

# VIRGINIA DEPARTMENT OF HEALTH

## Office of Licensure and Certification

### Division of Certificate of Public Need

#### Staff Analysis

January 19, 2021

#### **COPN Request No. VA-8527**

Virginia Cancer Institute, Inc.

Richmond, Virginia

Relocate existing CT service within PD 15

#### **COPN Request No. VA-8532**

Dominion Imaging, LLC

Richmond, Virginia

Add one CT scanner and one MRI scanner

#### **Applicants**

##### COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

Virginia Cancer Institute Inc. (VCI), formerly Hematology and Oncology Associates of Virginia, Ltd., is a privately owned limited corporation. VCI operates several facilities throughout Health Planning Region (HPR) IV, Planning District (PD) 15.

##### COPN Request No. VA-8532: Dominion Imaging, LLC

Dominion Imaging, LLC (Dominion Imaging) is a Virginia Limited Liability Company established on August 6, 2018 and located in Stafford, Virginia.

#### **Background**

According to Division of Certificate of Public Need (DCOPN) records, there are 54 COPN authorized fixed CT scanners and 37 COPN authorized fixed MRI scanners (**Table 1**) in PD 15.

**Table 1. PD 15 COPN Authorized Fixed CT and MRI Units**

<b>Facility</b>	<b>CT Scanners</b>	<b>MRI Units</b>
Bon Secours Chester Emergency and Imaging Center	1	N/A
Bon Secours Imaging Center at Reynolds Crossing	1	2
Bon Secours Imaging Center Innsbrook	1	1
Bon Secours Memorial Regional Medical Center	3	2
Bon Secours Richmond Community Hospital	1	1

Facility	CT Scanners	MRI Units
Bon Secours Short Pump Emergency/Imaging Center	1	1
Bon Secours St. Francis Medical Center	2	2
Bon Secours St. Mary's Hospital	3	2
Bon Secours Westchester Imaging Center	1	1
Buford Road Imaging	1	N/A
Chesterfield Imaging	1	1
Chester Imaging	1	1
Chippenham Hospital	4	1
Ellen Shaw De Paredes Institute For Women's Imaging <sup>1</sup>	N/A	1
Hanover Emergency Center	1	N/A
Henrico Doctor's Hospital - Parham Doctors' Hospital	1	1
Henrico Doctor's Hospital - Retreat	1	1
Henrico Doctors' Hospital - Forest	4	2
Independence Park Imaging	1	1
Intecardia Life Imaging / Virginia Cardiovascular Specialists <sup>2</sup>	1	N/A
Johnston-Willis Hospital	3	3
Medarva Healthcare	1	1
OrthoVirginia MRI	N/A	1
Tuckahoe Orthopaedic MRI Center		N/A
Richmond Ear, Nose & Throat <sup>3</sup>	1	1
Swift Creek ER	1	N/A
VCU Health Emergency Center at New Kent	1	N/A
VCU Health Neuroscience, Orthopedic and Wellness Center	1	1
VCU Health System	7	7
VCU Medical Center Adult Outpatient Pavilion	1	N/A
VCU Medical Center at Stony Point Radiology	1	1
Virginia Cancer Institute - Harbourside	1	N/A
Virginia Cancer Institute - Reynolds Crossing	1	N/A
Virginia Ear Nose & Throat - Chesterfield <sup>4</sup>	1	N/A
Virginia Ear Nose & Throat - Henrico <sup>5</sup>	1	N/A

<sup>1</sup> Dedicated breast MRI authorized pursuant to COPN No. VA-04125.

<sup>2</sup> Limited to cardiac imaging pursuant to COPN No. VA-03664

<sup>3</sup> Limited to the imaging of non-soft tissue imaging of the head pursuant to COPN No. VA-04353.

<sup>4</sup> Limited to the imaging of sinuses, temporal bones and the skull base pursuant to COPN No. VA-04408.

<sup>5</sup> Limited to the imaging of sinuses, temporal bones and the skull base pursuant to COPN No. VA-04409.

Facility	CT Scanners	MRI Units
Virginia Urology <sup>6</sup>	2	N/A
West Creek Medical Center	1	1
<b>Grand Total</b>	<b>54</b>	<b>37</b>

Source: DCOPN Records

**Proposed Projects**

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

VCI proposes to relocate one CT unit from its Reynolds Crossing office located at 6605 West Broad Street, Suite A, Richmond, Virginia (Reynolds Crossing location) to 8007 Discovery Drive, Henrico, Virginia (Discovery Drive location). If the proposed project is approved by the State Health Commissioner (Commissioner), VCI will discontinue services at the Reynolds Crossing location.

The projected capital costs of the proposed project are \$1,199,637, approximately 28.7% of which are attributed to direct construction costs (Table 3). The applicant reports that if it does not purchase a new CT unit, the capital costs will be \$869,137, reduced by \$330,500. Capital costs will be funded through the accumulated reserves and operational cash flow of the applicant. Accordingly, there are no financing costs associated with this project. If the Commissioner approves the project, construction is expected to begin in January 2021 and is projected to be completed in May 2021. The target date of opening is July 2021.

**Table 3. Virginia Cancer Institute: Capital Costs**

Direct Construction Costs	\$344,286
Equipment Not Included in Construction Contract	\$408,000
Site Acquisition Costs	\$405,351
Architectural and Engineering Fees	\$42,000
<b>Total Capital Costs</b>	<b>\$1,199,637</b>

Source: COPN Request No. VA-8527

COPN Request No. VA-8532: Dominion Imaging, LLC

Dominion Imaging proposes to establish a diagnostic imaging center with one CT scanner and one MRI scanner in HPR IV, PD 15. The applicant states that the proposed project will provide access to lower cost medical imaging services in a freestanding and independent outpatient setting, unaffiliated with a major health system. The existing medical imaging facility is located at 6600 West Broad Street Richmond, Virginia and currently provides x-ray and ultrasound services. The facility also shares space, resources and certain business operations and technology with an existing interventional radiology practice.

<sup>6</sup> Limited to imaging services related to urology, urogynecology, gynecology, oncology, abdominal and pelvic conditions.

The projected capital costs of the proposed project are \$3,506,270, approximately 18% of which is attributed to direct construction costs (**Table 4**). Capital costs will be funded entirely using internal funds and membership capital of the applicant. Accordingly, there are no financing costs associated with the proposed project. Construction on the proposed project is anticipated to begin on February 15, 2021 and to be completed on August 2, 2021. The target date of opening is August 9, 2021.

**Table 4. Dominion Imaging, LLC Projected Capital Costs**

Direct Construction Costs	\$633,122
Equipment Not Included in Construction Contract	\$1,966,392
Site Acquisition Costs	\$831,200
Architectural and Engineering Fees	\$67,282
Other Consultant Fees	\$8,274
<b>Total Capital Costs</b>	<b>\$3,506,270</b>

Source: COPN Request No. VA-8532

### **Project Definitions**

#### COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

Section 32.1-102.1:3 of the Code of Virginia defines a project, in part, as the “Establishment of a medical care facility described in subsection A.” A medical care facility is defined, in part, as “Any specialized center or clinic...developed for the provision of...computed tomographic (CT) scanning...”

#### COPN Request No. VA-8532: Dominion Imaging, LLC

Section 32.1-102.1:3 of the Code of Virginia defines a project, in part, as the “Establishment of a medical care facility described in subsection A.” A medical care facility is defined, in part, as “Any specialized center or clinic...developed for the provision of...computed tomographic (CT) scanning...magnetic resonance imaging (MRI)...”

The CT imaging portions of the two COPN requests, COPN Request Nos. VA-8527, and VA-8532, are considered competing requests. Per section 12VAC5-220-220 of the Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations, applications for the same or similar services proposed for the same PD are considered competing applications. Both requests that are the subject of this review include the addition of CT services in PD 15, and therefore, are considered competing with respect to CT diagnostic imaging services.

**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 project will provide or increase access to health care services for people in the area to be served and the effects that the proposed project will have on access to health care services in areas having distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to health care;**

**Table 5** shows projected population growth in PD 15 through 2030. As depicted in **Table 5**, at an average annual growth rate of 1.01%, PD 15's population growth rate from 2010-2020 is well above the state's average annual growth rate of 0.77%. Overall, the planning district is projected to add an estimated 108,937 people in the 10-year period ending in 2020—an approximate 11% increase with an average increase of 10,893 people annually. In the 10-year period ending in 2030, the planning district is projected to add an estimated 108,303 people – an approximate 10% increase with an average increase of 10,830 people annually.

