



COMMONWEALTH of VIRGINIA

Department of Health

M. NORMAN OLIVER, MD, MA
STATE HEALTH COMMISSIONER

PO BOX 2448
RICHMOND, VA 23218

TTY 7-1-1 OR
1-800-828-1120

April 8, 2021

By Email

Steve Gravely, Esquire
The Gravely Group
109 Branchview Circle
Richmond, Virginia 23229

RE: CERTIFICATE OF PUBLIC NEED
(COPN) REQUEST NUMBER VA-8532
Dominion Imaging, LLC
City of Richmond, Planning District (PD) 15
Health Planning Region (HPR) IV
Establishment of a Specialized Center for the
Provision of Computed Tomography (CT)
Services and Magnetic Resonance Imaging (MRI)
Services (with One Scanner of Each Technology)

Dear Mr. Gravely:

In accordance with Article 1.1 of Chapter 4 of Title 32.1 (§ 32.1-102.1 *et seq.*) of the Code of Virginia (the "COPN law"), I have reviewed the application submitted proposing the above-captioned proposed project (the "Dominion project" or "project"). As required by Subsection B of Virginia Code § 32.1-102.3, I have considered all matters, listed therein, that must be taken into account in making a determination of public need.

I have reviewed and adopted the enclosed findings, conclusions and recommended decision of the adjudication officer who convened the informal fact-finding conference to discuss the Dominion project, and who reviewed the administrative record pertaining to the project.

Based on my review of the Dominion project and on the recommended decision of the adjudication officer, I am denying the project. The project does not merit approval and will not receive a Certificate. It is not necessary to meet a public need.

Steve Gravely, Esq.
April 8, 2021
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The reasons for my decision include the following:

- (i) The Dominion project is not consistent with the State Medical Facilities Plan (SMFP), not in harmony or in general agreement with the SMFP or with the public policies, interests and purposes to which the SMFP and the COPN law are dedicated;
- (ii) A demonstrated, clear and confirmed surplus of CT scanners and a demonstrated, clear, confirmed and extraordinary surplus of MRI scanners exist in PD 15; approved resources are and will remain well-situated, with capacity and financial and geographic accessibility, to meet the demand for all routine CT and MRI services;
- (iii) Cogent written opposition to the project exists;
- (iv) An alternative to the project, *i.e.*, maintenance of the status quo, exists and is superior to approval of the project; and
- (v) The project would unnecessarily duplicate existing health care resources in PD 15, several of which are underutilized, located proximate to the intended site for the project or both.

In accordance with Rule 2A:2 of the Rules of the Supreme Court of Virginia, any aggrieved party to an administrative proceeding choosing to appeal a case decision shall file, within 30 days after service of the case decision, a signed notice of appeal with "the agency secretary." Such a notice would be sufficiently filed if it were addressed to my attention, sent to the Office of the State Health Commissioner, James Madison Building, Thirteenth Floor, 109 Governor Street, Richmond, Virginia 23219, and timely received in accordance with the Rule.

Sincerely,

DocuSigned by:

M. Norman Oliver, MD

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M. Norman Oliver, MD, MA
State Health Commissioner

Encl.

cc (via email):
Danny TK Avula, MD
Director, Richmond City Health District
Vanessa MacLeod, Esq.
Assistant Attorney General
Erik O. Bodin, III
Director, Division of Certificate of Public Need
Douglas R. Harris, JD
Adjudication Officer

**Recommendation
to the State Health Commissioner
on Certificate of Public Need (COPN)
Request Number VA-8532
Dominion Imaging, LLC
City of Richmond, Planning District (PD) 15
Health Planning Region (HPR) IV
Establishment of a Specialized Center for the
Provision of Computed Tomography (CT)
Services and Magnetic Resonance Imaging (MRI)
Services (with One Scanner of Each Technology)**

Introduction and Authority

This recommended case decision is submitted to the State Health Commissioner (“Commissioner”) for his consideration and adoption. It follows review of the administrative record relating to the proposed project captioned above and an informal fact-finding conference (IFFC) conducted in accordance with the Virginia Administrative Process Act (APA).¹

Article 1 of Chapter 4 of Title 32.1 (§ 32.1 - 102.1 *et seq.*) of the Virginia Code (the “COPN law”) addresses medical care facilities and provides that “[n]o person shall undertake a project described in [this article] or regulations of the [State] Board [of Health] at or on behalf of a medical care facility . . . without first obtaining a certificate [of public need] from the Commissioner.”² The endeavor proposed in the pending application, captioned above, falls within the statutory definition of “project” contained in the COPN law, and, thereby, requires a certificate of public need (COPN).

