CITY OF POQUOSON

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October 24, 2016

To: The Honorable City Council

From: City Manager

Subject: **Summaries Of The Three House Bills Introduced To The General Assembly Regarding Certificates Of Public Need For Your Consideration**

Background: At the September 26, 2017 City Council meeting Councilman Green brought to the Council's attention concerns regarding critically ill persons who are unable to receive medical attention since they do not qualify for Medicare or Medicaid and are not able to afford health insurance. He further explained that during the last General Assembly Session three bills were introduced to help resolve this issue, however none of these bills were passed by the General Assembly. Councilman Green requested the opportunity to present these three alternatives to Council in a work session in order to consider and formally endorse a preferred alternative which Council could officially incorporate support for a specific alternative into its legislative program for the 2017 Session. Copies of each bill reflective of all substitutes have been previously shared with Council.

Bill Summaries

2016 SESSION

HB 350 Certificate of public need; changes to Medical Care Facilities Certificate of Public Need Program.

Introduced by: Kathy J. Byron

SUMMARY AS PASSED HOUSE:

Certificate of public need. Makes changes to the Medical Care Facilities Certificate of Public Need Program. The bill removes various behavioral health facilities from the list of medical care facilities and projects subject to the requirement of a certificate of public need and makes various changes to procedures governing the certificate of public need process, including (i) defining "charity care" for purposes of the certificate of public need program; (ii) establishing an

expedited 45-day review process for applicants for projects determined by the Department of Health (the Department) to be uncontested and to present minimal health planning impacts and for which the applicant agrees to comply with quality assurance requirements established by the Board of Health (the Board) and consents to provide charity care in an amount specified by the Board; (iii) establishing an expedited 120-day review process for applicants for projects identified by the Department to be uncontested and to present limited health planning impacts that require an intermediate level of scrutiny and for which the applicant agrees to comply with quality assurance requirements established by the Board and consents to provide charity care in an amount specified by the Board; (iv) clarifies the content of a completed application for a certificate; (v) eliminates the requirement for a public hearing on applicants for certificates; (vi) reduces the timeline from 80 calendar days to four days for a person to be made party to the case for good cause following completion of the review and submission of recommendations related to an application; (vii) requires the Department to establish a website to make information about the certificate of public need program, including information about letters of intent received by the Department, available to the public; and (viii) establishes a permit process for projects that are no longer subject to the requirement for a certificate of public need, which includes provisions for charity care requirements and quality assurance. The bill also (a) directs the Secretary of Health and Human Resources to review requirements governing imposition and satisfaction of charity care requirements for certificates of public need, including provisions for defining charity care and calculating the amount and value of charity care required and provided, develop recommendations for standardizing and enforcing such requirements, and report his recommendations to the Governor and the General Assembly by December 1, 2016, and (b) requires the Department to work cooperatively with Virginia Health Information to develop a process for the collection of utilization data for recipients of certificates of public need describing specific types of equipment utilized.

SUMMARY AS INTRODUCED:

Certificate of public need. Makes changes to the Medical Care Facilities Certificate of Public Need Program. The bill (i) defines "charity care" for purposes of the certificate of public need program; (ii) removes mental hospitals from the list of reviewable medical care facilities; (iii) establishes an expedited 21-day review process for applicants for projects determined by the Department of Health (the Department) to be uncontested and to present minimal health planning impacts and for which the applicant agrees to comply with quality assurance requirements established by the Board of Health (the Board) and consents to provide charity care in an amount specified by the Board; (iv) establishes an expedited 45-day review process for applicants for projects identified by the Department to be uncontested and to present limited health planning impacts that require an intermediate level of scrutiny and for which the applicant agrees to comply with quality assurance requirements established by the Board and consents to provide charity care in an amount specified by the Board; (v) clarifies the content of a completed application for a certificate; (vi) reduces the timeline from 80 calendar days to four days for a person to be made party to the case for good cause following completion of the

review and submission of recommendations related to an application; (vii) requires the Department to establish a website to make information about the certificate of public need program, including information about letters of intent received by the Department, available to the public; and (viii) establishes a permit process for projects that are no longer subject to the requirement for a certificate of public need, which includes provisions for charity care requirements and quality assurance. The bill also (a) directs the Secretary of Health and Human Resources to review requirements governing imposition and satisfaction of charity care requirements for certificates of public need, including provisions for defining charity care and calculating the amount and value of charity care required and provided, develop recommendations for standardizing and enforcing such requirements, and report his recommendations to the Governor and the General Assembly by December 1, 2016, and (b) requires the Department to work cooperatively with Virginia Health Information to develop a process for the collection of utilization data for recipients of certificates of public need describing specific types of equipment utilized.

