall be required to make periodic site visits as required by regulations promulgated pursuant to this section.

3. Physicians employed by, or under contract with, local health departments, federally funded comprehensive primary care clinics, or nonprofit health care clinics or programs to provide supervisory services, shall not supervise and direct at any one time more than four nurse practitioners who provide services on behalf of such entities. Such physicians either shall regularly practice in such settings or shall make periodic site visits to such settings as required by regulations promulgated pursuant to this section.

F. This section shall not prohibit a licensed nurse practitioner from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Nursing and Medicine in the category of certified nurse midwife and holding a license for prescriptive authority may prescribe Schedules III through VI controlled substances without the requirement for either medical direction or supervision or a written agreement between the licensed nurse practitioner and a licensed physician while participating in a pilot program approved by the Board of Health pursuant to § 32.1-11.5.

2. That the Boards of Medicine and Nursing, the Departments of Health Professions and Medical Assistance Services, and the Division of Risk Management of the Department of the Treasury shall provide assistance to the Department of Health in establishing and evaluating pilot programs under this act.

APPENDIX B

Appendix B

Memorandum of Agreement Between
The Virginia Department of Health and
Southern Dominion Health Systems, Inc.
to Support the Development of Pilot Birth Center Project within
Emporia, Virginia

This Agreement is made the first day of July 2009, by and between the Virginia Department of Health, hereinafter referred to as **VDH,** whose office is at 109 Governor Street, Richmond, Virginia 23219, and the Southern Dominion Health Systems, Inc. whose office is located at 1508 K-V Road, Victoria Virginia 23974 hereinafter referred to as **SDHS**.

VDH and SDHS both realize that key health indicators show that the many rural regions in Virginia are experiencing an increase in the number of fetal and infant deaths due in part to existing health disparities, long travel times to obtain obstetric care, and lack of insurance;

VDH and SDHS both understand that there are a significant number (estimated 24%) of women of childbearing age who are uninsured, underinsured or enrolled in Medicaid. Between 35 - 40 percent of Virginia's 100,000 births each year are paid for by the State through its Medicaid program;

VDH and SDHS both recognize that because of decreased access to obstetric care, women with no health insurance, are underinsured, or on Medicaid often delay entry into early prenatal care thus increasing the risk for poor maternal outcomes;

VDH and SDHS both believe that in order to address the existing need for prenatal, obstetric and pediatric care that alternative methods of providing care within the mother's community of residence must be developed and SDHS desires to serve as project manager during the development of this project,

NOW, THEREFORE, in consideration of their respective experiences, interests and contributions, VDH and SDHS hereby covenant to provide the following services:

ARTICLE I - SCOPE OF SERVICES

SDHS agrees to:

Select one highly qualified, advanced practice nurse (APN) to assist in the development of a birth center for the Emporia-Greensville area.

1. Summary of knowledge, skills and abilities needed to serve as the project coordinator are as follows:
    a. Strong interpersonal and human relations skills demonstrated through coordinating and networking with health care, business and like-minded community service providers.
    b. Knowledgeable on maternal/child health care needs of the under-served population.
    c. Demonstrated leadership in working with diverse groups and building alliances
    d. Experienced in obtaining external funding support such as grants, innovative funding sources, including capital development projects
    e. Able to lead a multidisciplinary team to meet established goals.

2. The APN agrees to fulfill the duties and responsibilities as delineated in the scope of services for the agreed upon rate of reimbursement specified in the conditions of employment. (Refer to Appendix A for Pilot Birth Center Project Work Plan and Deliverables).

Provide office space, office equipment and office materials and supplies as required by the APN to conduct administrative duties associated with fulfilling the terms of this agreement and as permitted by budget and facility resources availability.

Provide use of a conference room or other available space as necessary for convening the public and private task force members and advisors serving to develop a community based birth center.

Provide project management oversight to ensure that all components in the scope of service are satisfactorily completed within the given timeframes and quarterly reports are submitted as required. The deliverables for the project are contained within the work-plan.

Notify VDH of any problems in fulfilling any of the terms of this Agreement so that solutions can be developed or alternative arrangements can be made.

Provide quarterly written updates, beginning in September 2009 with a final written report due by June 30, 2010.

VDH and SDHS agree to:

1. SDHS's Executive Director serving as the project manager.
2. Adhere to the established work plan and time schedule (Appendix A) for completion of the various components of the project.
3. Collaborate to maintain a summary of all activities funded to this agreement to aid in the evaluation of the efforts of this work funded by this agreement.