Factual and Procedural Background

1. Dominion Imaging, LLC (“Dominion”) is a Virginia limited liability company established in 2018 with an office in Stafford.
2. Dominion proposes to establish a specialized center, *i.e.*, a freestanding diagnostic imaging facility, for providing CT and MRI services with one CT scanner and one MRI scanner in PD 15 (the “Dominion project”). Dominion currently provides fluoroscopy (x-ray) and ultrasound diagnostic services, neither of which requires a COPN, at the intended location. Dominion shares space with an interventional radiology practice at this location.

¹ Va. Code § 2.2-4000 *et seq.*

² Va. Code § 32.1-102.1:2(A).

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Total capital costs of the project are \$3,506,270, to be defrayed using internal financial reserves and member capital of Dominion.

3. Dominion promotes its proposed project as one that will be unaffiliated with a major health system serving residents of PD 15 and would, thereby, be able to provide imaging services at lower cost.

4. Of historical note, on May 21, 2019, the Commissioner issued four case decisions relating to diagnostic imaging services in PD 15. In one of these decisions, the Commissioner denied an application, submitted by Dominion, proposing the establishment of a diagnostic imaging facility for providing CT and MRI services with one CT scanner and one MRI scanner. The reasons substantiating the decision to deny that application included its inconsistency with State Medical Facilities Plan (SMFP) and the existence of surpluses of both CT and MRI scanners in PD 15. This earlier-proposed project was substantially similar to the Dominion project, currently under review.

Summary and Incorporation of the DCOPN Staff Report

In a staff report dated January 19, 2021, prepared by the Virginia Department of Health, Division of Certificate of Public Need (DCOPN) on the Dominion project,³ that division recommended finding no public need for the specialized imaging center the project would establish.

More specifically, DCOPN recommends in this report (the "DCOPN staff report") that the Commissioner find (i) that the Dominion project is generally inconsistent with applicable standards and criteria promulgated by the State Board of Health and contained in the SMFP,⁴ (ii) that a calculated surplus of both CT and MRI scanners exists in PD 15 and approval of the Dominion project would "add to this surplus without offering a unique benefit in meeting public healthcare needs," (iii) that much of the current inventory of CT and MRI scanners is underutilized, especially "at freestanding diagnostic imaging facilities," (iv) that written opposition to the project was registered with DCOPN, and (v) that maintaining the status quo is a reasonable alternative to the project.

By reference, the DCOPN staff report is incorporated into the present recommended decision for the purpose of establishing and corroborating facts and demonstrating analysis that together support and help constitute the evidentiary basis on which the recommended decision made herein rests.

³ The staff report that addressed the Dominion project addressed a second application, as well. COPN Request No. VA-8527, a request submitted by Virginia Cancer Institute, Inc., was competing with the Dominion project. In the staff report, the Virginia Department of Health, Division of Certificate of Public Need (DCOPN) recommended conditional approval of that project. DCOPN and the competing applicants entered into a stipulated agreement on January 27, 2021, to remove the application submitted by Virginia Cancer Institute, Inc., from adjudication, and the Commissioner approved COPN Request No. VA-8527 on February 15, 2021.

⁴ 12 Virginia Administrative Code (VAC) 5-230-10 *et seq.*

Analysis and Conclusions Relating to the Proposed Project

Salient analysis and conclusions regarding the Dominion project and relating directly to the eight considerations of public need contained in the COPN law (the “statutory considerations”),⁵ appearing in bold type, are set forth below in relation to each statutory consideration below. The DCOPN staff report, incorporated herein, contains additional analysis and conclusions.