2016 SESSION

HB 193 Certificates of public need; creates three-phase process to sunset requirements for medical care.

Introduced by: John M. O'Bannon, III

SUMMARY AS PASSED HOUSE: (all summaries)

Certificates of public need. Creates a two-phase process to sunset certificate of public need requirements for many categories of medical care facilities and projects, with the requirement for a certificate of public need (i) for ambulatory and outpatient surgery centers other than rural ambulatory and outpatient surgery centers and for capital expenditures at medical care facilities other than rural medical care facilities repealed in effective July 1, 2016, and (ii) for all medical care facilities other than nursing homes, rehabilitation hospitals and beds, organ or tissue transplant services, certain open heart surgery services, and rural medical care facilities repealed effective January 1, 2017. The bill also creates a new permitting process for categories of facilities and projects exempted from the certificate of public need process that requires the Commissioner of Health to issue a permit but requires the Commissioner to condition a permit (a)on the agreement of the applicant to provide a specified level of care at a reduced rate to indigents, accept patients requiring specialized care, or facilitate the development and operation of primary medical care services in designated medically underserved areas of the applicant's service area and (b) on compliance of the applicant with quality of care standards. The bill also eliminates regional health planning agencies and makes numerous changes to the COPN process for facilities and projects that will still be subject to the requirement of a certificate.

2016 SESSION

HB 1083 Medical Care Facilities Certificate of Public Need Program; changes to Program, report.

Introduced by: Christopher P. Stolle

SUMMARY AS INTRODUCED:

Certificate of public need. Makes changes to the Medical Care Facilities Certificate of Public Need Program. The bill (i) removes specialized centers or clinics or that portion of a physician's office developed for the provision of lithotripsy, magnetic source imaging (MSI), or nuclear medicine imaging from the list of reviewable medical care facilities; (ii) provides that establishment of a medical care facility to replace an existing medical care facility with the same primary service area does not constitute a project; (iii) removes introduction into an existing medical care facility of any new lithotripsy, magnetic source imaging, or obstetrical service that the facility has never provided or has not provided in the previous 12 months and addition by an existing medical care facility of any medical equipment for the provision of lithotripsy and magnetic source imaging (MSI) from the definition of project; (iv) creates a new process for registration of projects exempted from the definition of project by the bill; (v) establishes an expedited 45-day review process for applicants for projects determined to be uncontested or to present limited health planning impacts; (vi) renames the State Medical Facilities Plan as the State Health Services Plan and establishes a State Health Services Plan Advisory Council to provide recommendations related to the content of the State Health Services Plan; (vii) clarifies the content of the application for a certificate; and (viii) reduces the timeline for a person to be made party to the case for good cause from 80 calendar days to four days following completion of the review and submission of recommendations related to an application.

The bill also (a) directs the Department to develop recommendations to reduce the duration of the average review cycle for applications for certificates of public need to not more than 120 days and to report on its recommendations to the Governor and the General Assembly no later than December 1, 2016; (b) directs the Secretary of Health and Human Resources to review charity care services delivered throughout the Commonwealth and recommend changes to the definition of charity and to the types of charity care requirements imposed on various health care services and report to the Governor and the General Assembly by December 1, 2016; (c) directs the Secretary of Health and Human Resources to convene a group of stakeholders to study and make recommendations related to the appropriate authority of the State Health Commissioner to impose additional conditions on certificates; (d) directs the Secretary of Health and Human Resources to implement a system to ensure that data needed to evaluate whether an application for a certificate is consistent with the State Health Services Plan is timely and reliable, to make all public records pertaining to applications for certificates and the review

process available in real-time in a searchable, digital format online, to make an inventory of capacity authorized by certificates of public need, both operational and not yet operational, available in a digital format online, and to make charity care conditions, charity care compliance reporting status, and details on the exact amount of charity care provided or contributed and to whom it was provided or contributed available in a digital format online; (e) directs the Commissioner of Health to develop an analytical framework to guide the work of the State Health Services Plan Advisory Council; and (f) directs the Joint Commission on Health Care to develop specific recommendations for eliminating differences in the certificate of public need review process from one region to another and report on the recommendations to the Chairmen of the House Health, Welfare and Institutions and Senate Education and Health Committees by December 1, 2016.