VDH agrees to:

Provide a primary contact for purposes of collaborating on the implementation of project tasks and priorities.

Provide additional technical assistance or advice that may be required for purpose of expediting the project.

Provide the funding for this project in an amount not to exceed $63,750 in the pilot area.

ARTICLE II - BUDGET

The SDHS's budget for providing services to VDH during the term of this Agreement is limited to $63,750.00 for the pilot area which includes:

ANP Compensation (based on deliverables)	$54,500.00
Site Development	$2,475.00
AABC membership fee	$ 650.00
Office supplies	$ 500.00
Marketing & Curriculum Materials	$ 4,000.00
Training	$ 1,625.00
Total:	**$63,750.00**

This budget only includes VDH's obligation to SDHS. It is understood that SDHS will contribute in-kind services to fulfill the obligations of this Agreement enumerated above.

ARTICLE III - TERM OF AGREEMENT

The services of the SDHS shall commence on July 1, 2009 and shall terminate at the close of business on June 30, 2010. Notwithstanding the foregoing provision, either party as provided in the section entitled "Termination" may terminate this Agreement.

ARTICLE IV – REPORTING

Interim reports itemizing expenditures according to the project within the Scope of Services will be submitted to VDH at three-month intervals of the contract. A final expenditure report with all supporting documentation will be submitted to VDH by June 30, 2010.

ARTICLE V - COMPENSATION

VDH shall reimburse the SDHS for actual expenditures made as a result of services performed under the terms of this Agreement based on the budget submitted by the SDHS and as approved by VDH. The SDHS shall bill VDH on a monthly basis by invoice with supporting documentation and citing the contract number assigned.

Invoices should be addressed to:

Joanne Wakeham, RN, Ph.D.
Virginia Department of Health
109 Governor Street, 13th floor
Richmond, Virginia 23219

ARTICLE VI - AVAILABILITY OF FUNDS

It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

ARTICLE VII - GENERAL PROVISIONS

Nothing in this Agreement shall be construed as authority for either party to make commitments, which will bind the other party beyond the Scope of Services, contained herein. Furthermore, the SDHS shall not assign, sublet, or subcontract any work related to this Agreement or any interest he/she/it may have herein without the prior written consent of VDH. This Agreement is subject to appropriations by the Commonwealth and the Federal government.

ARTICLE VIII - SPECIAL TERMS AND CONDITIONS

When providing the services specified under this agreement the SDHS shall not be deemed an "employee" or "agent" of the Virginia Department of Health. The SDHS shall act as an independent contractor and is responsible for obtaining and maintaining appropriate liability insurance, payment of all FICA, State and Federal taxes, and complying with other similar requirements, which are customary in the industry.

Funding available from this Agreement shall not be used for lobbying activities. Recipients of Federal funds are prohibited from using those funds for lobbying for or against legislation pending before the Federal Government or State legislatures.

The SDHS and any employee hired under this agreement shall adhere to the confidentiality provisions contained in Title 32.1 of the Code of Virginia.

The SDHS shall submit to VDH, for prior approval, all educational materials (i.e. videos, pamphlets) to be purchased or developed for which VDH's financial support is used.

SDHS agrees to obtain prior approval from VDH for any modifications to the budget greater than five percent in any category.

By signing this agreement SDHS certifies that it has and will maintain during the entire term of this agreement the following liability insurance provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission: General Liability - $500,000 combined single unit to include Premises/Operations Liability, Products and Completed Operations Coverage, Independent Contractor's Liability, Owner's and Contractor's Protective Liability and Personal Injury Liability

ARTICLE IX - TERMINATION

This Agreement may be terminated prior to the expiration of the term on June 30, 2010 as follows:

A. By mutual agreement of the parties; or
B. By either party, with or without cause, upon 30 days written notice to the other; or
C. By VDH, by reason of material breach by SDHS. In such event, VDH shall have the right immediately to rescind, revoke or terminate this Agreement. In the alternative, VDH may give written notice to SDHS specifying the manner in which the Agreement has been breached. If a notice of breach is given and SDHS has not substantially corrected the breach within 30 days of receipt of the written notice, VDH shall have the right to terminate this Agreement.

In the event of termination, VDH shall pay the SDHS all monies due and owing as provided in the section "Compensation," such monies to be calculated on a pro rata basis for services rendered by the SDHS through the date of termination.

ARTICLE X - RENEWAL

Non-renewing funding.

ARTICLE XI - FINANCIAL RECORDS

The SDHS agrees to retain all financial books, records and other financial documents relative to this Agreement for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is earlier. VDH it's authorized

agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.