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.

Geographically, the proposed location for the Dominion project is proximate to many providers of health care services, including diagnostic imaging services, and an area of dense population, and is readily accessible by interstate and other major roadways.

Dominion touts its project as one that would be nearly-unique in its low cost – a feature that, Dominion argues, would vitally increase access to affordable diagnostic services for self-paying patients and those with high-deductible insurance coverage. Currently there is a sizable surplus of both CT and MRI scanners. Substantial unused capacity exists in PD 15, including among low-cost, non-hospital-based providers of these services.

If the project were approved, Dominion would be a new provider of CT and MRI services; as such, it has no record on which its provision of charity care can be gauged. Financial accessibility is not a substantial barrier to accessing CT and MRI services in PD 15, despite Dominion’s assertions otherwise. Approval of the project on the basis of Dominion’s proposed low-cost service rates alone would be untoward and unprecedented, as nothing in the COPN law, or any law, prevents a provider of a health care service from adjusting and raising its rates subsequent to approval.

Due to ample, widely-distributed and accessible capacity in PD 15, no compelling reasons relating to access to health care services for people in the area to be served have been reliably identified as the basis for approval of the Dominion project.

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; (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; (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; (iv) any costs and benefits of the proposed project; (v) the financial accessibility of the

⁵ See Subsection B of Virginia Code § 32.1-102.3.

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proposed project to people in the area to be served, including indigent people; and (vi) at the discretion of the Commissioner, any other factors as may be relevant to the determination of public need for a proposed project.

Dominion has provided numerous letters of support for its project from medical professionals associated with Dominion, from health care insurance providers serving the area and from residents of PD 15. DCOPN received letters of opposition to the project from three providers of CT and MRI services in PD 15, as well as Dominion's written responses to each one; these letters are summarized in the DCOPN staff report.⁶

DCOPN states that low-cost, non-hospital based providers of CT and MRI services have unused capacity and are available in PD 15 and proximate to the location intended for the Dominion project; DCOPN concludes that maintaining the status quo is a reasonable and preferable alternative to the Dominion project.⁷ No reliable evidence firmly supports a conclusion that CT or MRI imaging, for the various diagnostic purposes such technology is deployed, is financially inaccessible to PD 15 residents, or that financial accessibility to imaging services depends on approval of a capital project, such as the Dominion project.⁸

DCOPN considers the developmental costs of the Dominion project to be reasonable, when compared to like projects, and provided a summary of benefits listed by Dominion in the DCOPN staff report.⁹

Curiously, the pro forma financial statement prepared by Dominion as part of its application fails to address the provision of charity care. DCOPN notes that, as a prospective provider of new CT and MRI services, Dominion has no history of providing charity care for review. A reliable conclusion about the prospective provision of charity care by Dominion cannot be reached, but Dominion touts its project prominently as one that would provide low-cost services.

I agree with the conclusions reached by DCOPN and summarized above. Dominion proposed a nearly identical project that was denied approval in May 2019. After adjudication, that earlier project was determined to be unneeded due to, among other considerations, a surplus of CT and MRI scanners in PD 15. Additionally, the earlier project would have been located within 10 miles of at least five CT and MRI scanning services; it did not promise a particular benefit in meeting public need and it was inconsistent with the SMFP. These determinations apply to the currently-proposed Dominion project, as well.

As an additional matter submitted for the Commissioner's discretion, Dominion argues that current need for CT MRI imaging "will likely be dramatically compounded by the number of COVID-19 survivors who will likely require serial chest CT scans for residual

⁶ DCOPN Staff Report at 8-12.

⁷ *Id.* at 13.

⁸ Dominion argues, in particular, that MRI imaging of the breast is not financially accessible in PD 15, due substantially to a significant shift among insurers and insureds to high deductible health plans.

⁹ *Id.* at 14-15. As a general observation, a project for which there is no public need bears unnecessary costs that are often borne by the overall health care system.