Regarding the 65+ age group for PD 15, Weldon-Cooper projects a more rapid increase in population growth (an approximate 48% increase from 2010 to 2020 and approximately 30% from 2020 to 2030). Weldon-Cooper further projects that statewide, the 65+ age cohort population will increase at a rate of approximately 38% from 2010 to 2030 and approximately 27% from 2020 to 2030.

**Table 5. Population Projections for PD 15, 2010-2030**

Locality	2010	2020	2010 - 2020		2030	2020 - 2030	
			% Change	Avg Ann % Change		% Change	Avg Ann % Change
Charles City	7,256	6,982	-3.78%	-1.51%	6,941	-0.59%	0.06%
Chesterfield	316,236	353,841	11.89%	1.10%	396,647	12.10%	1.15%
Goochland	21,717	23,547	8.43%	0.79%	26,702	13.40%	1.27%
Hanover	99,863	109,244	9.39%	0.88%	119,360	9.26%	0.89%
Henrico	306,935	332,103	8.20%	0.77%	363,259	9.38%	0.90%
New Kent	18,429	23,474	27.38%	2.39%	28,104	19.72%	1.82%
Powhatan	28,046	29,909	6.64%	0.63%	33,440	11.81%	1.12%
Richmond city	204,214	232,533	13.87%	1.28%	245,483	5.57%	0.54%
<b>Total PD 15</b>	<b>1,002,696</b>	<b>1,111,633</b>	<b>10.86%</b>	<b>1.01%</b>	<b>1,219,936</b>	<b>9.74%</b>	<b>0.93%</b>
PD 15 65+	<b>116,609</b>	<b>172,249</b>	<b>47.72%</b>	<b>3.88%</b>	<b>224,417</b>	<b>30.29%</b>	<b>2.68%</b>
Virginia	8,001,024	8,655,021	9.30%	0.77%	9,331,666	7.82%	0.76%
Virginia 65+	976,937	1,352,448	38.44%	3.22%	1,723,382	27.43%	2.45%

Source: U.S. Census, Weldon Cooper Center Projections (June 2019) and DCOPN (interpolations)

According to regional and statewide data regularly collected by VHI, for 2018, the most recent year for which such data is available, the average amount of charity care provided by HPR IV facilities was 3.7% of all reported total gross patient revenues (**Table 6**).

**Table 6. HPR IV 2018 Charity Care Contributions**

Hospital	Gross Patient Revenues	Adjusted Charity Care Contribution	Percent of Gross Patient Revenue
Bon Secours Richmond Community Hospital	\$674,969,731	\$42,666,943	6.32%
VCU Health System	\$5,621,665,960	\$352,825,510	6.28%
Southside Community Hospital	\$293,702,705	\$14,237,351	4.85%
Bon Secours St. Francis Medical Center	\$970,223,902	\$43,084,096	4.44%
Bon Secours Memorial Regional Medical Center	\$1,552,613,092	\$68,611,063	4.42%
Bon Secours St. Mary's Hospital	\$2,176,359,866	\$77,859,815	3.58%
Sentara Halifax Regional Hospital	\$294,576,590	\$9,953,244	3.38%
Southside Regional Medical Center	\$1,956,522,794	\$63,281,154	3.23%
VCU Community Memorial Hospital	\$260,605,004	\$7,269,351	2.79%
CJW Medical Center	\$6,586,796,429	\$176,068,998	2.67%
Henrico Doctors' Hospital	\$4,501,141,313	\$97,784,217	2.17%
Southern Virginia Regional Medical Center	\$208,002,057	\$4,386,121	2.11%
John Randolph Medical Center	\$839,825,455	\$17,429,142	2.08%
Vibra Hospital of Richmond LLC	\$120,847,463	\$0	0.00%
Cumberland Hospital for Children and Adolescents	\$60,602,814	\$0	0.00%
Total Facilities			15
Median			3.2%
<b>Total \$ &amp; Mean %</b>	<b>\$26,118,455,175</b>	<b>\$975,457,005</b>	<b>3.7%</b>

Source: VHI (2018)

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

VCI proposes to relocate its Reynolds Crossing office and CT unit located at 6605 West Broad Street, Suite A, Richmond, Virginia to 8007 Discovery Drive, Henrico, Virginia. The proposed project anticipates relocating the existing CT unit; however, in the event that relocation of the CT unit is not possible, VCI may need to replace the CT unit. According to the applicant, the move to the Discovery Drive location is primarily motivated by patient accessibility and care optimization concerns. The applicant reports that the Reynolds Crossing location is difficult to navigate because of the lack of a traffic light outside of the entrance. Furthermore, the considerable retail development in the shopping center results in high traffic and speeding, creating a dangerous walk for cancer patients from the parking lot to the office. In contrast, the Discovery Drive location is situated on a quiet road with easy access and parking closer to the building.

Geographically, the Discovery Drive location is located in the West End of Richmond, 1.6 miles from Exit 183A off Interstate 64. Additionally the Discovery Drive location is located along a public transportation route, 1/10<sup>th</sup> of a mile from the Roland Hills and the 1602 bus stop of the 79-bus route.

Regarding socioeconomic barriers to access to the applicant's services, according to regional and statewide data regularly collected by VHI, for 2018, the most recent year for which such data is available, the average amount of charity care provided by HPR IV facilities was 3.7% of all reported total gross patient revenues (**Table 6**). The Pro Forma Income Statement provided by the applicant includes the provision of charity care in the amount of 3.5% (**Table 8**). Pursuant to Section 32.1 – 102.4 of the Code of Virginia, should the Commissioner approve the proposed project, DCOPN recommends a charity care condition no less than the 3.7% HPR IV average.

COPN Request No. VA-8532: Dominion Imaging, LLC

Dominion Imaging proposes to establish a diagnostic imaging center with one CT scanner and one MRI unit at 6600 West. Broad Street, Suite 200, Richmond, Virginia. Geographically, the location of the proposed project is proximate to dense provider and patient population and is easily accessible through several means of transportation. The proposed project would be located less than a mile from Interstate 64, less than six miles from Interstate 95, and is accessible from secondary roads including Routes 33 and 250. The proposed project is also accessible by public transportation, located at stop number 404 on Route 19 of the Greater Richmond Transit System.

Regarding socioeconomic barriers to access to the applicant's services, according to regional and statewide data regularly collected by VHI, for 2018, the most recent year for which such data is available, the average amount of charity care provided by HPR IV facilities was 43.7% of all reported total gross patient revenues (**Table 6**). DCOPN notes that Dominion Imaging is a new provider with no charity care record. Pursuant to Section 32.1 – 102.4 of the Code of Virginia, should the Commissioner approve the proposed project, DCOPN recommends a charity care condition no less than the 3.7% HPR IV average.

**2. The extent to which the proposed project will meet the needs of people in 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;**

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

The applicant provided five letters of support for the proposed project from medical professionals associated with VCI and a patient of VCI. Collectively, these letters addressed the following:

- VCI is a critical component of the Access Now volunteer network, providing comprehensive specialized cancer care services to uninsured patients. Relocation of the VCI office to Discovery Drive will maintain the patients' access to comprehensive cancer care.
- CT services are indispensable in oncology practice for the diagnosis, treatment and monitoring of cancer and many patients undergo multiple CT scans.

- Integrated, comprehensive cancer care is the gold standard in cancer care and allows patients suffering from cancer to avoid multiple, unnecessary visits to multiple providers.
- VCI provides excellent quality of care at one convenient location.
- The burden associated with fragmented care is amplified for cancer patients, particularly immunocompromised and mobility-impaired patients.

DCOPN received no letters in opposition to the proposed project.

#### Public Hearing

Section 32.1-102.6 B of the Code of Virginia requires DCOPN to hold one public hearing on each application in a location in the county or city in which the project is proposed or a contiguous county or city 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. Because COPN Request No. VA-8527 represents a competing application, DCOPN conducted the public hearing on December 18, 2020. A representative for the applicant presented the proposed project. Additionally, an oncologist from VCI spoke, providing further detail regarding the proposed project.

