

# VIRGINIA DEPARTMENT OF HEALTH

## Office of Licensure and Certification

### Division of Certificate of Public Need

#### Staff Analysis

November 19, 2020

#### **COPN Request No. VA-8523**

Children's Hospital of The King's Daughters  
Norfolk, Virginia  
Add One General Purpose Operating Room

#### **Applicant**

Children's Hospital of the King's Daughters, Inc., doing business as Children's Hospital of the King's Daughters ("CHKD"), is a non-profit corporation, incorporated in the Commonwealth of Virginia. CHKD is a wholly owned subsidiary of Children's Health System, Inc. Subsidiaries of the applicant include Children's Medical Tower, LLC and Children's Health System Insurance, LLC. CHKD is located in the City of Norfolk, Virginia in Health Planning Region (HPR) V, Planning District (PD) 20.

#### **Background**

CHKD is Virginia's only freestanding, full-service children's hospital. CHKD currently operates 206 beds and special units for neonatal and pediatric intensive care, cancer care, acute inpatient rehabilitation, medical and surgical care, and transitional care. CHKD also supports and participates in pediatric research and clinical trials that benefit children's health.

According to 2018 Virginia Health Information ("VHI") data, the most recent year for which such data is available, collectively, there are 138 certificate of public need ("COPN") recognized general-purpose operating rooms ("GPOR") located in PD 20. Of these 138 operational GPORs in PD 20, 102 are located in acute care hospitals, with the remaining 36 located in outpatient surgical hospitals (**Table 1**). Based on DCOPN records, there are currently 151 operating rooms in PD 20.

**Table 1: PD 20 COPN Authorized GPOR Inventory & 2018 Utilization**

<b>Acute Care Hospitals</b>	<b>ORs</b>	<b>Total Hours</b>	<b>Hours/OR</b>	<b>Utilization%</b>
Bon Secours DePaul Medical Center	10	11,546	1,154.6	72.2%
Bon Secours Maryview Medical Center	9	7,449	827.7	51.7%
Chesapeake Regional Medical Center	13	22,490	1,730.0	108.1%
Children's Hospital of The King's Daughters	9	13,909	1,545.4	96.6%
Sentara Leigh Hospital	11	20,455	1,859.5	116.2%
Sentara Norfolk General Hospital	22	41,967	1,907.6	119.2%
Sentara Obici Hospital	7	10,750	1,535.7	96.0%
Sentara Princess Anne Hospital	8	15,045	1,880.6	117.5%
Sentara Virginia Beach General Hospital	9	17,927	1,991.9	124.5%
Southampton Memorial Hospital	3	1,632	544.0	34.0%
<b>TOTAL and Average</b>	<b>101</b>	<b>163,170</b>	<b>1,615.5</b>	<b>101.0%</b>
<b>2020 Total</b>	<b>108</b>			
<b>Outpatient Surgical Hospitals</b>	<b>ORs</b>	<b>Total Hours</b>	<b>Hours/OR</b>	<b>Utilization%</b>
Bayview Medical Center	2	857	429	26.8%
Bon Secours Surgery Center at Harbour View	6	4,396	733	45.8%
Bon Secours Surgery Center at Virginia Beach	2	3,520	1760	110%
Chesapeake Regional Surgery Center at Virginia Beach*****	1	2,044	2,044	127.8%
CHKD Health & Surgery Center at Virginia Beach*****	2	2,577	1289	80.5%
Princess Anne Ambulatory Surgery Center*****	2	6,749	3375	210.9%
Sentara Leigh - Ambulatory Surgery	6	8,727	1455	90.9%
Sentara Obici Ambulatory Surgery LLC	2	2,155	1078	67.3%
Sentara Virginia Beach ASC	4	4,921	1230	76.9%
Surgery Center of Chesapeake	4	5,354	1339	83.7%
Virginia Beach Eye Center	1	1,097	1097	68.6%
Virginia Center for Eye Surgery	2	3,702	1851	115.7%
Virginia Surgery Center, LLC*****	2	4,282	2141	133.8%
<b>2018 Total</b>	<b>36</b>	<b>50,381</b>	<b>1,399.5</b>	<b>87.5%</b>
<b>2020 Total</b>	<b>45</b>			
<b>2018 Grand Total*****</b>	<b>137</b>	<b>213,551</b>	<b>1,558.8</b>	<b>97.4%</b>
<b>2020 Grand Total</b>	<b>153</b>			

**Source: VHI and COPN data**

\* The State Health Commissioner (“Commissioner”) issued COPN No. VA-04685 to Chesapeake Regional Medical Center on December 16, 2019, which authorized Chesapeake Regional Medical Center to add one GPOR. This project is expected to be completed in January 2021.

\*\* The Commissioner issued COPN No. VA-04579 to Sentara Hospitals d/b/a Sentara Leigh Hospital on December 17, 2017, which authorized Sentara Leigh Hospital to add two add two GPORs. The project became operational on September 1, 2020.