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fibrotic lung disease.”¹⁰ While this prediction may become true, it remains speculative, and no solid, reliable evidence clearly shows that current resourcing will be inadequate in providing necessary diagnostic imaging.

3. The extent to which the proposed project is consistent with the State Health Services Plan [i.e., the SMFP].

The COPN law requires that “[a]ny decision to issue . . . a [COPN] shall be consistent with the most recent applicable provisions of the [SMFP]”¹¹ The SMFP, contained in the Virginia Administrative Code (VAC), includes several provisions applicable to a project proposing the establishment of CT and MRI services.¹²

The SMFP contains applicable driving time standards, providing that state both CT and MRI services should be available within 30 minutes’ driving time of 95 percent of a PD’s population. Existing circumstances amply allow compliance with these normative standards; approval of the Dominion project would not increase geographic access to CT or MRI services.

Importantly, the SMFP contains two utilization-based provisions, one for CT and one for MRI, that attempt to identify numerical need based on utilization data.¹³ Deploying these provisions in its staff report, DCOPN concluded that PD 15 has a sizable surplus of both technologies.

In response to Dominion’s protestations of inaccuracy, DCOPN re-calculated need using these provisions and roundly confirmed the surpluses, using data from Virginia Health Information, Inc. (VHI), augmented by recently-obtained data.¹⁴ DCOPN concluded that PD 15 has (i) an inventory of 52 authorized CT scanners, a need for 42.6 CT scanners and a resulting *surplus of 9.4 CT scanners*, and (ii) an inventory of 38 authorized MRI scanners, a need for 20.1 MRI scanners and a resulting *surplus of 17.9 MRI scanners*. These inventories include 11 CT scanners and seven MRI scanners that have been approved only recently, some of which are not yet operational.

Dominion attempts to demonstrate an “authentic public need” for its project. In IFFC briefings, Dominion questioned the reliability of DCOPN’s calculations, arguing that (i) several scanners in PD 15 are of “limited use,” and therefore, have narrow capacity to meet general public need,¹⁵ (ii) the VHI data are unreliable and inaccurate, and (iii) the duly-promulgated threshold utilization levels in the SMFP – 7,400 procedures for a CT scanner and 5,000 procedures for an MRI scanner – do not appropriately account for the time-delimited availability of scanning at freestanding facilities. Dominion suggests that the surplus of CT

¹⁰ Dominion Proposed Findings and Conclusions at 12.

¹¹ Va. Code § 32.1-102.3(B).

¹² 12 VAC 5-230-90 *et seq.*, 12 VAC 5-230-140 *et seq.* For the sake of brevity, the SMFP provisions revealing the most salient features of the project are discussed in this document.

¹³ 12 VAC 5-230-100 and 12 VAC 5-230-150.

¹⁴ DCOPN Proposed Findings and Conclusions at 3, 5.

¹⁵ Dominion Proposed Findings and Conclusions at 8, 21.

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scanners is as much as 13 fewer than DCOPN calculates and the surplus of MRI scanners is as much as nine fewer than DCOPN calculates.

Dominion also argues the SMFP “should be given substantially less weight” in determining need,¹⁶ suggesting that the Virginia General Assembly’s 2020 legislative mandate¹⁷ to the Department of Health to develop a State Health Services Plan (SHSP) to replace the SMFP somehow negates or suspends the applicability and effect of the SFMP. The SMFP consists of a set of codified regulations that will remain effective until an SHSP has been drafted, developed and adopted by the State Board of Health to supplant the existing plan.¹⁸

Dominion’s attacks on the customary calculation of public need for CT and MRI scanners in PD 15 fail – a conclusion underscored by the recalculations performed by DCOPN. Ultimately, DCOPN appropriately considered the limited use of several scanners in PD 15, VHI data are routinely sought and relied upon in developing health care planning strategies and in reviewing proposed projects, the SMFP’s utilization thresholds were developed, with advice and comment from health care providers, to embody a level reflecting both hospital-based and freestanding services and the SHSP remains an undeveloped, undrafted document, incapable of reliance.