#### COPN Request No. VA-8532: Dominion Imaging, LLC

The applicant provided numerous letters of support for the proposed project from medical professionals associated with Dominion Imaging, representatives from health insurance providers and residents of PD 15. Collectively, these letters addressed:

- As the majority of imaging services are managed by local healthcare systems, faster and lower cost freestanding imaging is integral to ensuring patients are receiving the highest quality of care.
- Adding CT and MRI services at Dominion Imaging's Facility would allow the public to access imaging services with better confidence that they will receive care that is both affordable and of the highest quality in an outpatient, independent office.
- Access choices for healthcare are increasingly important, especially because hospital services are so costly and offer limited capacity.
- Hospital based imaging services cost more; hospitals must prioritize inpatients over outpatients; the pandemic caused many hospitals to suspend non-urgent imaging studies and many insurance plans require patients to seek imaging services in a non-hospital based setting.
- Small business owners who pay employee health insurance premium need efficient options for their employees. Costly options cause employees to avoid seeking treatment.
- The availability of new high end imaging services will provide more timely reporting and strengthen communication between referring practices, radiologists and patients.



- Patients are traveling outside of PD 15 to access high quality, lower cost imaging services.

DCOPN received three letters in opposition to the proposed project from (1) HCA Virginia, (2) MEDARVA, and (3) Bon Secours Richmond Health System.

The HCA Virginia letter addressed the following:

- Dominion Imaging’s application is inconsistent with the SMFP because of a substantial surplus of MRI and CT scanners in PD 15 – 18.9 MRI scanners and 8.3 CT scanners.
- Dominion Imaging submitted a substantially similar application in 2018, which the Commissioner denied.
- Breast MRI services are available at Johnston Willis and Henrico Doctors’ Hospital for \$350 per procedure. Additionally, HCA Virginia is in the process of deploying breast MRI services at Chesterfield Imaging Center and Independence Park Imaging.
- Chesterfield Imaging Center and Independence Park Imaging Center, two independent, non-hospital based, outpatient imaging providers perform MRI and CT contrast-enhanced studies.
- PD 15 has several facilities that offer low-cost, non-hospital based MRI and CT imaging services.
- Dominion Imaging conflates “hospital based” with “hospital-affiliated.” Hospital based refers to services reimbursed at hospital rates at departments of a hospital. Imaging centers can be “hospital-affiliated” but reimbursed at lower, non-hospital, outpatient rates.

The MEDARVA letter addressed:

- Dominion Imaging submitted a request for the same equipment in 2018, which the Commissioner denied. Dominion Imaging’s current request is premature and should be denied.
- Approval of a new CT scanner or MRI unit in PD 15 will result in poor health planning until utilization data for the 11 CT scanners and five MRI units that were recently authorized by the Commissioner but are not yet operational is available.
- Many of the recently authorized CT and MRI scanners are for non-hospital, freestanding projects.

The Bon Secours Richmond Health System letter addressed:

- Dominion Imaging’s project is substantially similar to COPN Request No. VA-8402, which the Commissioner denied in May 2019.

- PD 15 currently has a surplus of 1.3 CT scanners and 8.6 MRI units, greater than what existed at the time the Commissioner denied COPN Request No. VA-8402.
- Dominion Imaging does not currently provide COPN-regulated services in PD 15 and has not provided evidence of a patient base.
- Dominion Imaging’s proposed site is in close proximity (0.6 miles from Bon Secours Imaging Center at Reynolds Crossing; 1.5 miles from Bon Secours St. Mary’s Hospital; and less than 10 miles from the Bon Secours Short Pump Emergency Center) to existing providers and redirection of patients will have a substantial negative impact on existing providers of CT and MRI services.

Dominion Imaging responded to HCA Virginia’s letter stating:

- HCA relies on a fatally flawed line of reasoning when it puts forth the proposition that DCOPN must account for all additional CT and MRI units approved since 2018 VHI inventory data were collected but that it must rely on the 2018 VHI report with respect to utilization data that suggested a surplus.
- Population growth and shifts in demographic characteristics are, at a minimum, the most basic considerations for which HCA completely fails to account.
- PD 15 saw the importance of having access to non-hospital-based imaging services during the temporary suspension of all “non-essential” procedures by Virginia hospitals in response to the COVID-19 pandemic, but experts anticipate long-term effects of the virus that bear directly on imaging utilization and DI’s application.
- A PD 15 Pulmonologist who appeared in support of DI’s application at the recent public hearing spoke directly to the expectation that there will be a staggering number of coronavirus patients who will require serial chest CT scans for residual fibrotic lung disease. Approximately 3.7% of the population of PD 15 are COVID-19 survivors.
- There is simply no justification for HCA’s proposition that we should continue to rely upon years-old data on past utilization in combination with fragmented accounts of current CT and/or MRI inventory—both of which fail to account for any mechanical limitations or other use restrictions on units included in that inventory—to engage in halfhearted guesswork about what the current and/or near-term public need is within the Planning District and the availability of existing equipment to meet that need.
- Additional options for high-quality, yet affordable, breast cancer screenings are needed in PD 15.
- DI stands by its assertions regarding the lack of availability of MRI and/or CT procedures that require contrast in an independent, freestanding, office-based setting within PD 15. Due to their ownership and operational structure, hospital-affiliated imaging facilities suffer from many of the same, or similar, problems as their hospital owners.

Dominion Imaging responded to MEDARVA's letter stating:

- There is simply no justification for MEDARVA's proposition that we should continue to rely upon years-old data on past utilization in combination with fragmented accounts of current CT and/or MRI inventory—both of which fail to account for any mechanical limitations or other use restrictions on units included in that inventory—to engage in halfhearted guesswork about what the current and/or near-term public need is within the Planning District and the availability of existing equipment to meet that need.
- MEDARVA asserts that its calculations are based on the scan threshold(s) set forth in the “State Health Services Plan (“SHSP”). This is inaccurate and misleading. The fact that development of the new SHSP is currently underway is no basis for MEDARVA's approach, which would be to completely disregard the clear intent state in effective legislation until all of the minutiae of the SHSP are finalized.
- PD 15 saw the importance of having access to non-hospital-based imaging services during the temporary suspension of all “non-essential” procedures by Virginia hospitals in response to the COVID-19 pandemic, but experts anticipate long-term effects of the virus that bear directly on imaging utilization and DI's application.
- MEDARVA asserts that more time is needed to determine whether these new scanners are adequate to meet the imaging needs of the PD 15 population. The VHI reports always lag behind the COPN process by more than two years. It will be 2023 before we have VHI data showing the rate at which PD 15 CT and MRI units were used in 2020.
- MEDARVA contends that many of the recently authorized additional CT and MRI scanners are for non-hospital, freestanding projects. Not one single CT or MRI unit that has been approved since the 2018 inventory is both general-purpose and not owned/operated by one of the major PD 15 health systems. It is to MEDARVA's competitive advantage to remain the only independent provider of general purposed CT and MRI services within PD 15.

Dominion Imaging responded to Bon Secours Richmond Health System's letter stating:

- There is absolutely no authority in the COPN statute, regulations, or policies for the position that the Commissioner should deny Dominion Imaging's application because it sought to add CT and MRI services to its imaging center two years ago.
- There is simply no justification for Bon Secours' proposition that we should continue to rely upon years-old data on past utilization in combination with fragmented accounts of current CT and/or MRI inventory—both of which fail to account for any mechanical limitations or other use restrictions on units included in that inventory—to engage in halfhearted guesswork about what the current and/or near-term public need is within the Planning District and the availability of existing equipment to meet that need.
- Dominion Imaging does have a patient base for imaging services in PD 15 and could achieve its volume projections without negatively impacting other PD 15 providers. PD 15 provides

are currently referring patients outside of PD 15. PD 15 patients are forgoing necessary CT/MRI procedures due to cost. There are substantial indications of prolonged effects of COVID-19 with implications for the increased and ongoing need for CT and/or MRI imaging.

- Six physicians and healthcare administrators from five unaffiliated PD 15 practices and two PD 15 patients testified at Dominion Imaging's public hearing as to the current, actual need in PD 15 for CT and MRI services.
- CT and MRI units owned and operated by the major health systems are owned and operated like the major health systems.