\*\*\* The Commissioner issued COPN No. VA-04640 to Sentara Hospitals d/b/a Sentara Norfolk General Hospital on January 21, 2019, which authorized Sentara Norfolk General Hospital to add two GPORS. This project was expected to be completed in August 2020, but DCOPN has not received notification that the project was completed.

\*\*\*\* The Commissioner issued COPN No. VA-04684 to Sentara Princess Anne Hospital on December 16, 2019, which authorized Sentara Princess Anne Hospital to add one GPOR. This project is expected to be completed in January 2021.

\*\*\*\*\* The Commissioner issued COPN No. VA-04707 to Sentara Virginia Beach Hospital on June 8, 2020, which authorized Sentara Virginia Beach Hospital to add one GPOR. This projected is expected to be completed in February 2021.

\*\*\*\*\* The Commissioner issued COPN No. VA-04634 to Chesapeake Regional Medical Center on December 10, 2018, which authorized Chesapeake Regional Surgery Center at Virginia Beach to add one GPOR. This project was completed in April 2019.

\*\*\*\*\* The Commissioner issued COPN No. VA-04567 to Children’s Hospital of the King’s Daughters, Inc. on June 13, 2017, which authorized Children’s Hospital of the King’s Daughters Health & Surgery Center at Virginia Beach to add one GPORs. The project became operational in February 2019.

\*\*\*\*\* The Commissioner issued COPN No. VA-04633 to Princess Anne Ambulatory Surgery Management, LLC on December 10, 2018, which authorized Sentara Princess Anne Ambulatory Surgery Center to add two GPORs. This project was expected to be completed on April 30, 2020, but DCOPN has not received notification that the project was completed.

\*\*\*\*\* The Commissioner issued COPN No. VA-04708 to Virginia Surgery Center, LLC on June 8, 2020, which authorized Virginia Surgery Center, LLC to relocate an outpatient surgery center and add two ophthalmic operating rooms at Virginia Surgery Center. This project is expected to be completed in June 2021.

\*\*\*\*\* The Commissioner issued COPN No. VA-04576 to Center for Visual Surgical Excellence, LLC on September 13, 2017, which authorized the Center for Visual Surgical Excellence, LLC to establish an outpatient surgical hospital with one OR dedicated to ophthalmic surgery. This project became operational on January 8, 2020

### **Proposed Project**

CHKD proposes add one GPOR through reopening an existing GPOR located in CHKD’s existing OR suite that has been non-operational since 2016. This room was used originally for cardiac procedures and ceased being used when the cardiac ORs were consolidated into another part of the building. This non-operational GPOR is currently being used as storage. The applicant states that only minor updates and minimal renovations are required to allow the space to once more be used as a licensed operating room. The total capital cost of this proposed project is estimated to be \$265,000 (**Table 2**) and would be funded entirely through the accumulated reserves of CHKD.

**Table 2. Capital and Financing Costs**

Direct Construction	\$100,000
Equipment	\$165,000
<b>TOTAL Capital and Financing Costs</b>	<b>\$265,000</b>

Source: COPN Request 8523

### **Project Definition**

Section 32.1-102.1:3 of the Code of Virginia defines a project, in part, as “An increase in the total number of...operating rooms in an existing medical care facility...”. A medical care facility is defined, in part, as “any facility licensed as a hospital.”

### **Required Considerations -- § 32.1-102.3, of the Code of Virginia**

In determining whether a public need exists for a proposed project, the following factors shall be taken into account when applicable.

- 1. The extent to which the proposed service or facility will provide or increase access to needed services for residents of the area to be served, and the effects that the proposed service or facility will have on access to needed services in areas having distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care.**

As discussed in greater detail throughout this report, CHKD claims an institutional need to expand its surgical services. Additionally, as addressed below, the high utilization at CHKD is amplified by circumstances specific to pediatric surgical services, whose clinical outcomes benefit from an earlier and shorter surgical day than adult surgical services. Approval of the project would decompress the highly utilized operating rooms at CHKD and would allow for the scheduling of shorter surgical days that would benefit clinical outcomes for pediatric patients. Moreover the applicant asserts that, as the sole pediatric Level 1 Trauma Center in the HPR, the high utilization has made it increasingly challenging to avoid scheduling delays for non-emergent cases and undermines its flexibility to accommodate unscheduled trauma and emergency patients without postponing scheduled patients' access to surgical treatment. This issue was also raised in all of the letters of support for this project, which were received solely from physicians associated with the applicant. As such, approval of the project would increase access to surgical services by lessening or preventing instances where non-emergent cases are either delayed past optimal pediatric surgical times or rescheduled as a result of unscheduled trauma or emergency patients.

CHKD is located on the Eastern Virginia Medical School campus and is sited adjacent to Sentara Norfolk General Hospital. Geographically, CHKD is easily accessible from three major Norfolk thoroughfares and several exits off Interstate 264, Interstate 664, and Interstate 64. Additionally, public transport to CHKD is available by a public bus and Norfolk's light rail train, the Tide.