The SDHS shall comply with the audit and reporting requirements defined by the Federal Office of Management and Budget (OMB) Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations) as applicable.

As a condition of receiving funds, the independent auditor shall have access to all records and financial statements as may be necessary under the circumstances; and, all personnel costs allocated to this Agreement must be substantiated by individual records of staff time and effort (T&E), in the form of signed certification by staff reflecting effort devoted to this Agreement. Certification must be signed by the employee's supervisor and maintained on file for audit purposes. All audits are to be conducted within one year of the close of the grant fiscal year end in accordance with the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General. The SDHS must also submit their audit report and corrective action plan, if applicable, to VDH within thirty days after the completion of the audit report. Failure to provide an audit report within the specified time period or failure to complete corrective actions will be considered a breach in the terms of the contract, and as such, may lead to termination of the grant or discontinuation of future funding until such time as an audit report is provided.

ARTICLE XII - PROPERTY ACQUISITION/MANAGEMENT*

The budget is not approved for the purchase of equipment.

ARTICLE XIII - OWNERSHIP OF INTELLECTUAL PROPERTY

All copyright and patent rights to all papers, reports, forms, materials, creations, or inventions created or developed in the performance of this Agreement shall become the sole property of the Commonwealth.

SDHS hereby grants a royalty-free, non-transferable, non-exclusive license to VDH to make and/or use for its lawful non-commercial purposes any product which is covered by a patent resulting from work conducted under this Agreement, for the life of such patent. Should the Federal government have any interest in such a product by virtue of its providing to VDH or SDHS part or all of the funds involved in this Agreement, it shall receive such rights as are provided for by law or regulation. Both VDH and SDHS shall notify the other of the existence of such Federal government rights immediately upon receipt of disclosure of an invention.

ARTICLE XIV - NOTICES

Any notices required or permitted hereunder shall be sufficiently given if hand delivered or if sent by registered or certified mail, postage prepaid, addressed or delivered to SDHS's principle contact for program and/or to Deputy Commissioner for Community Health Services, Virginia Department of Health, 109 Governor Street, 13th floor, Richmond, Virginia 23219.

ARTICLE XV - INTEGRATION AND MODIFICATION

This Agreement constitutes the entire understanding of the parties as to the matters contained herein. No alteration, amendment or modification of this Agreement shall be effective unless in writing and signed by the duly authorized officials of both VDH and the SDHS.

ARTICLE XVI - ASSIGNMENT

The SDHS shall not assign, sublet, or subcontract any work related to this Agreement, or any interest it may have herein, without the prior written consent of VDH, and nothing in this Agreement shall be construed as authority for either party to make commitments which will bind the other beyond the terms of this Agreement.

ARTICLE XVII - SEVERABILITY

If any provision of the Agreement is held to be invalid or unenforceable for any reason, this Agreement shall remain in full force and effect in accordance with its terms, disregarding such unenforceable or invalid provision.

The SDHS warrants that he/she/it has not employed or retained any person or persons for the purpose of soliciting or securing this Agreement. The SDHS further warrants that he/she/it has not paid or agreed to pay any other consideration, contingent upon the award of this Agreement. For breach of one or both of the foregoing warranties, VDH shall have the right to terminate this Agreement without liability, or in its discretion, to deduct from the agreed fee, payment or consideration, or otherwise recover, the full amount of said prohibited fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE XVIII - CAPTIONS

The caption headings contained herein are used solely for convenience and shall not be deemed to limit or define the provisions of this Agreement.

ARTICLE XIX - WAIVER

Any failure of a party to enforce that party's rights under any provision of this Agreement shall not be construed or act as a waiver of said party's subsequent right to enforce any of the provisions contained herein.

ARTICLE XX - TESTING AND INSPECTION

VDH reserves the right to conduct any reasonable test and/or inspection of the SDHS's facilities it may deem advisable to assure services conform to the specifications.

ARTICLE XXI - GOVERNING LAW

This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia, and any litigation with respect thereto shall be brought in the Circuit Court of the City of Richmond, John Marshall Courts Building, unless waived by VDH.