### Public Hearing

Section 32.1-102.6 B of the Code of Virginia requires DCOPN to hold one public hearing on each application in a location in the county or city in which the project is proposed or a contiguous county or city 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. Because COPN Request No. VA-8532 represents a competing application, DCOPN conducted the public hearing on December 18, 2020. A representative for the applicant presented the proposed project. Additionally, 10 individuals spoke in support of the proposed project, addressing:

- The proposed project offers a lower cost, high quality, non-hospital based option, for which there is a need.
- Dominion Imaging will offer the availability of contrast studies (a vital tool for diagnosis) on weekends.
- Non-hospital based facilities offer a quicker turnaround time for results and easy access without having to navigate a hospital.
- The busy pulmonary office located in the same building as the proposed project will send many patients who require regular scans to Dominion Imaging.
- The health of patients has been negatively impacted by lack of services on an outpatient basis.
- Many women forgo screening breast MRI, which is recommended yearly for at risk women, because of the cost and inconvenience. Some patients in PD 15 have to travel to Fredericksburg for this procedure. Only 3-5% of women requiring these scans go through with the annual screening.
- CT is an essential tool for interventional radiology. There is a need for interventional radiology in an outpatient setting.

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

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

Neither DCOPN nor the applicant identified a reasonable alternative 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. While it can be argued that the status quo is a reasonable alternative to the proposed project, VCI is relocating its Reynolds Crossing location to Discovery Drive, which is better suited to meet the need of its patients and is less than two miles from the existing location. Furthermore, the project is inventory neutral and would allow for a potential upgrade to VCI's CT scanner. The applicant asserts that renovating the existing office is not a reasonable or feasible alternative to the proposed project as the extensive scope of the needed renovations would make the project exceedingly costly and would make it nearly impossible to keep VCI's office open for patients during the renovations. For these reasons, DCOPN concludes that maintaining the status quo is not a reasonable alternative to the proposed project to relocate the CT scanner within PD 15.

COPN Request No. VA-8532: Dominion Imaging, LLC

As will be discussed in greater detail later in this staff analysis report, DCOPN has calculated a surplus of both CT scanners and MRI units in PD 15. Furthermore, DCOPN notes that there are non-hospital based providers of CT and MRI services with available utilization proximal to the location of the proposed project (**Table 7**). Most notably, Bon Secours Imaging Center at Reynolds Crossing is located only 0.6 miles from the Dominion Imaging project location, and had 24.8% utilization for CT and 32.7% utilization for MRI in 2018. For these reasons, DCOPN concludes that maintaining the status quo is a reasonable alternative to the proposed project.

**Table 7. PD 15 CT and MRI Providers Distance to Dominion Imaging Site**

Provider	Distance in Miles	Distance in Minutes
Bon Secours Imaging Center at Reynolds Crossing	0.6	4
Bon Secours Imaging Center Innsbrook	9.5	13
Bon Secours Short Pump Imaging Center	9.2	14
Independence Park Imaging	5.3	8
MEDARVA West Creek Surgery Center	11.7	14

Source: Google Maps accessed 1/12/2021

**(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;**

Currently there is no organization in HPR IV designated by the Virginia Department of Health to serve as the Health Planning Agency for PD 15. Therefore, this consideration is not applicable to the review of the proposed project.

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

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

As demonstrated by **Table 3**, the projected capital costs of the proposed project are \$1,199,637, approximately 28.7% of which are attributed to direct construction costs (\$869,137 without purchase of CT unit). Capital costs will be funded through the accumulated reserves and operational cash flow of the applicant. DCOPN concludes that when compared to similar projects, these costs are reasonable. For example, COPN No. VA-04721 issued to Sentara Northern Virginia Medical Center to relocate one CT scanner, which cost approximately \$1,628,392. The applicant identified the following benefits of the proposed project, including:

- The relocation to the Discovery Drive location is less than two miles away and is motivated by patient accessibility and care concerns.
- The Discovery Drive location is located on a quiet road, which is safer and easier for patients to access. There is also a bus stop next to the premises.
- The Discovery Drive location is closer to Henrico Doctors' Hospital and Bon Secours St. Mary's Hospital, the two closest providers where many of VCI's patients receive surgical services and radiation therapy.
- The Discovery Drive location allows for renovations without disrupting patient care.
- The project is inventory neutral.

COPN Request No. VA-8532: Dominion Imaging, LLC

As demonstrated by **Table 4**, the projected capital costs of the proposed project are \$3,506,270, approximately 18% of which are attributed to direct construction costs. Capital costs will be funded through the internal funds and membership capital of the applicant. DCOPN concludes that when compared to similar projects, these costs are reasonable. For example, COPN No. VA-04719 issued to Sentara RMH Medical Center to establish a specialized center with one MRI scanner and one CT scanner, which cost approximately \$5,398,637.

The applicant identified numerous benefits of the proposed project, including:

- The project contributes to the innovation of diagnostic imaging services in PD 15 by providing access to high quality, specialized medical imaging services in a lower cost, freestanding, and independent facility that is unaffiliated with a major health system.
- The project is proximate to a dense provider and patient population, which has and will continue to experience growth.
- The project is located on a site with ample parking, with a parking ratio of more than five spaces per 1,000 square feet, including handicapped parking.

- The project benefits from lower construction costs, as the CT and MRI space is in “shell-like” condition already designed for CT and MRI equipment and operations.
- The project is easily accessible by multiple means of transportation
- The proposed project will provide access to breast MRI services, to include Abbreviated Breast MRI screening services, a new service that is not currently available in PD 15 or the surrounding areas.
- The MRI service will include both contrast and non-contrast enhanced MRI procedures. The CT service will include CT-guided Interventional Radiology procedures in an outpatient setting.
- The project will be part of a comprehensive diagnostic imaging center that includes diagnostic x-ray and ultrasounds and will have co-located and operationally integrated services with VIVA Richmond’s interventional radiology facility.

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

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

The Pro Forma Income Statement provided by the applicant includes the provision of charity care in the amount of 3.5% (**Table 8**). DCOPN notes that, according to VHI data from 2018, the most recent year for which such data is available, the average amount of charity care provided by HPR IV facilities was 3.7% of all reported total gross patient revenues (**Table 5**). Pursuant to Section 32.1 – 102.4 of the Code of Virginia, should the Commissioner approve the proposed project, DCOPN recommends a charity care condition of no less than the 3.7% HPR IV average.

**Table 8. Virginia Cancer Institute’s Pro Forma Income Statement**

	<b>Year 1</b>	<b>Year 2</b>
<b>Gross Patient Revenue</b>	<b>\$3,907,544</b>	<b>\$4,024,344</b>
Contractual/Other Discounts	(\$2,468,979)	(\$2,542,779)
Charity Care Charity Deductions	(\$136,764)	(\$140,852)
<b>Total Operating Revenue</b>	<b>\$1,301,801</b>	<b>\$1,340,713</b>
Total Expenses	(\$843,860)	(\$804,219)
<b>Net Income</b>	<b>\$457,941</b>	<b>\$536,494</b>

Source: COPN Request No. VA-8527

COPN Request No. VA-8532: Dominion Imaging, LLC

The Pro Forma Income Statement provided by the applicant does not address the provision of charity care (**Table 9**). DCOPN notes that Dominion Imaging is a new provider with no charity care record. According to VHI data from 2018, the most recent year for which such data is available, the average amount of charity care provided by HPR IV facilities was 3.7% of all reported total gross patient revenues (**Table 5**). Pursuant to Section 32.1 – 102.4 of the Code of Virginia, should the Commissioner approve the proposed project, DCOPN recommends a charity care condition of no less than the 3.7% HPR IV average.

**Table 9. Dominion Imaging’s Pro Forma Income Statement**

	<b>Year 1</b>	<b>Year 2</b>
<b>Gross Patient Revenue</b>	<b>\$3,189,600</b>	<b>\$3,405,388</b>
Contractual Adjustments	(\$1,597,046)	(\$21,712,857)
<b>Total Operating Revenue</b>	<b>\$1,592,554</b>	<b>\$1,692,530</b>
Total Expenses	(\$1,281,503)	(\$1,507,173)
<b>Net Income</b>	<b>\$311,051</b>	<b>\$496,408</b>

Source: COPN Request No. VA-8532

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

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).

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

DCOPN did not identify any other discretionary factors, not discussed elsewhere in this staff analysis report, to bring to the attention of the Commissioner as may be relevant to determining a public need for the proposed projects.

COPN Request No. VA-8532: Dominion Imaging, LLC

In 2019, Dominion Imaging submitted COPN Request No. VA-8402 seeking the Commissioner’s approval to establish a diagnostic imaging center with one CT scanner and one MRI scanner. After an Informal Fact Finding Conference, the Commissioner denied COPN Request No. VA-8402 and adopted the Adjudication Officer’s report citing:

- A sizable surplus of both CT scanners and MRI units;
- Dominion Imaging’s proximity of within “10 miles of at least five CT and MRI scanning sites;” and
- The project’s inconsistency with the SMFP “without promising a particular benefit in meeting public need, such as increasing geographic access.”