DCOPN is not aware of any geographic, socioeconomic, cultural, or transportation barriers to access to care.

**2. The extent to which the project will meet the needs of the residents of the area to be served, as demonstrated by each of the following:**

**(i) the level of community support for the proposed project demonstrated by people, businesses, and governmental leaders representing the area to be served;**

DCOPN received five letters of support for the proposed project from physicians associated with CHKD. Collectively, these letters articulated the need to decompress the over utilized GPORs at CHKD and the difficulties currently experienced by physicians in booking non-emergent subspecialty surgeries with the current high utilization of the existing GPORs.

Public Hearing

DCOPN provided notice to the public regarding this project on September 10, 2020. The public comment period closed on October 26, 2020. Section 32.1-102.6 of the Virginia Code mandates that "in the case of competing applications or in response to a written request by an elected local government representative, a member of the General Assembly, the Commissioner, the applicant, or a member of the public, [DCOPN shall] hold one hearing on each application in a location in the county or city in which the project is proposed or a contiguous county or city." The proposed project is not competing, and no public hearing

was requested by the applicant, the Commissioner, an interested party, or member of the public. As such, no public hearing was held.

**(ii) the availability of reasonable alternatives to the proposed project that would meet the needs of the people in the area to be served in a less costly, more efficient, or more effective manner;**

DCOPN is not aware of any reasonable alternatives to the proposed project. The status quo is not a viable alternative to the proposed project. Under the status quo, CHKD would continue to experience high volumes that would result in delaying and rescheduling of non-emergent pediatric surgical cases. Moreover, the high utilization and potential delays would lead to longer surgical hours, which, as discussed below, can affect pediatric patient clinical outcomes. Additionally, as discussed below, there are no underutilized operating rooms within the applicant's health system that could be reallocated. As such, DCOPN concludes that there is not a reasonable alternative to the proposed project that would resolve the institutional need to expand at CHKD.

**(iii) any recommendation or report of the regional health planning agency regarding an application for a certificate that is required to be submitted to the Commissioner pursuant to subsection B of § 32.1-102.6;**

Not applicable. Currently there is no organization in HPR V designated by the Virginia Department of Health to serve as the regional health-planning agency for the eastern Virginia region.

**(iv) any costs and benefits of the proposed project;**

As demonstrated in **Table 2**, the total capital cost of this proposed project, which would be funded through CHKD's accumulated reserves, is estimated to be \$265,000. The costs for the project are reasonable and consistent with previously approved projects to add one GPOR to an existing medical facility through the reactivation of an idle operating room. For example, COPN No. VA-04257 issued to Winchester Medical Center, Inc. to add one operating room costing approximately \$233,573. As discussed above, the proposed project to add one GPOR through the reactivation of an existing delicensed OR would address an institutional need at CHKD and increase access to necessary pediatric surgical services by decompressing the applicant's highly utilized operating rooms.

**(v) the financial accessibility of the proposed project to the people in the area to be served, including indigent people; and**

The applicant states that that "CHKD serves all patients in need of health care services and all children requiring surgical services would be able to access such services regardless of financial considerations." The applicant additionally states that CHKD serves one of the highest proportions of Medicaid patients in the Commonwealth and the highest among acute care hospitals. As **Table 3** below demonstrates, CHKD provided 0.60% of its gross patient

revenue in the form of charity care in 2018. Recent changes to § 32.1-102.4B of the Code of Virginia now require DCOPN to place a charity care condition on every applicant seeking a COPN. Accordingly, should the Commissioner approve the proposed project, DCOPN recommends a charity care condition of 0.6% to be derived from gross patient services revenue derived from surgical services. This condition is in line with a DCOPN charity care recommendation that was issued after the changes to § 32.1-102.4B of the Code of Virginia<sup>1</sup>.