Indeed, the recalculated inventory of approved CT scanners in PD 15 reflects a surplus that equates to *22 percent of capacity needed*, and the inventory of approved MRI scanners in PD 15 reflects a surplus that equates to *89 percent of capacity needed*. These margins are quite substantial.

These margins are incapable of being overcome by the inaccuracies Dominion alleges.¹⁹ An argument that an additional CT scanner and an additional MRI scanner are needed to meet an authentic public need is just not credible, despite Dominion’s unfounded

¹⁶ Dominion Rebuttal at 5 (*italics in original*).

¹⁷ Senate Bill 764 (Acts of Assembly, c. 1271, 2020).

¹⁸ See *generally* Dominion Proposed Findings and Conclusions. Dominion states that “[t]he fact that the legislature has allowed time for the development of the new SHSP does not mean that VDH is free to simply pretend as though the legislature has not directed the Commissioner, indeed the Board of Health, to replace the inadequate SMFP methodology with a new approach that takes into account, at least, the specific items listed in the legislation.” *Id.* at 11 (*underlining in original*). The idea, as apparently suggested by Dominion, that the Commissioner should immediately develop and enforce, as regulations, unspecified, inchoate standards that have not undergone the statutorily-imposed process for promulgating regulations is simply untenable.

¹⁹ Dominion flatly states “DCOPN has simply and thoroughly ignored all of [Dominion’s] evidence.” *Id.* at 7. My review of the evidence shows no basis for concluding that DCOPN failed to appropriately apply the regulations, analyze Dominion’s evidence or give due consideration to Dominion’s concerns over, for example, inclusion of existing scanners that have limited use in the calculation of numerical need. Due consideration of an applicant’s submissions and concerns can be, and routinely is, accomplished by DCOPN without detailed, overt reference to and discussion of such matters in a resulting staff report; and assertions of conclusory statements and data without substantiation or corroboration can only be given the limited weight they deserve in the face of significant, countervailing evidence adduced and reviewed in a routine, customary manner.

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assertion that “the unrefuted evidence shows a current need for three additional general-purpose CT units and four additional general-purpose MRI units”²⁰

In summary, DCOPN concluded that the Dominion project is inconsistent with the SMFP in the DCOPN staff report. Upon review, and after full consideration of all of Dominion's arguments and assertions otherwise, I agree with DCOPN's conclusion. Sufficient data and information weigh in favor of and substantiate a determination that the Dominion project is not consistent with the SMFP, not in harmony or in general agreement with the SMFP or with the public policies, interests and purposes to which the SMFP and the COPN law are dedicated.²¹

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.

The Dominion project appears to pose institutional competition. It apparently would offer CT and MRI services at rates that are, as Dominion emphatically represents, comparatively low, creating an advantage in particular for self-paying persons and persons with high-deductible insurance coverage.²²

But a facility's pricing, reimbursement rates and designation of facility classification for reimbursement may be subject to change, at the election of the facility or by governmental or carrier restructuring. Absent a reliable showing of unmet need, a project cannot be approved solely, or even prominently, on the basis of the applicant's purported ability and represented commitment to maintain a certain reimbursement designation or commitment to low rates.²³ Approval of the project on the basis of Dominion's representations on rates for its proposed services, in the face of a continuing surplus of CT and MRI scanners and the patent availability of low cost scanning offered by several existing providers, would be unwarranted and problematically precedential. Any competition the Dominion project would introduce would not be beneficial.

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 existing health care system in PD 15, as it relates particularly to diagnostic imaging, has a reasonable and beneficent structure, consisting of accessible hospital-based imaging providers, hospital-based freestanding imaging facilities and independent freestanding imaging facilities. The Dominion project would exacerbate sizable surpluses of CT and MRI scanners, without providing a distinct benefit in meeting public need. Since Dominion has never provided CT or MRI imaging, it has no established patient base in

²⁰ Dominion Rebuttal at 13.

²¹ See Roanoke Mem. Hosp. v. Kenley, 3 Va. App. 599, 352 S.E.2d 525.

²² Dominion Proposed Findings and Conclusions at 1-4.