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

The SMFP contains criteria/standards for the establishment or expansion of CT and MRI services. They are as follows:

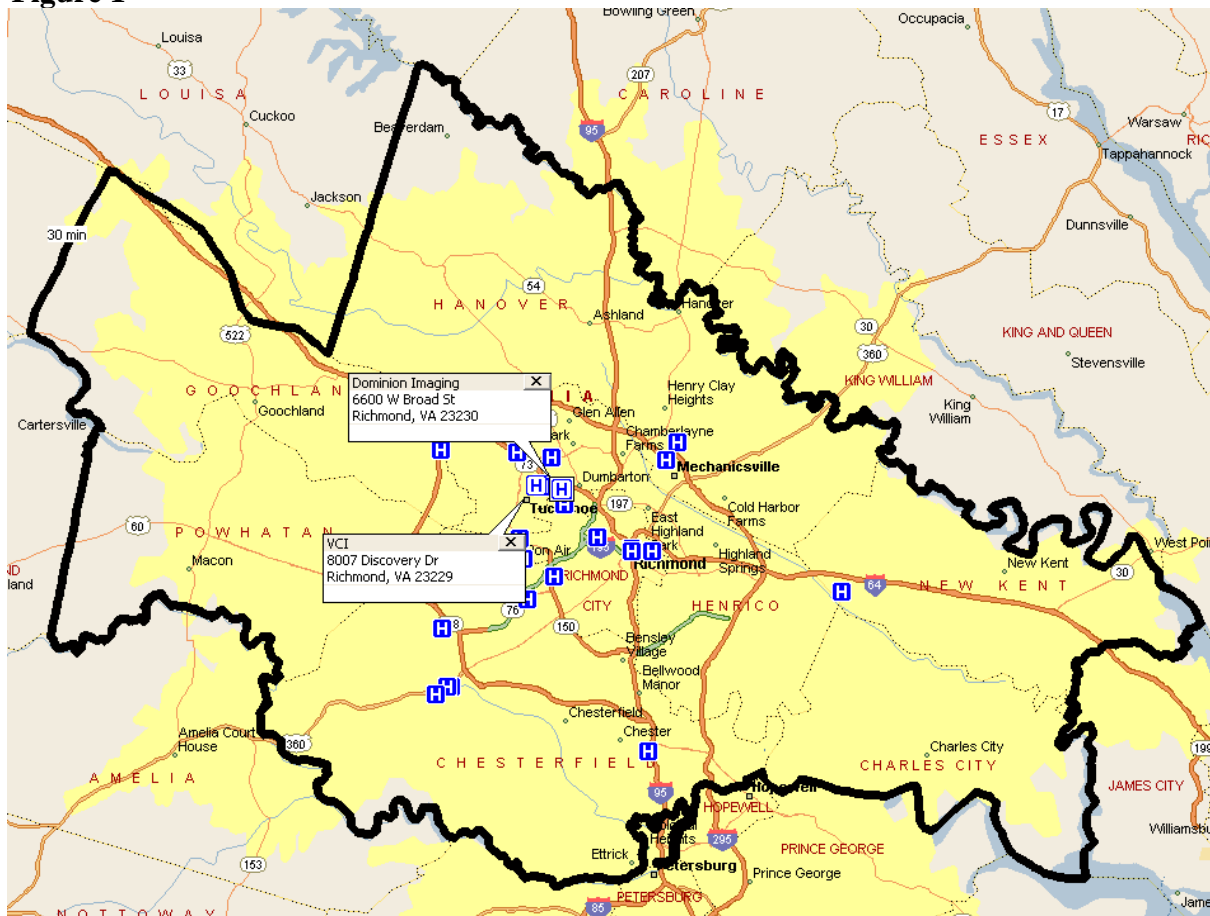
**Part II Diagnostic Imaging Services  
Article 1  
Criteria and Standards for Computed Tomography**

**12VAC5-230-90. Travel time.**

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

The heavy black line in Figure 1 is the boundary of PD 15. The blue “H” symbols mark the locations of existing CT providers in PD 15. The white “H” symbols mark the location of the proposed projects. The yellow shaded area includes all locations that are within 30 minutes driving time one-way under normal conditions of CT services in PD 15. **Figure 1** clearly illustrates that CT services are already well within a 30 minute drive under normal conditions of 95% of the residents of PD 15. Approval of the proposed projects will not increase geographic access to CT services in PD 15.

**Figure 1**



**12VAC5-230-100. Need for new fixed site or mobile service.**

**A. No new fixed site or mobile CT service should be approved unless fixed site CT services in the health planning district performed an average of 7,400 procedures per existing and approved CT scanner during the relevant reporting period and the proposed new service would not significantly reduce the utilization of existing providers in the health planning district. The utilization of existing scanners operated by a hospital and serving an area distinct from the proposed new service site may be disregarded in computing the average utilization of CT scanners in such health planning district.**

As noted in **Table 10** below, for 2018, the most recent year for which data from Virginia Health Information (VHI) is available, the 39 fixed site CT scanners in PD 15 operated at a collective utilization of 109.4% based on the SMFP threshold of 7,400 CT procedures per scanner per year. Using 2018 VHI data, based on 39 COPN authorized fixed CT scanners in PD 15 (**Table 10**) and reported CT volume of 315,776 procedures, there is a need for 42.6 CT scanners in PD 15. DCOPN notes that the 2018 VHI data does not take into account the 15 CT scanners added to the PD 15 inventory since 2018. Therefore, at present, there is a calculated surplus of 11.4 CT scanners in PD 15. In some cases, the Commissioner has exercised his specialized competence and considered particular facts in approving a requested service, despite a calculated surplus in the PD, if the requested service offers a particular benefit in meeting public need. For example, COPN No. VA-04656 authorized St. Francis Medical Center, Inc. to establish a specialized center for CT services to address a demonstrated institutional need, despite a calculated surplus in the PD.

2018 COPN authorized fixed CT scanners = 39  
 Calculated Needed CT scanners = 315,776 total scans ÷ 7,400 (scans/SMFP CT standard) = 42.6  
 (43) CT scanners needed  
 Need = 42.6 CT scanners  
 2020 CT scanner Inventory = 54  
**CT scanner surplus = 11.4**

DCOPN recognizes that six CT scanners in the PD 15 inventory are limited use CT scanners<sup>7</sup>. Nevertheless, even if DCOPN were to disregard these CT scanners for purposes of this request, there is still a surplus of 5.4 CT scanners in PD 15 (11.4 CT scanners – six limited use CT scanners = 5.4 CT scanners).

**Table 10. PD 15 COPN Authorized Fixed CT Units: 2018**

Facility	Number of Scanners	Number of Scans	Utilization Rate
Bon Secours Imaging Center at Reynolds Crossing	1	1,832	24.8%
Bon Secours Imaging Center Innsbrook	1	1,329	18.0%
Bon Secours Memorial Regional Medical Center	3	34,058	153.4%
Bon Secours Richmond Community Hospital	1	3,659	49.4%

<sup>7</sup> CT scanners at Intecardia Life Imaging, Richmond Ear Nose and Throat, Virginia Ear Nose & Throat – Chesterfield, Virginia Ear Nose & Throat – Henrico, and Virginia Urology as described in Table 1.

Facility	Number of Scanners	Number of Scans	Utilization Rate
Bon Secours St. Francis Medical Center	2	20,261	136.9%
Bon Secours St. Mary's Hospital	3	38,084	171.5%
Bon Secours Westchester Imaging Center	1	4,520	61.1%
Buford Road Imaging	1	2,317	31.3%
Chesterfield Imaging	1	4,500	60.8%
Chippenham Hospital	3	37,468	168.8%
Henrico Doctor's Hospital - Parham Doctors' Hospital	1	9,529	128.8%
Henrico Doctor's Hospital - Retreat	1	2,850	38.5%
Henrico Doctors' Hospital - Forest	4	31,387	106.0%
Independence Park Imaging	1	2,297	31.0%
Intecardia Life Imaging / Virginia Cardiovascular Specialists	1	3,128	42.3%
Johnston-Willis Hospital	2	26,123	176.5%
VCU Health System	7	72,145	139.3%
VCU Medical Center at Stony Point Radiology	1	5,747	77.7%
Virginia Cancer Institute - Reynolds Crossing	1	6,795	91.8%
Virginia Ear Nose & Throat - Chesterfield	1	570	7.7%
Virginia Ear Nose & Throat - Henrico	1	673	9.1%
Virginia Urology	1	6,504	87.9%
<b>2018 Total and Average</b>	<b>39</b>	<b>315,776</b>	<b>109.4%</b>

Source: VHI (2018)

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

DCOPN concludes that the project warrants approval despite the calculated surplus because it is an inventory neutral relocation of existing CT services.