**Table 3: HPR V 2018 Charity Care Contributions**

Hospital	Gross Patient Revenues	Adjusted Charity Care Contribution	Percent of Gross Patient Revenue:
Bon Secours DePaul Medical Center	\$698,996,618	\$53,230,518	7.62%
Sentara Careplex Hospital	\$889,460,665	\$64,660,889	7.27%
Riverside Tappahannock Hospital	\$162,491,011	\$11,307,825	6.96%
Riverside Regional Medical Center	\$1,861,151,990	\$126,769,911	6.81%
Bon Secours Maryview Medical Center	\$1,273,955,832	\$85,038,667	6.68%
Sentara Obici Hospital	\$825,126,790	\$54,851,619	6.65%
Riverside Walter Reed Hospital	\$252,673,741	\$16,571,599	6.56%
Sentara Virginia Beach General Hospital	\$1,210,282,480	\$67,107,518	5.54%
Riverside Doctors' Hospital Williamsburg	\$124,258,743	\$6,791,596	5.47%
Sentara Norfolk General Hospital	\$3,313,578,465	\$168,093,514	5.07%
Riverside Shore Memorial Hospital	\$235,708,877	\$11,934,270	5.06%
Sentara Leigh Hospital	\$1,182,257,169	\$55,810,160	4.72%
Bon Secours Mary Immaculate Hospital	\$675,071,989	\$29,896,497	4.43%
Sentara Princess Anne Hospital	\$967,617,447	\$38,069,270	3.93%
Sentara Williamsburg Regional Medical Center	\$659,049,590	\$24,789,255	3.76%
Chesapeake Regional Medical Center	\$900,598,911	\$15,330,992	1.70%
Hampton Roads Specialty Hospital	\$25,627,019	\$433,771	1.69%
Southampton Memorial Hospital	\$209,949,572	\$3,282,979	1.56%
Bon Secours Rappahannock General Hospital	\$71,220,177	\$1,107,592	1.56%
Children's Hospital of the King's Daughters	\$1,009,437,096	\$6,094,726	0.60%
Lake Taylor Transitional Care Hospital	\$46,761,019	\$0	0.00%
Hospital For Extended Recovery	\$25,515,975	-\$252,369	-0.99%
<b>Total \$ &amp; Mean %</b>	<b>\$16,620,791,176</b>	<b>\$840,920,799</b>	<b>5.1%</b>

Source: 2018 VHI Data

**(vi) at the discretion of the Commissioner, any other factors as may be relevant to the determination of public need for a proposed project.**

The applicant asserts that pediatric surgery involves additional challenges not experienced with adult surgeries. Specifically, pediatric patients require a front-loaded surgery day to avoid late afternoon and evening operations that can have an adverse outcome on pediatric patients' clinical outcomes. This is because pediatric surgery patients that are scheduled later in the day risk dehydration while waiting to receive surgery because they are unable to drink water or receive IV fluids over a prolonged period of time. The Commissioner<sup>2</sup> and DCOPN<sup>3</sup>

<sup>1</sup> COPN No. VA-04715

<sup>2</sup> COPN No. VA-03805 Adjudication Officer's Report

<sup>3</sup> COPN No. VA-04567

have both recognized the clinical benefit of early morning surgeries, and the consequentially shortened surgical days, in pediatric case.

**3. The extent to which the proposed project is consistent with the State Health Services Plan;**

Section 32.1-102.2:1 of the Code of Virginia calls for the State Health Services Plan Task Force to develop, by November 1, 2022, recommendations for a comprehensive State Health Services Plan (“SHSP”). In the interim, DCOPN will consider the consistency of the proposed project with the predecessor of the SHSP, the State Medical Facilities Plan (“SMFP”).

The State Medical Facilities Plan (SMFP) contains criteria/standards for the addition of general-purpose operating rooms. They are as follows:

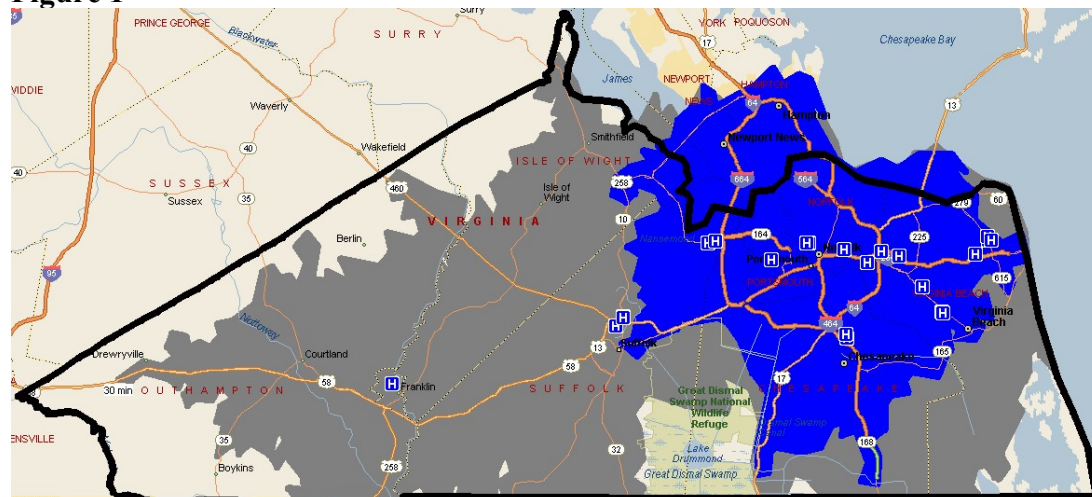
**Part V**  
**General Surgical Services**  
**Criteria and Standards for General Surgical Services**

**12VAC5-230-490. Travel Time.**

**Surgical services should be available within 30 minutes driving time one way under normal conditions for 95% of the population of the health planning district using mapping software as determined by the commissioner.**

The black line in Figure 1 identifies the boundary of PD 20. The dark “H” signs in Figure 1 mark the locations of COPN recognized GPORs that are within 30 minutes of portions of PD 20. The grey shading illustrates the area that is within a thirty-minute drive under normal driving conditions of all approved GOPOR service providers with the exception of the CHKD. The blue shading shows the area that would be solely within a thirty-minute drive under normal driving conditions of the CHKD. From the shading, it does appear that services are available within thirty-minutes driving time one way under normal conditions of more than 95% of the population of PD 20.

