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## **Client Advisory**

### **Amendments to State Medical Facilities Plan – Effective February 15, 2009 Radiation Therapy Services**

On February 15, 2009, a comprehensive revision of the Virginia Department of Health's State Medical Facilities Plan ("SMFP") became effective. Some of the changes in these regulations may affect your plans for radiation therapy services. The relevant revisions are as follows:

**Radiation Therapy Services.** Radiation therapy services should be available within 60 minutes driving time one way under normal conditions of 95% of the population of the health planning district. In order to satisfy a need for new service, existing radiation therapy machines in the health planning district must have performed an average of 8,000 procedures per existing and approved machine during the relevant reporting period. By the second year of operation, the new service must perform at least 5,000 procedures without significantly reducing the utilization of existing providers in the district. The number of radiation therapy machines needed in a health planning district will be determined as follows:  $(\text{Population} \times \text{Cancer Incidence Rate} \times 60\%) / 320$ . The population is projected to be at least 150,000 people three years from the current year. 60% is now the estimated number of new cancer cases in a health planning district that are treatable with radiation therapy, and 320 is 100% utilization of a radiation therapy machine based upon an anticipated average of 25 procedures per case. Proposals for new radiation therapy services must demonstrate that the new services will perform an average of 4,500 procedures annually by the second year of operation, without significantly reducing the utilization of existing services in the district. Proposals to expand services should be approved only when all existing radiation therapy services operated by the applicant in the health planning district have performed an average of 8,000 procedures for the relevant reporting period.

**Stereotactic Radiosurgery.** Stereotactic radiosurgery services should be available within 60 minutes driving time one way under normal conditions of 95% of the population of a health planning region. To satisfy a need for new service, the number of procedures performed with existing units in the region must have averaged more than 350 per year in the relevant reporting period, and the proposed new service must perform at least 250 procedures in the second year of operation without significantly reducing the utilization of existing providers in the region. Preference may be given to a project that incorporates stereotactic radiosurgery service within an existing standard radiation therapy service using a linear accelerator with an average of 8,000 procedures during the relevant period. Preference may be given to a project that incorporates a dedicated Gamma Knife within an existing radiation therapy service when at least 350 Gamma Knife appropriate cases were referred out of the region in the relevant reporting period, and the applicant can

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demonstrate that an average of 250 procedures will be performed in the second year of operation. Preference may be given to a project that incorporates non-Gamma Knife SRS technology within an existing radiation therapy service when the unit is not part of a linear accelerator, an average of 8,000 radiation procedures per year were performed by the existing radiation therapy services, and at least 250 procedures will be performed within the second year of operation. Proposals to increase the number of stereotactic radiosurgery services should be approved only when all existing stereotactic radiosurgery machines in the region have performed an average of 350 procedures per existing and approved unit for the relevant reporting period.

A special task force is now considering further amendments to the SMFP criteria for radiation therapy, including a specific formula for SRS-capable External Beam Radiation Therapy.

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

Please see attached for the full text of the amended SMFP regulations.