²³ Dominion represents that its diagnostic services would bill charges as a physician office, and that its rates would be lower than if the services billed as a hospital outpatient department (HOPD) or an independent diagnostic testing facility (IDTF).

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relation to either technology; if the project were approved and thereafter able to meet its sizable utilization projections, it would do so to the substantial detriment of prevailing utilization at existing providers of CT and MRI services. A number of freestanding CT and MRI centers exhibit utilization levels that are quite low, demonstrating available capacity to meet public need. These centers may be inefficiently operated.²⁴ The Dominion project poses the risk of destabilizing the existing health care system in PD 15 by placing new CT and MRI services in an area in which both are concentrated and no geographic barriers to care exist.

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.

The Dominion project appears feasible. If successful, it would provide benefits to the applicant. The attendant construction costs of the project are reasonable, and resources are likely available. The cost of capital, as that matter is conventionally understood under this statutory consideration, does not appear to be an issue, particularly since the project includes no financing costs.

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.

The Dominion project would not provide improvements or innovations in the financing or delivery of health care services or introduce new technology, but Dominion touts it as capable of promoting a certain cost effectiveness in the delivery of diagnostic scanning services, which would be provided on an outpatient basis.

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.

Not applicable.

Conclusion and Recommendation

In relation to all eight statutory considerations and upon analytical review of the administrative record compiled in relation to the Dominion project, I conclude that the project does not merit approval. I recommend that the application for authorization to initiate the

²⁴ See DCOPN Staff Report, Tables 10 and 11, at 18-19, 23-24.

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Dominion project be denied. Dominion should not receive a Certificate authorizing the project because it is not necessary to meet a public need.

- Specific reasons supporting this recommendation include: (i) The Dominion project is not consistent with the SMFP, not in harmony or in general agreement with that plan or with the public policies, interests and purposes to which the SMFP and the COPN law are dedicated;
- (ii) A demonstrated, clear and confirmed surplus of CT scanners and a demonstrated, clear, confirmed and extraordinary surplus of MRI scanners exist in PD 15; approved resources are and will remain well-situated, with capacity and financial and geographic accessibility, to meet the demand for all routine CT and MRI services;
- (iii) Cogent written opposition to the project exists;
- (iv) An alternative to the project, *i.e.*, maintenance of the status quo, exists and is superior to approval of the project; and
- (v) The project would unnecessarily duplicate existing health care resources in PD 15, several of which are underutilized, located proximate to the intended site for the project or both.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "D. R. Harris", with a stylized flourish at the end.

March 31, 2021

Douglas R. Harris, JD
Adjudication Officer

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

Facility	CT Scanners	MRI Units
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

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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 ¹	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 ²	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 ³	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 ⁴	1	N/A
Virginia Ear Nose & Throat - Henrico ⁵	1	N/A

¹ Dedicated breast MRI authorized pursuant to COPN No. VA-04125.

² Limited to cardiac imaging pursuant to COPN No. VA-03664

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

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

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

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

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
Total Capital Costs	\$1,199,637

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.

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

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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
Total Capital Costs	\$3,506,270

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		2030	2020 - 2030	
	2010	2020	% 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%
Total PD 15	1,002,696	1,111,633	10.86%	1.01%	1,219,936	9.74%	0.93%
PD 15 65+	116,609	172,249	47.72%	3.88%	224,417	30.29%	2.68%
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%
Total \$ & Mean %	\$26,118,455,175	\$975,457,005	3.7%

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, 1/10th 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.

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- 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.

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- 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.

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- 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

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

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

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

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."