**Figure 1**



12VAC5-230-500. Need for New Service.

- A. The combined number of inpatient and outpatient general purpose surgical operating rooms needed in a health planning district, exclusive of procedure rooms, dedicated cesarean section rooms, operating rooms designated exclusively for cardiac surgery, procedures rooms or VDH-designated trauma services, shall be determined as follows:

$$\text{FOR} = \frac{((\text{ORV}/\text{POP}) \times (\text{PROPOP})) \times \text{AHORV}}{1600}$$

Where:

**ORV** = the sum of total inpatient and outpatient general purpose operating room visits in the health planning district in the most recent five years for which general purpose operating room utilization data has been reported by VHI; and

**POP** = the sum of total population in the health planning district as reported by a demographic entity as determined by the commissioner, for the same five-year period as used in determining ORV.

**PROPOP** = the projected population of the health planning district five years from the current year as reported by a demographic program as determined by the commissioner.

**AHORV** = the average hours per general purpose operating room visit in the health planning district for the most recent year for which average hours per general purpose operating room visits have been calculated as reported by VHI.

**FOR** = future general purpose operating rooms needed in the health planning district five years from the current year.

**1600** = available service hours per operating room per year based on 80% utilization of an operating room available 40 hours per week, 50 weeks per year.

The preceding formula can be used to affirm whether there is currently an excess of GPORs in PD 20. The preceding formula can also determine the overall need for operating rooms within PD 20 five years from the current year, i.e., in the year 2025. The current GPOR inventory for PD 20 is broken down by facility, category, and utilization rate as shown in **Table 1** above.

Based on operating room utilization submitted to and compiled by VHI, for the five year period 2014 through 2018, which is the most recent five-year time span for which relevant data is available, the total numbers of reported inpatient and outpatient operating room visits to hospital-based and freestanding (i.e., to outpatient surgical hospitals/ambulatory surgical centers) are shown in **Table 4**.



**Table 4: Inpatient & Outpatient GPOR  
 Utilization in PD 20: 2014-2018**

Year	Total Inpatient & Outpatient Operating Room Visits
2014	110,759
2015	112,731
2016	112,948
2017	112,880
2018	112,859
<b>Total</b>	<b>562,177</b>
<b>Average</b>	<b>112,435</b>

Source: 2014-2018 VHI Data and COPN Records

Based on actual population counts derived as a result of the 2010 U.S. census, and population projections as compiled by Weldon Cooper, **Table 5** presents the U.S. Census' baseline population estimates for Planning District 20 for the five years 2014-2018 as follows:

**Table 5: PD 20 Population:  
 2014-2018 & 2025**

Year	Population
2014	1,165,256
2015	1,171,053
2016	1,177,214
2017	1,183,747
2017	1,190,659
<b>Total</b>	<b>5,887,930</b>
<b>Average</b>	<b>1,177,586</b>
<b>2025</b>	<b>1,227,870</b>

Source: Weldon Cooper

Note: Straight Line Extrapolation

Based on the above population estimates from the 2010 U.S. Census, and using a straight line extrapolation, DCOPN calculates an average annual increase of 6,210 from 2010 to 2020 and 4,774 from 2020 to 2030, the cumulative total population of PD 20 for the same historical five-year period as referenced above, 2014-2018, was 5,887,930, while the population of PD 20 in the year 2025 (PROPOP – five years from the current year) is projected to be 1,227,870. These figures are necessary for the application of the preceding formula, as follows:

ORV	÷	POP	=	CSUR
Total PD 20 GPOR Visits 2014 to 2018:		PD 20 Historical Population 2014 to 2018:		Calculated GPOR Use Rate 2014 to 2018:
562,177		5,887,930		0.0954

CSUR	*	PROPOP	=	PORV
Calculated GPOR Use Rate 2014 to 2018:		PD 20 Projected Population 2025:		Projected GPOR Visits 2025:
0.0954		1,227,870		117,237

**AHORV is the average hours per operating room visit in the planning district for the most recent year for which average hours per operating room visit has been calculated from information collected by the Virginia Department of Health.**

AHORV = 213,551 total inpatient and outpatient operating room hours (Table 6) reported to VHI for 2018, divided by 112,859 total inpatient and outpatient operating room visits reported to VHI for that same year (Table 4);

