

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** SB404

House of Origin Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. **Patron:** Durant

3. **Committee:** Education and Health

4. **Title:** Certificate of public need; hospitals licensed by the Department of Behavioral Health.

5. **Summary:** Excludes from the list of medical care facilities for which a certificate of public need is required hospitals licensed as a provider by the Department of Behavioral Health and Developmental Services. The bill excludes the following from the list of projects for which a certificate of public need is required for certain medical care facilities: (i) an increase or relocation of psychiatric beds licensed by the Department, (ii) the introduction of any psychiatric service when such medical care facility has not provided such service in the previous 12 months, and (iii) the conversion of beds to psychiatric beds. The bill also modifies the list of projects for which a certificate of public need is required for certain medical care facilities by requiring a certificate for the conversion of any psychiatric inpatient beds to nonpsychiatric inpatient beds. Under current law, a certificate is required for the conversion of a psychiatric bed to a nonpsychiatric bed only when the psychiatric bed was approved pursuant to a Request for Applications (RFA).

6. **Budget Amendment Necessary:** Yes, item 276.

7. **Fiscal Impact Estimates:**

7a. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2024		
2025	(\$53,914)	02601
2026	(\$53,914)	02601
2027	(\$53,914)	02601
2028	(\$53,914)	02601
2029	(\$53,914)	02601
2030	(\$53,914)	02601

8. **Fiscal Implications:** The provisions of this legislation would have a fiscal impact on the Virginia Department of Health (VDH). Any impact on the Department of Medical Assistance Services (DMAS) cannot be determined.

Virginia Department of Health: The costs to amend regulations is estimated to be less than \$5,000, which can be absorbed with existing resources. The remaining costs of the bill cannot be determined because VDH does not have readily available data to estimate the potential volume of COPN requests annually and cannot estimate whether it can be absorbed with existing resources. VDH's COPN program is fee-supported, and the removal of psychiatric projects may negatively impact this program. The average application fee of a COPN request for psychiatric beds is \$13,926 for the last 20 years and \$19,255 for the last 5 years; if this bill is passed, the COPN program would lose an estimated \$53,914 annually as a result.

Per Item 292 A.1. of Chapter 1, 2023 Special Session I, the COPN program cannot retain more than one month's operating expenses (which is approximately \$100,000) at the end of the state fiscal year; all excess revenue over one month's operating expenses is required to be given to the sole remaining regional health planning agency, Health Systems Agency of Northern Virginia (HSANV). Because the COPN program cannot retain sufficient excess revenue, it is financially burdened when fee revenue falls short during a state fiscal year.

Department of Medical Assistance Services: While it is assumed that legislation impacting Virginia's Certificate of Public Need (COPN) law may have fiscal implications for the Department of Medical Assistance Services (DMAS), as one of the largest purchasers of health care services in Virginia, there is insufficient data to provide a definitive estimate of the cost impact of most proposed COPN legislation. Under any scenario, it is unlikely that most COPN changes would have a direct fiscal impact on Medicaid in the biennium in which it is proposed due to the time needed for implementation and the delayed recognition of costs in Medicaid payment rates. Any significant costs are not likely to occur for three to five years and, even then, such costs would be difficult to isolate based on the unknowns associated with multiple COPN process and coverage changes and the rapidly evolving nature of the healthcare system.

9. Specific Agency or Political Subdivisions Affected: The Virginia Department of Health and the Department of Medical Assistance Services.

10. Technical Amendment Necessary: No.

11. Other Comments: None.