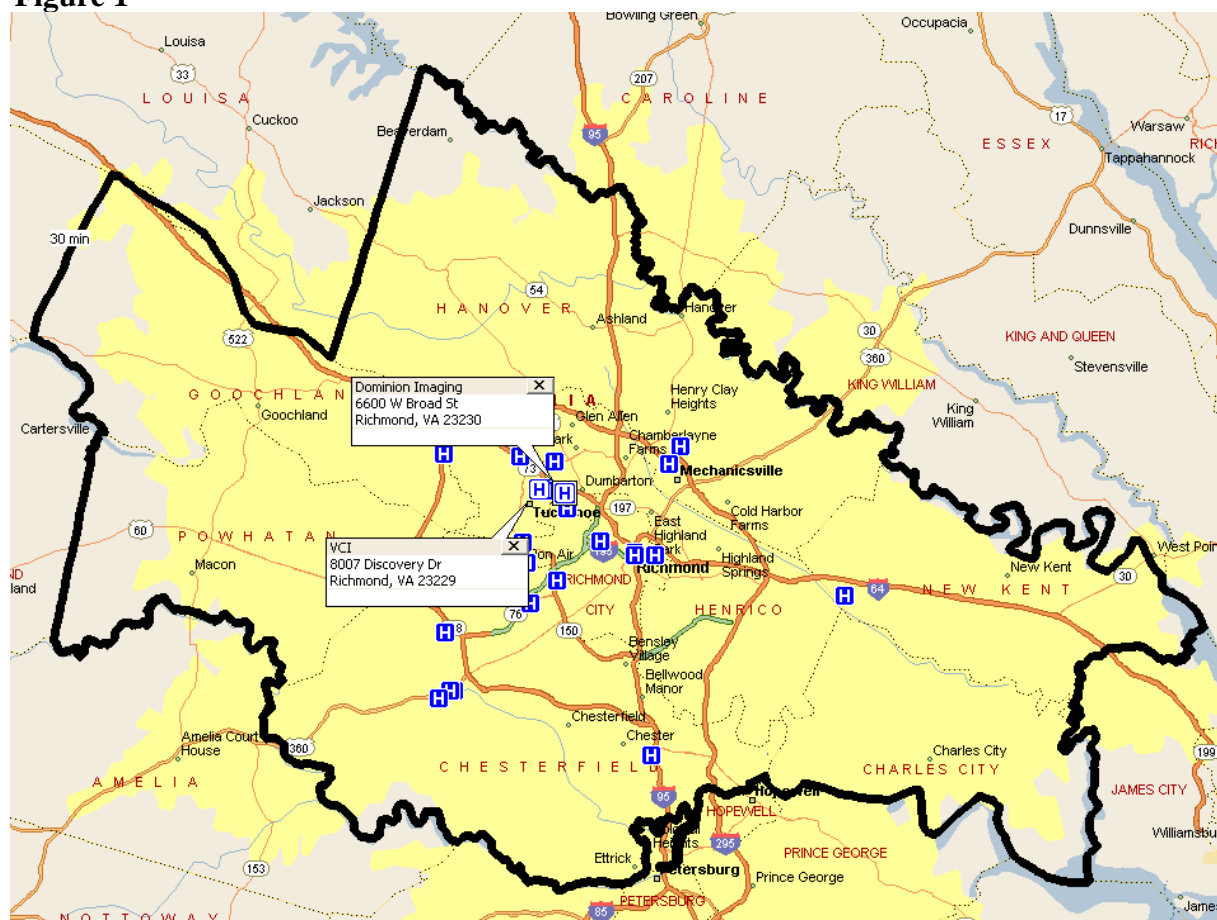
3. The extent to which the proposed project is consistent with the State Health Services Plan;

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 = $315,776 \text{ total scans} \div 7,400 \text{ (scans/SMFP CT standard)} = 42.6$
(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 scanners⁷. 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%

⁷ 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.

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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%
2018 Total and Average	39	315,776	109.4%

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.

