

Mailing Address  
P.O. Box 6133  
Williamsburg VA 23188



Office Location  
325 McLaws Cr. Suite 2  
Williamsburg VA 23185

Courtesy of:  
Peter Mellette, Esq.  
peter@mellettepc.com

## **Client Advisory**

### **Amendments to State Medical Facilities Plan – Effective February 15, 2009 Nursing Facilities and Long Term Care Providers**

On February 15, 2009, a comprehensive revision of the Virginia Department of Health's State Medical Facilities Plan ("SMFP") became effective. The official amendments only minimally altered the proposed revisions we alerted you to last year. The new SMFP continues to reduce the occupancy expectation to 93% and eliminates many of the "preferences" for COPN approval, retaining preferences for improved bed accessibility and replacement of functionally obsolete facilities. The addition of beds continues to require a prior Department request for applications. The changes since last year's draft, concerning continuing care retirement communities, are as follows:

**Continuing Care Retirement Communities:** Proposals for the development of new nursing facilities or the expansion of existing facilities by continuing care retirement communities (CCRC) will be considered when the number of nursing facility beds requested in the initial application does not exceed the lesser of 20% of the continuing care retirement community's total number of beds that are not nursing home beds or 60 beds, and when the number of new nursing facility beds requested in any subsequent application does not cause the continuing care retirement community's total number of nursing home beds to exceed 20% of its total number of beds that are not nursing facility beds. These changes are consistent with state law and past case decisions.

Please contact Mellette PC if you have any questions about the impact of the amended SMFP regulations on future projects.

<http://www.vdh.virginia.gov/OLC/Laws/documents/COPN/2009%20smfp.pdf>