**Table 6: PD 20 Total OR Room Hours: 2018**

Acute Care Hospital	Inpatient OR Hours	Outpatient OR Hours	Total Hours
Bon Secours DePaul Medical Center	5,667	5,879	11,546
Bon Secours Maryview Medical Center	4,128	3,321	7,449
Chesapeake Regional Medical Center	9,147	13,343	22,490
Children's Hospital of The King's Daughters	3,975	9,934	13,909
Sentara Leigh Hospital	13,729	6,726	20,455
Sentara Norfolk General Hospital	24,452	17,515	41,967
Sentara Obici Hospital	5,471	5,279	10,750
Sentara Princess Anne Hospital	7,277	7,768	15,045
Sentara Virginia Beach General Hospital	10,035	7,892	17,927
Southampton Memorial Hospital	212	1,420	1,632
<b>TOTAL</b>	<b>84,093</b>	<b>79,077</b>	<b>163,170</b>
<b>Outpatient Surgical Hospital</b>			
Bayview Medical Center	0	857	857
Bon Secours Surgery Center at Harbour View	0	4,396	4,396
Bon Secours Surgery Center at Virginia Beach	0	3,520	3,520
Chesapeake Regional Surgery Center at Virginia Beach	0	2,044	2,044
CHKD Health & Surgery Center at Virginia Beach	0	2,577	2,577
Princess Anne Ambulatory Surgery Center	0	6,749	6,749
Sentara Leigh - Ambulatory Surgery	0	8,727	8,727
Sentara Obici Ambulatory Surgery LLC	0	2,155	2,155
Sentara Virginia Beach ASC	0	4,921	4,921
Surgery Center of Chesapeake	0	5,354	5,354
Virginia Beach Eye Center	0	1,097	1,097
Virginia Center for Eye Surgery	0	3,702	3,702
Virginia Surgery Center, LLC	0	4,282	4,282
<b>TOTAL</b>	<b>0</b>	<b>50,381</b>	<b>50,381</b>
<b>Grand Total</b>	<b>84,093</b>	<b>129,458</b>	<b>213,551</b>

Source: VHI 2018 Data

$$\text{AHORV} = 1.8921$$

$$\frac{\text{FOR} = ((\text{ORV}/\text{POP}) \times (\text{PROPOP})) \times \text{AHORV}}{1600}$$

$$\frac{\text{FOR} = 0.0954 \times 1,227,870 \times 1.8921}{1600}$$

$$\text{FOR} = 223,059.37 \div 1,600$$

$$\text{FOR} = 138.7$$

**Current PD 20 GPOR inventory: 153**

**Net Surplus: 14 GPORs for 2025 planning year**

Using the above methodologies, there is a predicted need for 139 GPORs in PD 20 by 2025. As such, the conclusion would be logically reached there is a surplus of 14 ORs in the planning district by the year 2025. The applicant's calculations differ from those laid out above, predominantly in operating room hours and population calculations, but ultimately calculate an even greater surplus of 16 operating rooms. As these calculations are less favorable to the applicant, DCOPN has not, beyond confirming the veracity of its own calculations, further attempted to reconcile the applicant's differing calculations.

- B. Projects involving the relocation of existing operating rooms within a health planning district may be authorized when it can be reasonably documented that such relocation will: (i) improve the distribution of surgical services within a health planning district ; (ii) result in the provision of the same surgical services at a lower cost to surgical patients in the health planning district; or (iii) optimize the number of operations in the health planning district that are performed on an outpatient basis.**

Not applicable. The applicant is not seeking to relocate existing operating rooms.

**12VAC5-230-510. Staffing.**

**Surgical services should be under the direction or supervision of one or more qualified physicians.**

The applicant has provided assurances that the proposed surgical services will be under the direction of an appropriately qualified pediatric surgeon.

**12VAC5-230-80. When Institutional Expansion Needed.**

- A. Notwithstanding any other provisions of this chapter, the commissioner may grant approval for the expansion of services at an existing medical care facility in a health planning district with an excess supply of such services when the proposed expansion can be justified on the basis of a facility's need having exceeded its current service capacity to provide such service or on the geographic remoteness of the facility.**

As detailed in **Table 1** above, CHKD's nine GPORs operated in 2018, the last year for which DCOPN has data from VHI, at 96.6% of the SMFP threshold of 1,600 hours per operating room. CHKD states in their application that the nine operating rooms operated at 99.3% of the SMFP threshold in 2019. While CHKD does not meet the 1,600 hour threshold average for the PD in either year, these numbers are extremely high for a pediatric surgical program, which, as discussed above, requires a front-loaded surgery day to avoid late afternoon and evening operations that can have an adverse outcome on pediatric patients' clinical outcome. Moreover, a determination that institutional need exists at this level of utilization at CHKD would be consistent with DCOPN and the Commissioner's determination on the 2017 addition of one GPOR at CHKD's outpatient surgical center<sup>4</sup>. As such, DCOPN concludes that, as a pediatric hospital operating at close to the SMFP threshold, the applicant has adequately demonstrated an institutional need to add one GPOR at CHKD.