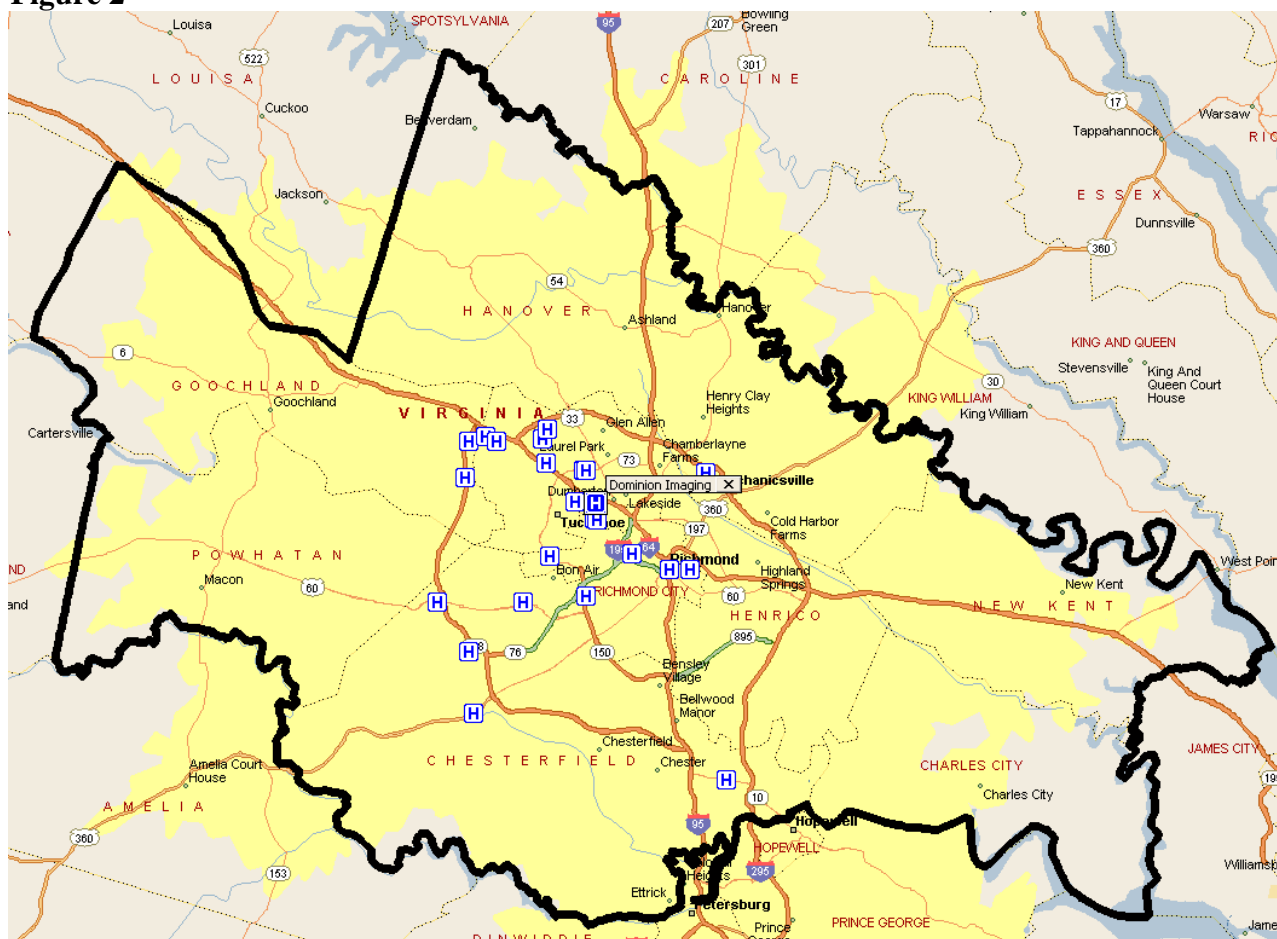
DCOPN notes that the SMFP Criteria and Standards for Magnetic Resonance Imaging portion of this staff analysis report apply only to COPN Request No. VA-8532 submitted by Dominion Imaging.

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.

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2018 COPN authorized fixed MRI units = 30

Calculated Needed MRI units = $100,569 \text{ total scans} \div 5,000 \text{ (scans/SMFP MRI standard)} = 20.1$
 (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%

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Facility	Number of Scanners	Number of Scans	Utilization Rate
Ellen Shaw De Paredes Institute For Women's Imaging ⁸	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 Orthopaedic 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%
2018 Total and Average	30	100,569	69.4%

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 through 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.

⁸ 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.

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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.