

**Report of the Office of Licensure and Certification
and
Charity Care Stakeholders Workgroup**

**RE: Potential Impacts of the Patient Protection and Affordable Care Act,
as related to the Imposition of Conditions on Certificates of Public Need**

Senate Bill 942 (2013) requires that the Department of Health (VDH), in consultation with industry stakeholders, review the provisions of §32.1-102.4 of the Code of Virginia – pertaining to conditions of certificates of public need (COPN) - and the federal Patient Protection and Affordable Care Act (ACA), to identify potential impacts on Virginia's uninsured population, and the COPN holders' ongoing ability to meet their agreed upon conditions. The workgroup was also to consider expanding the categories of patients whose care may be included in conditions on certificates, including disabled veterans with service-related injuries, patients receiving services under the state plan for medical assistance, and others.

Potential Impacts on Uninsured Population and COPN Holders

Assuming that Medicaid expansion will occur, the Congressional Budget Office has determined that the ACA will provide coverage to 94% of the population. The Virginia Health Reform Initiative Advisory Group estimates that 400,000 Virginians would be eligible for Medicaid expansion. Without Medicaid expansion in Virginia, the ACA would provide coverage to 89% of the population. The 2010 census documented the total population of Virginia to be 8,001,024 with 7,024,087 under the age of 65. The U.S. Census Bureau estimates that 15.3 percent of Virginians under age 65 are uninsured. The Kaiser Commission on Medicaid and the Uninsured estimated the 2010 Medicaid enrollment in Virginia to be 13 percent of the total population. Using this information, a rough estimation of the reduction in the number of people eligible to receive charity care to help COPN holders' meet their conditions can be made.

	<u>Virginia Population</u>	<u>Percent of Total</u>
Total Population 2010	8,001,024	100.0%
Population < 65	7,024,087	87.8%
Population < 65 with health insurance	4,909,269	61.4%
Population 65 and Over (Medicare)	976,937	12.2%
2010 VA Medicaid Enrollment	1,040,133	13.0%
Total Currently Covered	6,926,339	86.6%
Population Currently not Covered	1,074,685	13.4%
<u>With Medicaid Expansion</u>		
ACA Expected Covered	7,520,963	94.0%
Population Expected to not be Covered after ACA	480,061	6.0%
Estimated Reduction in Population w/o Coverage	594,624	7.4%
<u>Without Medicaid Expansion</u>		
ACA Expected Covered	7,120,963	89.0%
Population Expected to not be Covered after ACA	880,061	11.0%
Estimated Reduction in Population w/o Coverage	194,624	2.4%

Sources - The Congressional Budget Office, The Virginia Health Reform Initiative Advisory Group,

If the ACA is successful as predicted and Medicaid expansion occurs in Virginia, the population with no health insurance coverage may be less than half of what it is today. If Medicaid expansion does not occur in Virginia, the population with no health insurance coverage may be reduced by 18 percent of what it is today. It is difficult to determine what percentage of those with no health insurance coverage would be eligible to receive charity care to help COPN holders' meet their conditions. Clearly, the population with no health insurance of any kind is expected to be less than the current uninsured population. It is reasonable to conclude that the population that qualifies for charity care to meet COPN holders' conditions will be reduced. For this reason the Commissioner's authorization to accept and approve requests for amendments to conditions of existing COPNs, which Senate Bill 942 clearly delineates, can be exercised to compensate for this fortunate reduction in eligible charity recipients.

Expanding the Categories of COPN Eligible Charity Care Patients

The workgroup was to also consider expanding the categories of patients whose care may be included in conditions on certificates to include disabled veterans with service-related injuries, patients receiving services under the state plan for medical assistance, and others.

According to information received from the Virginia Department of Veterans Services (VDVS), it is estimated there are 150,000 Virginian veterans also identified as disabled veterans with service-related injuries. According to the VDVS, all of these veterans should qualify for health care benefits through the Veterans Administration (VA) because they are high enough in the VA priority ranking to ensure access. For this reason few veterans may seek or need the type of services that are obligated by COPN conditions to provide a level of charity care. Because many medical care facilities are not subject to COPN charity care conditions and those that are usually have conditions set on specific services and equipment, there may rarely be a condition on the specific service needed by and reasonably assessable to a disabled veteran.

A member of the workgroup offered a more workable proposal. Currently, medical care facilities that are unable to provide enough charity care to meet their conditions make direct payments to organizations established under a memorandum of understanding (MOU) with the VDH to satisfy condition requirements. Today, the organizations authorized to receive and distribute those contributions are the Virginia Association of Free and Charitable Clinics, the Virginia Healthcare Foundation, and the Virginia Community Health Care Association. It has been suggested that the Division of Certificate of Public Need (DCOPN), on behalf of the State Health Commissioner, explore the effectiveness of entering into a similar MOU arrangements with charitable organizations that specifically target providing health care aid to disabled veterans. Doing so would allow such organizations to receive direct payments from conditioned facilities to benefit both disabled veterans with service-related injuries as well as medical care facilities that are conditioned COPN holders.

The workgroup concluded that making patients receiving services under the state plan for medical assistance services eligible for meeting charity care conditions would be counterproductive. However, it was suggested that the DCOPN contact the Veterans Benefit Enhancement Program Manager, a newly created position in the Department of Medical Assistance Services, for input. Patients receiving services under the state plan for medical assistance services have health care coverage. By allowing conditioned facilities to claim care provided to these patients as charity care to meet conditions, less charity care may be provided to the uninsured. The workgroup did not identify any other category of patients whose care should be included in conditions on certificates. Currently, the potential impact of the ACA on uninsured coverage is not known. It may take several years to understand this impact. DCOPN will continue to monitor the impact of the ACA on the uninsured and the ability of conditioned certificate holders to meet

their conditions. If the ACA results in dramatic reductions of the uninsured, DCOPN could reconsider approaches to meeting the conditions at that time.

Because of the breadth of experience that individual members brought to the workgroup, the VDH is pleased to provide a list of recommendations in response to the potential impacts on Virginia's uninsured population and certificates of public need (COPN) holders' ongoing ability to meet their conditions.

The recommendations are:

- The Division of Certificate of Public Need should continue to monitor trends in actual charity care provided and the impact of the ACA in Virginia to keep the Commissioner informed and prepared to accept and approve requests for amendments to conditions of existing COPNs when needed.
- The Division of Certificate of Public Need, on behalf of the State Health Commissioner, should explore the impact of entering into memorandum of understanding arrangements with charitable organizations that specifically target providing health care aid to disabled veterans.

Work Group Participants

Sandra Ranicki, BSN, LNHA, Administrator
Sitter&Barfoot Veterans Care Center

Sandy Smith, EPICS Accountant
Virginia Health Information Exchange

Paul A. Speidell, Vice President
Virginia Hospital and Healthcare Association

Rick Shinn, Director of Government Affairs
Virginia Community Healthcare Association

Linda D. Wilkinson, MPA, Executive Director
Virginia Association of Free and Charitable Clinics

Deborah D. Oswalt, Executive Director
Virginia Healthcare Foundation

Carrie Eddy, Senior Policy Analyst
Office of Licensure and Certification (OLC)

Peter Boswell, Director
Certificate of Public Need (COPN) and Managed Care Health Insurance Plans (MCHIP), OLC

TC Jones, IV, Supervisor
COPN and MCHIP, OLC