COPN Request No. VA-8532: Dominion Imaging, LLC

The proposed project would add one CT scanner to the PD 15 inventory, taking the calculated surplus from 11.4 CT scanners to 12.4 CT scanners (or 6.4 CT scanners if excluding limited use CT scanners from calculation). As previously discussed, DCOPN concludes that the status quo is more favorable than the proposed project. DCOPN notes that there are non-hospital based providers of CT services with available utilization proximal to the location of the proposed project (**Table 7**). Most notably, Bon Secours Imaging Center at Reynolds Crossing is located only 0.6 miles from the Dominion Imaging project location, and had 24.8% utilization for CT in 2018. Therefore, approval of the proposed project would further add to the surplus in an area with concentrated CT and MRI services, without offering a unique benefit in meeting public healthcare needs.

- B. Existing CT scanners used solely for simulation with radiation therapy treatment shall be exempt from the utilization criteria of this article when applying for a COPN. In addition, existing CT scanners used solely for simulation with radiation therapy treatment may be disregarded in computing the average utilization of CT scanners in such health planning district.**

DCOPN has excluded existing CT scanners used solely for simulation prior to the initiation of radiation therapy from its inventory and average utilization of CT scanners in PD 15.

**12VAC5-230-110. Expansion of fixed site service.**

**Proposals to expand an existing medical care facility's CT service through the addition of a CT scanner should be approved when the existing services performed an average of 7,400 procedures per scanner for the relevant reporting period. The commissioner may authorize placement of a new unit at the applicant's existing medical care facility or at a separate location within the applicant's primary service area for CT services, provided the proposed expansion is not likely to significantly reduce the utilization of existing providers in the health planning district.**

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

Not applicable, the applicant is not seeking approval to expand an existing medical care facility's CT service through the addition of a CT scanner.

COPN Request No. VA-8532: Dominion Imaging, LLC

Not applicable, the applicant is not seeking approval to expand an existing medical care facility's CT service through the addition of a CT scanner.

**12VAC5-230-120. Adding or expanding mobile CT services.**

- A. Proposals for mobile CT scanners shall demonstrate that, for the relevant reporting period, at least 4,800 procedures were performed and that the proposed mobile unit will not significantly reduce the utilization of existing CT providers in the health planning district.**
- B. Proposals to convert authorized mobile CT scanners to fixed site scanners shall demonstrate that, for the relevant reporting period, at least 6,000 procedures were performed by the mobile CT scanner and that the proposed conversion will not significantly reduce the utilization of existing CT providers in the health planning district.**

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

Not applicable. The applicant is not seeking authorization to convert an authorized mobile CT scanner to a fixed site CT scanner.

COPN Request No. VA-8532: Dominion Imaging, LLC

Not applicable. The applicant is not seeking authorization to convert an authorized mobile CT scanner to a fixed site CT scanner.

**12VAC5-230-130. Staffing.**

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

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

The applicant confirmed that CT services at the Discovery Drive location will be under the direction and supervision of qualified physicians.

COPN Request No. VA-8532: Dominion Imaging, LLC

The applicant confirmed that CT services will be provided under the direct supervision of one or more qualified physicians. Specifically, the proposed project will be staffed by board certified radiologists.

DCOPN notes that the SMFP Criteria and Standards for Magnetic Resonance Imaging portion of this staff analysis report apply only to COPN Request No. VA-8532 submitted by Dominion Imaging.

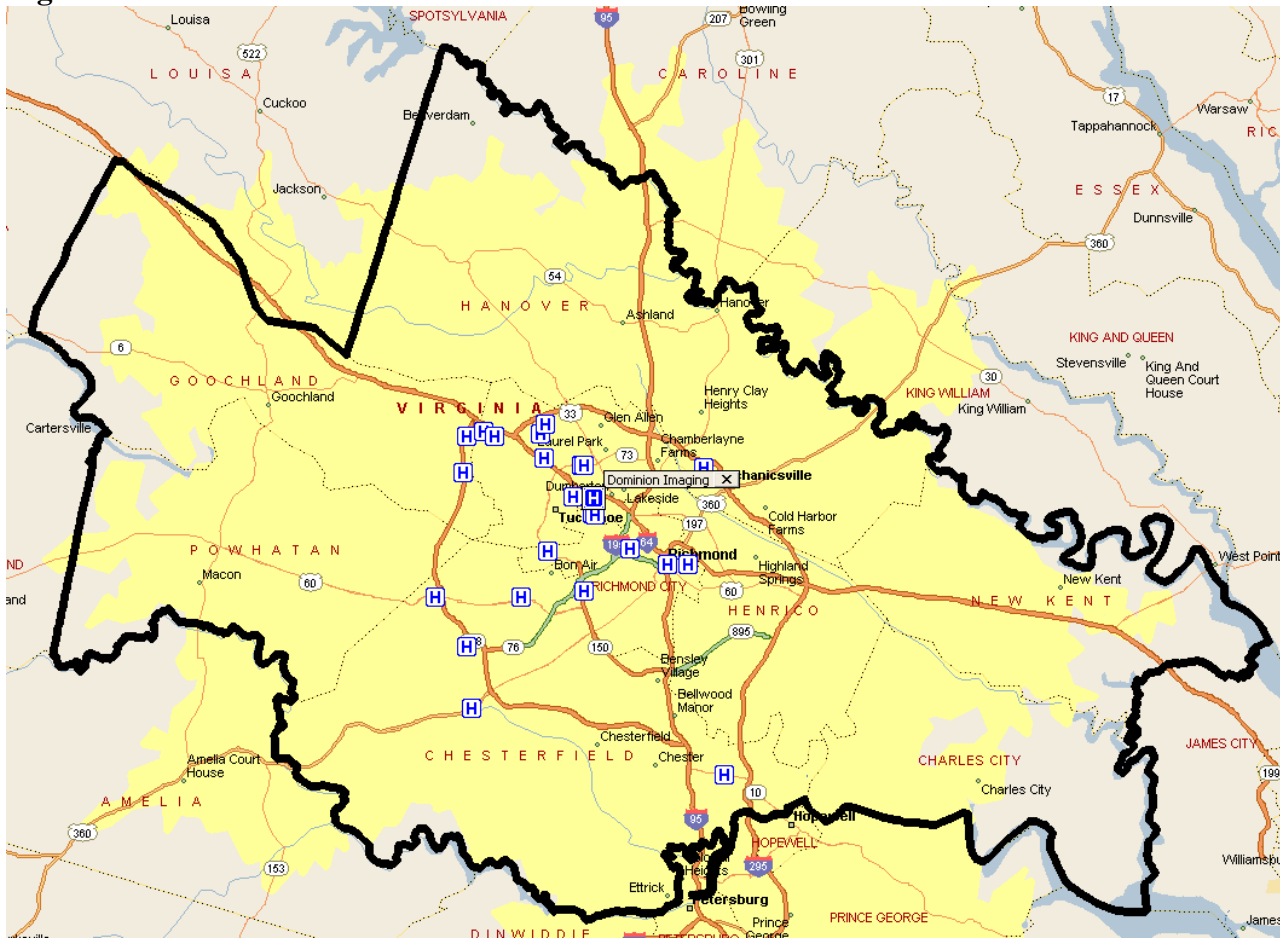
**Article 2  
Criteria and Standards for Magnetic Resonance Imaging**

**12VAC5-230-140. Travel time.**

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

The heavy dark line in **Figure 2** identifies the boundaries of PD 15. The white “H” symbols mark the locations of existing MRI providers in PD 15. The blue “H” symbol marks the location of the proposed location of the MRI services requested pursuant to COPN Request No. VA-8532. The yellow shading illustrates the area that is within a thirty-minute drive under normal driving conditions of all MRI service providers in PD 15. Figure 2 clearly illustrates that MRI services are already well within a 30 minute drive under normal conditions of 95% of the residents of the planning district. Approval of COPN Request No. VA-8532 will not improve geographic access to MRI services in PD 15.