APPROVED BY:

Southern Dominion Health Systems	**Virginia Department of Health**
By: _____	By: _____
(Signature)	(Signature)
Mary Turner, Executive Director	Jeffrey Lake, Deputy Commissioner
Southern Dominion Health Systems	Virginia Department of Health
_____	_____
Date	Date

FIN Number: _____

Attachment: Appendix A

Appendix A
Southern Dominion Health Systems
OB Pilot Birth Center Project (PC) Work Plan For
Virginia Department of Health July 2009-June 2010

			Budget For Each Deliverable								
Tasks+ & Subtasks±	Deliverable	Assigned	Jul Aug Sep		Oct Nov Dec		Jan Feb Mar		Apr May Jun		
Update maternal and child health demographics for the Emporia area and feeder communities.	• Project utilization based on number of pregnant women - targeted population.	CNM	500						500		
Maintain membership in the American Association of Birth Centers.	• Provide AABC registration number.	CNM/ CEO	*		*		*		650		Annual fee
Prepare for accreditation from AABC	• Initiate steps necessary to obtain accreditation.	CNM	1700		1700		1750		1750		
Develop strategic partnerships with community programs providing maternal and child health services.		CNM & PIO									
1). Collaborate with community programs offering maternal and child health services to generate client referrals.	• List of referring entities; agency contacts and date meetings held.		500		500		500		500		
2). Market birth center services to general public, physician groups and community organizations.	• Referral resources and results of marketing plan tracked.		750		1200		1300		1300		

15,100

			Budget for Each Deliverable								
Tasks+ & Subtasks±	Deliverable	Assigned	Jul Aug Sep		Oct Nov Dec		Jan Feb Mar		Apr May Jun		
Establish an operational birth center in 2010	SDHS, Inc. BOD	CEO & Medical Director	*		*		*		*		
Prepare list of furnishings, equipment supplies, and medications.	• Furnishings, equipment, supplies & medications listed.	CNM	400		400		500		750		
Develop contracts/memoranda of agreement (MOA) /letters of understanding (LOU) specifying the referral and physician back-up agreements between and among all involved obstetric and pediatric providers and health care facilities to include exchange of client related health care information	• Copies of contracts, MOAs, and LOUs signed by all agents.	CNM/ CEO	2000		1000						
Develop emergency protocol for handling complicated deliveries to include the respective commitment each entity makes (refer to HB 2656)	• Copy of emergency protocols dated and signed by community physicians, hospital agents and the regional perinatal center	CNM & Medical Director	1500		1500		1000				
Develop health and medical record templates for mother and newborn	• Copy of approved medical record templates	CNM & Medical Director			1000				1000		

11,050

			Budget for Each Deliverable								
Tasks+ & Subtasks±	Deliverable	Assigned	Jul Aug Sep		Oct Nov Dec		Jan Feb Mar		Apr May Jun		
Establish an operational birth center in 2010 (cont)											
Develop a Community specific uniform prenatal risk assessment tool	• Approved tool – signed and dated by Medical Director	CNM & Medical Director	2000		1500						
Develop antepartum, postpartum and newborn practice guidelines	• Practice guidelines dated and signed by Medical Director	CNM & Medical Director			2000		1500		1000		
Develop a certified nurse midwife (CNM) clinical practice protocol (see DHP, BON, *Regulations Governing the Licensure of Nurse Practitioners, 18VAC 90-30-10)*	• Practice protocols dated and signed by collaborating physician and CNM	CNM & Medical Director			2000		1500		1000		
											12,500

			Budget for Each Deliverable								
Tasks+ & Subtasks±	Deliverable	Assigned	Jul Aug Sep		Oct Nov Dec		Jan Feb Mar		Apr May Jun		
Develop a quality assurance and continuous quality improvement program to include: 1). Standard of care for prenatal and pediatric health care delivery 2). Client satisfaction tool 3). Quality performance (process, outcome) measures 4). Client occurrence (safety event) reporting mechanism 5). Audit policies and procedures	• Copy of QA and CQI plan and tools.	CNM & Medical Director	1500		1500		1500		1500 1500		
Review and revise evaluation tool based upon the AABC Uniform Data Set to include all requirements stipulated in HB2656.	• Tool to track perinatal outcomes and outputs	CNM			1500		1500				
Ensure that all components in the scope of service area satisfactorily completed within the given timeframes and quarterly reports are submitted as required.	• Required reports submitted on time	CNM	1000		1000		1000		1000		

14,500

			Budget for Each Deliverable							
Tasks+ & Subtasks±	Deliverable	Assigned	Jul Aug Sep		Oct Nov Dec		Jan Feb Mar		Apr May Jun	
Collaborate with VDH to maintain a summary of all activities to aid in the evaluation of work funded by this agreement	• Evidence of ongoing communication with VDH in form of quarterly reports and emails	CNM	500		500		500		500	