- B. If a facility with an institutional need to expand is part of a health system, the underutilized services at other facilities within the health system should be reallocated, when appropriate, to the facility with the institutional need to expand before additional services are approved for the applicant. However, underutilized services located at a health system's geographically remote facility may be disregarded when determining institutional need for the proposed project.**

There are no GPORs within the health system that should be relocated to CHKD. CHKD has one additional facility, the Children's Hospital of the Kings Daughters Health & Surgery Center at Virginia Beach. This outpatient facility had two GPORs that operated at 80.5% of the SMFP threshold in 2018. As discussed above, the Commissioner issued COPN No. VA-04567 in 2017 increasing the number of GPORs at Children's Hospital of the Kings Daughters Health & Surgery Center at Virginia Beach to three. This decision was based, in part on to the demonstrated need to meet existing and projected surgical demand at that location. Based on this demonstrated need to meet existing and projected surgical demand at that location and the high utilization of the existing GPORs in the latest data available from VHI, reallocation of an operating room from this location is not a viable alternative. As such, DCOPN concludes that relocation of existing GPORs within the health system is not feasible.

---

<sup>4</sup> COPN No. VA-04567

**C. This section is not applicable to nursing facilities pursuant to § 32.1-102.3:2 of the Code of Virginia.**

The proposed project does not involve nursing facilities.

**D. Applicants shall not use this section to justify a need to establish new services.**

The applicant is an existing provider of inpatient surgical services.

**Required Considerations Continued**

**4. The extent to which the proposed project fosters institutional competition that benefits the area to be served while improving access to essential health care services for all people in the area to be served;**

As Virginia's only freestanding children's hospital, the proposed project is highly unlikely to foster institutional competition. To the degree to which pediatric surgical services in PD 20 could be considered a direct competitor to the applicant, the decompressing of the highly utilized operating rooms at CHKD would increase access to pediatric surgical services in PD 20 and foster some degree of institutional competition. However, given that CHKD is the major provider of pediatric surgical services, the level of institutional competition is highly likely to be de minimis.

**5. The relationship of the proposed project to the existing health care system of the area to be served, including the utilization and efficiency of existing services or facilities;**

The applicant asserts that CHKD, as the Commonwealth's sole freestanding pediatric hospital, serves a unique role in the existing health care system of the service area. The applicant further states that this role has long been recognized by the health care community within the area. DCOPN finds that this assertion is supported by the lack of opposition provided by the other health care providers in the area. In an area as frequently contentious as PD 20, where it is relatively uncommon for a resource as sought after as an operating room to go uncontested by other health care systems, the lack of comment by other providers speaks to the unique position of CHKD within the market. Moreover, the proposed project is based on an institutional need to expand capacity for pediatric patients rather than the need for additional operating rooms within the Planning District as a whole. As such, DCOPN concludes that, between CHKD's unique role within the planning district and its institutional need to expand, approval of the project is highly unlikely to have a material impact on the utilization of providers of surgical services within the planning district.

**6. The feasibility of the proposed project, including the financial benefits of the proposed project to the applicant, the cost of construction, the availability of financial and human resources, and the cost of capital;**

As demonstrated in **Table 2**, the total capital cost of this proposed project, which would be funded through CHKD's accumulated reserves, is estimated to be \$265,000. Additionally, as discussed above, DCOPN determined that the costs for the project are reasonable and consistent with previously approved projects to add one GPOR to an existing medical facility through the reactivation of an idle operating room. For the aforementioned reasons, DCOPN concludes that the proposed project is financial feasible.

With regards to the availability of human resources, CHKD anticipates the need for an additional 4.5 FTEs, consisting of 2.0 FTEs for Registered Nurses, 1.5 FTEs for Surgical Technologists, and 1.0 FTEs for Equipment Technologists. The applicant asserts that CHKD will advertise for the needed employees in professional journals and newspapers of regional circulation throughout Eastern Virginia. The applicant additionally states that historically it has had little difficulty hiring and retaining staff. Finally, the applicant states that they do not anticipate that the proposed project will have any impact on existing providers. This assertion seems reasonable given the relatively low staffing needs and the pediatric focus of the applicant. Accordingly, DCOPN concludes that the applicant will successfully be able to staff the proposed project without having a significant negative impact on existing providers of this service.

**7. The extent to which the proposed project provides improvements or innovations in the financing and delivery of health care services, as demonstrated by; (i) the introduction of new technology that promotes quality, cost effectiveness, or both in the delivery of health care services; (ii) the potential for provision of health care services on an outpatient basis; (iii) any cooperative efforts to meet regional health care needs; and (iv) at the discretion of the Commissioner, any other factors as may be appropriate; and**

The applicant asserts that, while CHKD works to accommodate outpatients at its ambulatory surgery center ORs whenever appropriate, many complex outpatients in need of surgical services are most appropriately treated at the hospital. As discussed above, the current high utilization has caused delays or rescheduling of non-emergent surgeries at CHKD. As such, DCOPN concludes that approval of the project would improve the delivery of pediatric outpatient surgical service by reducing the instances where emergent cases require the delay or rescheduling of outpatient surgeries at CHKD.