Figure 2



**12VAC5-230-150. Need for new fixed site service.**

No new fixed site MRI service should be approved unless fixed site MRI services in the health planning district performed an average of 5,000 procedures per existing and approved fixed site MRI scanner during the relevant reporting period and the proposed new service would not significantly reduce the utilization of existing fixed site MRI providers in the health planning district. The utilization of existing scanners operated by a hospital and serving an area distinct from the proposed new service may be disregarded in computing average utilization of MRI scanners in such planning district.

As noted in **Table 11** below, for 2018, the most recent year for which data from VHI is available, the 30 fixed site MRI units in PD 15 operated at a collective utilization of 69.4% based on the SMFP threshold of 5,000 procedures per unit per year. Using 2018 VHI data, based on 30 COPN authorized fixed MRI units in PD 15 (**Table 11**) and reported MRI volume of 100,569 MRI procedures, there is a need for 20.1 MRI units in PD 15. DCOPN notes that the 2018 VHI data does not take into account the seven MRI units added to the PD 15 inventory since 2018. Therefore, at present, there is a calculated surplus of 16.9 MRI Units in PD 15.

2018 COPN authorized fixed MRI units = 30  
Calculated Needed MRI units = 100,569 total scans ÷ 5,000 (scans/SMFP MRI standard) = 20.1  
(21) MRI units needed  
Need = 20.1 MRI units  
2020 MRI unit inventory = 37  
**MRI unit surplus = 16.9**

DCOPN recognizes that the MRI unit at the Ellen Shaw De Paredes Institute for Women is limited to breast MRI. Nonetheless, even if DCOPN were to disregard this MRI unit for purposes of this request, there is still a surplus of 15.9 MRI units in PD 15. As previously discussed, in some cases, the Commissioner has exercised his specialized competence and considered particular facts in approving a requested service, despite a calculated surplus in the PD if the requested service offers a particular benefit in meeting public need. For example, COPN No. VA-04613 authorized Virginia Commonwealth University Health System Authority to offer MRI services at the VCU Health Neuroscience, Orthopedic and Wellness (NOW) Center, despite a calculated surplus, because of the specialized services (neurological and musculoskeletal care) offered at the NOW Center and the difficulty of navigating downtown Richmond for patients with limited physical mobility.

The proposed project would add one MRI unit to the PD 15 inventory, taking the calculated surplus from 16.9 MRI units to 17.9 MRI units (or 16.9 MRI units if excluding limited use MRI unit from calculation). As previously discussed, DCOPN concludes that the status quo is more favorable than the proposed project. DCOPN notes that there are non-hospital based providers of MRI services with available utilization proximal to the location of the proposed project (**Table 7**). Most notably, Bon Secours Imaging Center at Reynolds Crossing is located only 0.6 miles from the Dominion Imaging project location, and had 32.7% utilization for MRI in 2018. Therefore, approval of the proposed project would further add to the surplus in an area with concentrated MRI services, without offering a unique benefit in meeting public healthcare needs.

**Table 11. PD 15 COPN Authorized Fixed MRI Units and Utilization: 2018**

Facility	Number of Scanners	Number of Scans	Utilization Rate
Bon Secours Imaging Center at Reynolds Crossing	1	1,634	32.7%
Bon Secours Imaging Center Innsbrook	1	1,634	32.7%
Bon Secours Memorial Regional Medical Center	2	9,699	97.0%
Bon Secours Midlothian Imaging Center	1	2,349	47.0%
Bon Secours Richmond Community Hospital	1	824	16.5%
Bon Secours St. Francis Medical Center	1	5,178	103.6%
Bon Secours St. Mary's Hospital	2	10,941	109.4%
Bon Secours West End MRI	1	741	14.8%
Bon Secours Westchester Imaging Center	1	2,629	52.6%
Chesterfield Imaging	1	3,737	74.7%
Chippenham Hospital	1	5,345	106.9%

Facility	Number of Scanners	Number of Scans	Utilization Rate
Ellen Shaw De Paredes Institute For Women's Imaging <sup>8</sup>	1	N/A	N/A
Henrico Doctor's Hospital - Parham Doctors' Hospital	1	2,307	46.1%
Henrico Doctor's Hospital - Retreat	1	665	13.3%
Henrico Doctors' Hospital - Forest	2	5,442	54.4%
Independence Park Imaging	1	3,134	62.7%
Johnston-Willis Hospital	2	8,686	86.9%
OrthoVirginia MRI	1	5,334	106.7%
Tuckahoe Orthopedic MRI Center	1	4,556	91.1%
VCU Health System	6	21,083	70.3%
VCU Medical Center at Stony Point Radiology	1	4,651	93.0%
<b>2018 Total and Average</b>	<b>30</b>	<b>100,569</b>	<b>69.4%</b>

Source: VHI Data (2018)

**12VAC5-230-160. Expansion of fixed site service.**

Proposals to expand an existing medical care facility’s MRI services through the addition of an MRI scanner may be approved when the existing service performed an average of 5,000 MRI procedures per scanner during the relevant reporting period. The commissioner may authorize placement of the new unit at the applicant’s existing medical care facility, or at a separate location within the applicant’s primary service area for MRI services, provided the proposed expansion is not likely to significantly reduce the utilization of existing providers in the health-planning district.

Not applicable, the applicant is not seeking approval to expand an existing medical care facility’s MRI service though the addition of an MRI unit.

**12VAC5-230-170. Adding or expanding mobile MRI services.**

**A. Proposals for mobile MRI scanners shall demonstrate that, for the relevant reporting period, at least 2,400 procedures were performed and that the proposed mobile unit will not significantly reduce the utilization of existing MRI providers in the health-planning district.**

**B. Proposals to convert authorized mobile MRI scanners to fixed site scanners shall demonstrate that, for the relevant reporting period, 3,000 procedures were performed by the mobile scanner and that the proposed conversion will not significantly reduce the utilization of existing MRI providers in the health-planning district.**

Not applicable. The applicant is not proposing the addition or expansion of a mobile MRI service.

<sup>8</sup> The Ellen De Shaw De Paredes Institute for Women’s Imaging reported 1,225 outpatient visits and 0 procedures to VHI for 2018. Therefore, utilization data for this provider was not included in Table 11.



**12VAC5-230-180. Staffing.**

**MRI services should be under the direct supervision of one or more qualified physicians.**

The applicant confirmed that MRI services will be provided under the direct supervision of one or more qualified physicians. Specifically, the proposed project will be staffed by board certified radiologists.

**Part 1  
Definitions and General Information**

**12VAC5-230-30. When Competing Applications Received.**

**In reviewing competing applications, preference may be given to an applicant who:**

- 1. Has an established performance record in completing projects on time and within the authorized operating expenses and capital costs;**
- 2. Has both lower capital costs and operating expenses than his competitors and can demonstrate that his estimates are credible;**
- 3. Can demonstrate a consistent compliance with state licensure and federal certification regulation and a consistent history of few documented complaints, where applicable; or**
- 4. Can demonstrate a commitment to serving his community or service area as evidenced by unreimbursed services to the indigent and providing needed but unprofitable services, taking into account the demand of the particular service area.**

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

Based on an analysis of previous COPN projects, VCI has a consistent history of completing projects on time and within the authorized capital costs. With respect to the proposed project, the projected capital cost is \$1,199,637 and the Pro Forma Income Statement provided by the applicant includes the provision of charity care in the amount of 3.5% (**Table 8**).

COPN Request No. VA-8532: Dominion Imaging, LLC

Dominion Imaging is a proposed new facility and as such, has no established history in regards to completing projects on time and within the authorized capital costs, nor for providing charity care. With respect to the proposed project, the projected capital cost is \$3,506,270.

Conclusion

As one applicant is a new provider and has no established record of completing projects on time and within budget, and the other applicant has a consistent history of on time, on budget delivery, DCOPN concludes that neither applicant warrants preference regarding completing projects on time and within the approved capital expenditure or for having lower capital costs. For the same reason, DCOPN finds that neither applicant warrants preference with respect to displaying a commitment to charity care.