8. In the case of a project proposed by or affecting a teaching hospital associated with a public institution of higher education or a medical school in the area to be served,
- (i) The unique research, training, and clinical mission of the teaching hospital or medical school.
  - (ii) Any contribution the teaching hospital or medical school may provide in the delivery, innovation, and improvement of health care for citizens of the Commonwealth, including indigent or underserved populations.

CHKD is a teaching hospital and has a cooperative relationship with Eastern Virginia Medical School for training pediatric providers. . The applicant provided the following with regard to this standard:

“CHKD is a leading innovator and pioneer of pediatric research. As the region’s preferred provider of pediatric services, CHKD participates in a number of research projects and clinical trials, including those that require surgical services. The increased accessibility to ORs across CHKD’s various pediatric specialties would benefit CHKD’s efforts and ability to participate in groundbreaking surgical research opportunities and bring potential new treatments and surgical procedures to the pediatric patients of Eastern Virginia.

CHKD is also a teaching hospital and plays a vital role in educating the next generation of leaders in children’s health. However, the high utilization of CHKD’s current OR suite makes scheduling surgeries across various specialties more challenging. This can limit the surgeries in which students and residents are able to participate. An increase in CHKD’s OR capacity will mitigate some of the current scheduling hurdles for CHKD’s specialists and allow for more surgical involvement of student clinicians.

### **DCOPN Findings and Conclusions**

DCOPN finds that the proposed project to add one operating room at CHKD is consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. DCOPN concludes that, while the applicant has not met the 1,600 hour SMFP threshold, that they have established a clear institutional need to expand its surgical services. This determination is in harmony with a recent prior decision by DCOPN and the Commissioner regarding the utilization threshold for surgical services at pediatric hospitals.

Furthermore, DCOPN finds that the status quo is not a viable alternative to the proposed project. The status quo would not address CHKD’s institutional need to expand its surgical services. Moreover, under the status quo, CHKD would continue to experience scheduling problems caused by the rescheduling of non-emergent procedures to free up GPOR space for more trauma and emergency patients. Finally, approval of the project would increase CHKD’s ability to schedule front-loaded shortened surgical days, which, in pediatric surgical cases, has clinical benefits to that have been previously recognized by the Commissioner and DCOPN.

Finally, DCOPN finds that the total capital costs of the proposed project are \$265,000 (**Table 2**), which would be funded through CHKD's accumulated reserves, are reasonable and consistent with previously approved projects to add one GPOR to an existing medical facility through the reactivation of an idle operating room. For example, COPN No. VA-04257 issued to Winchester Medical Center, Inc. to add one operating room, which cost approximately \$233,573.

### **DCOPN Staff Recommendation**

The Division of Certificate of Public Need recommends **conditional approval** of the proposed project to add one GPOR through the reactivation of a delicensed operating room at Children's Hospital of the King's Daughters:

1. The proposed project to add one operating room at CHKD is consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia
2. Approval of the project would address an institutional need to expand surgical services at Children's Hospital of the King's Daughters.
3. The status quo is not a viable alternative to the proposed project.
4. The capital costs are reasonable and consistent with the projects of this type.

DCOPN's recommendation is contingent upon Children's Hospital of the King's Daughters, Inc.'s agreement to the following charity care condition:

Children's Hospital of the King's Daughters, Inc. will provide surgical services to all persons in need of these services, regardless of their ability to pay, and will provide as charity care to all indigent persons free services or rate reductions in services and facilitate the development and operation of primary care services to medically underserved persons in an aggregate amount equal to at least 0.60% of Children's Hospital of the King's Daughters, Inc.'s total patient services revenue derived from surgical services provided at the Children's Hospital of the King's Daughters as valued under the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. Compliance with this condition will be documented to the Division of Certificate of Public Need annually by providing audited or otherwise appropriately certified financial statements documenting compliance with the preceding requirement. Children's Hospital of the King's Daughters, Inc. will accept a revised percentage based on the regional average after such time regional charity care data valued under the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. is available from Virginia Health Information. The value of charity care provided to individuals pursuant to this condition shall be based on the provider



reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1et seq.

Children’s Hospital of the King’s Daughters, Inc. will provide surgical services to individuals who are eligible for benefits under Title XVIII of the Social Security Act (42 U.S.C. § 1395 et seq.), Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.), and 10 U.S.C. § 1071 et seq. Additionally The Rector and Visitors of University of Virginia on Behalf of the University of Virginia Medical Center will facilitate the development and operation of primary and specialty medical care services in designated medically underserved areas of the applicant's service area.