**Eight 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;**

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

The applicant proposes to establish a specialized center for CT imaging by relocating a CT unit from its Reynolds Crossing location to nearby Discovery Drive. Given the facility's oncology-focus, approval of the proposed project would not greatly increase competition amongst CT service providers, nor is it likely to negatively affect other CT service providers in PD 15. However, the proposed project would offer a valuable outpatient alternative for patients requiring oncology-related CT services.

COPN Request No. VA-8532: Dominion Imaging, LLC

As an alternative to hospital based services, the proposed project would offer lower cost of health care for patients who do not require diagnostic imaging services in a hospital setting, thereby providing beneficial market competition and offering services to patients of PD 15 at a lower price point.

- 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;**

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

As previously discussed, there is a calculated surplus of CT scanners in PD 15. However, DCOPN concludes that the project warrants approval despite the calculated surplus because it is an inventory neutral relocation of existing CT services. Furthermore, given the facility's oncology-focus, approval of the proposed project is unlikely to negatively affect other CT service providers in PD 15.

COPN Request No. VA-8532: Dominion Imaging, LLC

As discussed above, DCOPN calculated a significant surplus of both CT scanners and MRI units in PD 15. Approval of the proposed project would exacerbate the existing surplus, without offering a unique benefit in meeting public healthcare needs.

- 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;**

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

As previously discussed, the projected capital costs of the proposed project are \$1,199,637, (\$869,137 without purchase of CT unit). Capital costs will be funded through the accumulated reserves and operational cash flow of the applicant. DCOPN concludes that when compared to similar projects, these costs are reasonable. For example, COPN No. VA-04721 issued to Sentara Northern Virginia Medical Center to relocate one CT scanner, which cost approximately

\$1,628,392. Furthermore, the Pro Forma Income Statement provided by the applicant projects income of \$426,773 in the first year of operation and \$435,826 by year two.

The applicant does not anticipate the need to hire any additional full time equivalent employees (FTE) to staff the Discovery Drive location. Instead, the CT service at the Discovery Drive location will be staffed by existing staff from the Reynolds Crossing location. As such, DCOPN concludes that the staffing requirements are reasonable and are unlikely to adversely affect existing providers.

COPN Request No. VA-8532: Dominion Imaging, LLC

As discussed above, the total capital costs of the proposed project are \$3,506,270 (**Table 4**). Capital costs will be funded entirely using internal funds and membership capital of the applicant. Accordingly, there are no financing costs associated with the proposed project. As previously discussed, these costs are reasonable when compared to similar projects. For example, COPN No. VA-04719 issued to Sentara RMH Medical Center to establish a specialized center with one MRI scanner and one CT scanner, which cost approximately \$5,398,637.

The applicant anticipates the need to hire three FTEs to staff the proposed project – two radiologic technicians and one other health professional. The applicant reports that for physician services, Dominion Radiology Associates will provide medical direction and supervision and interpretation services for MRI and CT. Non-physician staffing will be obtained through the posting of the positions internally and through advertisements in local and regional newspapers and professional journals. Dominion Imaging also works with a recruiter as necessary. DCOPN finds that the applicant will not likely have difficulty filling the required positions, or that doing so will have a significant negative impact upon other area healthcare providers.

- 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 bases; (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**

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

The proposal would introduce no new technology that would promote quality in the delivery of CT scanner services. However, the proposed project would promote cost effectiveness in the delivery of CT services on an outpatient basis. No cooperative efforts to meet regional health care needs were addressed by the applicant. DCOPN did not identify any other relevant factors to bring to the Commissioner's attention.

COPN Request No. VA-8532: Dominion Imaging, LLC

The proposal would introduce no new technology that would promote quality in the delivery of CT scanner services. However, the proposed project would promote cost effectiveness in the delivery of CT services on an outpatient basis. No cooperative efforts to meet regional health care needs were addressed by the applicant. DCOPN did not identify any other relevant factors to bring to the Commissioner's attention.

- 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 and (ii) any contribution the teaching hospital or medical school may provide in the delivery, innovation, and improvement of health care services for citizens of the Commonwealth, including indigent or underserved populations.**

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

Not applicable. The applicant is not a teaching hospital or affiliated with a public institution of higher education or medical school in the area to be served. Approval of the proposed project would not contribute to the unique research, training or clinical mission of a teaching hospital or medical school.

COPN Request No. VA-8532: Dominion Imaging, LLC

Not applicable. The applicant is not a teaching hospital or affiliated with a public institution of higher education or medical school in the area to be served. Approval of the proposed project would not contribute to the unique research, training or clinical mission of a teaching hospital or medical school.

**DCOPN Staff Findings and Conclusion**

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

DCOPN finds that VCI's project to relocate existing CT service within PD 15 is generally consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. The proposed project is an inventory neutral relocation and potential replacement of an existing COPN approve CT unit. Furthermore, VCI will move its CT service to a location that is better suited to the needs of its patients, and is less than two miles from its existing location. Finally, given the applicant's oncology-focus, DCOPN concludes that approval of the proposed project is not likely to have a significant negative impact on the utilization of existing PD 15 providers of CT services. For these reasons, DCOPN concludes that the proposed project is more favorable than maintaining the status quo.

DCOPN finds that the total capital costs of the proposed project are reasonable and consistent with previously approved projects similar in scope. Furthermore, DCOPN finds that the project appears to be economically feasible both in the immediate and long-term. Finally, there is no known opposition to the proposed project.

COPN Request No. VA-8532: Dominion Imaging, LLC

DCOPN finds that Dominion Imaging's project to establish a freestanding diagnostic imaging center with one CT scanner and one MRI unit is generally inconsistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. DCOPN finds that the total capital costs of the proposed project are reasonable and consistent with previously approved projects similar in scope. DCOPN also finds that the project appears to be economically feasible both in the immediate and long-term. However, DCOPN received written opposition to the proposed project, which cited: (1) the sizable surplus of CT scanners and MRI units in PD 15; (2) Imaging Centers which are hospital affiliated are reimbursed

at lower, non-hospital, outpatient rates; and (3) the location of the proposed project, which is in close proximity to existing providers.

Additionally, as discussed above, DCOPN calculated an 11.4 unit surplus of CT scanners and a 16.9 unit surplus of fixed MRI units in the planning district. Approval of the proposed project would add to each of these surpluses, without offering a unique benefit in meeting public healthcare needs. Furthermore, there are non-hospital based providers of CT and MRI services with available capacity in close proximity to the location of the proposed project. Accordingly, DCOPN concludes that maintaining the status quo is more favorable than the proposed project.

### **DCOPN Staff Recommendation**

COPN Request No. VA-8527: Virginia Cancer Institute, Inc.

The Division of Certificate of Public Need recommends **conditional approval** of the Virginia Cancer Institute's COPN request to relocate one CT scanner within PD 15 for the following reasons:

1. The proposed project is generally consistent with the applicable criteria and standards of the State Medical Facilities Plan and the Eight Required Considerations of the Code of Virginia.
2. The capital costs are reasonable.
3. The proposed project appears economically viable in the long-term.
4. There is no known opposition to the proposed project.
5. The project is inventory neutral and is more favorable than maintaining the status quo.

### **Recommended Condition**

Virginia Cancer Institute, Inc. will provide CT services to all persons in need of this service, regardless of their ability to pay, and will facilitate the development and operation of primary medical care services to medically underserved persons in PD 15 in an aggregate amount equal to at least 3.7% of Virginia Cancer Institute, Inc.'s gross patient revenue derived from CT services. 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. Virginia Cancer Institute, 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 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. § 1395 et seq.

Virginia Cancer Institute, Inc. will provide CT care 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 Virginia Cancer Institute, Inc. will facilitate the development and operation of primary and specialty medical care services in designated medically underserved areas of the applicant's service area.

COPN Request No. VA-8532: Dominion Imaging, LLC

The Division of Certificate of Public Need recommends **denial** of Dominion Imaging, LLC's COPN request to add one CT scanner and one MRI scanner in PD 15 for the following reasons:

1. The proposed project is generally inconsistent with the applicable criteria and standards of the State Medical Facilities Plan and the Eight Required Considerations of the Code of Virginia.
2. There is a calculated surplus of CT and MRI units in PD 15 and approval of the proposed project would add to this surplus without offering a unique benefit in meeting public healthcare needs.
3. Much of the current inventory of CT scanners and MRI units in the PD is underutilized, specifically at freestanding diagnostic imaging facilities.
4. Written opposition to the proposed project was filed with DCOPN.
5. Maintaining the status quo is a reasonable alternative to the proposed project.