



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

October 8, 2021

By Email

Thomas J. Stallings, Esquire
McGuire Woods
800 East Canal Street
Richmond, Virginia 23219

RE: Certificate of Public Need (COPN)
Request Number VA-8538
Chesapeake Diagnostic Imaging Centers, LLC
City of Chesapeake, Planning District (PD) 20
Health Planning Region (HPR) V
Establishment of a Specialized Center for Magnetic Resonance Imaging (MRI)
Services through Relocation of a Scanner
(the "Western Branch project"); and

COPN Number VA-04761 (Request Number VA-8539)
Chesapeake Diagnostic Imaging Centers, LLC
City of Chesapeake, PD 20, HPR V
Establishment of a Specialized Center for Computed Tomography (CT) and
MRI Services through Relocation of Scanners
(the "Hanbury project")

Dear Mr. Stallings:

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 applications proposing the above-captioned projects, both submitted by Chesapeake Diagnostic Imaging Centers, LLC. 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 under the COPN law.

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




Thomas Stallings, Esq.
October 8, 2021
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Based on my review of the projects and on the recommended decisions of the adjudication officer, I am denying the Western Branch project and approving the Hanbury project, with a condition requiring an appropriate level of charity care. The Hanbury project merits approval and will receive a Certificate. It is necessary to meet a public need.

The reasons for my decisions include the following:

- (i) The Western Branch project is inconsistent with the State Medical Facilities Plan (SMFP);
- (ii) Approval of the Western Branch project carries the risk of worsening underutilization of several existing MRI scanners in the surrounding area;
- (iii) In relation to the Western Branch project, maintaining the status quo is a preferable alternative;
- (iv) The Hanbury project is consistent with the SMFP, and is in harmony or in general agreement with the SMFP and with the planning principles, public policies, interests and purposes to which that plan and the COPN law are dedicated;
- (v) Approval of the Hanbury project would not add to abundant inventories of CT and MRI scanners in PD 20, but would relocate low-cost CT and MRI services, to be provided on up-to-date scanners to the benefit of residents of the southern portion of Chesapeake; and
- (vi) The Hanbury project would enhance geographic, financial and practical access to diagnostic services, while lowering costs and potentially increasing beneficial competition.

Sincerely,

DocuSigned by:

E9885CE3DE124C6...

M. Norman Oliver, MD, MA
State Health Commissioner

Enclosures

cc (by email):
Parham Jaber, MD, MPH
Acting Director, Norfolk Health District
Nancy Welch, MD, MHA, MBA
Director, Chesapeake Health District

Thomas Stallings, Esq.

October 8, 2021

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cc (by email, cont'd):
Erik O. Bodin, III
Director, Division of Certificate of Public Need
(DCOPN)
Piero Mannino, JD, MPIA
Supervisor, DCOPN
Nicholas Megibow, JD
Project Analyst, DCOPN
Douglas R. Harris, JD
Adjudication Officer
Vanessa MacLeod, Esq.
Assistant Attorney General

**Recommended Decisions Presented
to the State Health Commissioner on:**

**Certificate of Public Need (COPN)
Request Number VA-8538
Chesapeake Diagnostic Imaging Centers, LLC
City of Chesapeake, Planning District (PD) 20
Health Planning Region (HPR) V
Establishment of a Specialized Center for Magnetic Resonance Imaging (MRI)
Services through Relocation of a Scanner;**

**COPN Request Number VA-8539
Chesapeake Diagnostic Imaging Centers, LLC
City of Chesapeake, PD 20, HPR V
Establishment of a Specialized Center for Computed Tomography (CT) and MRI
Services through Relocation of Scanners**

Introduction and Authority

These recommended case decisions are submitted to the State Health Commissioner (“Commissioner”) for his consideration and adoption. It follows review of the administrative record relating to the applications captioned above and an informal fact-finding conference (IFFC)¹ conducted in accordance with the Virginia Administrative Process Act (APA).²

Article 1 of Chapter 4 of Title 32.1 (§ 32.1 - 102.1 *et seq.*) of the Virginia Code (“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.”³ The endeavors proposed in the pending applications, captioned above, fall within the statutory definition of “project” in the COPN law, and, thereby, requires a certificate of public need (COPN, or “certificate”).⁴

¹ The IFFC was convened and conducted in person on July 27, 2021. A certified transcript of the IFFC was made and is in the administrative record.

² Va. Code § 2.2-4000 *et seq.*

³ Va. Code § 32.1-102.1:2 (A).

⁴ Va. Code § 32.1-102.1.

Adjudication Officer's
Recommended Decisions
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Factual and Procedural Background

1. Chesapeake Diagnostic Imaging Centers, LLC (CDIC), is a limited liability company the equal members of which are CHG Holding Company, Inc., of Chesapeake, and Outpatient Imaging Affiliates, of Franklin, Tennessee. CDIC operates two imaging centers in PD 20. CHG Holding Company, Inc. is a wholly-owned subsidiary of the Chesapeake Hospital Authority, a public body politic and corporate. Operationally, these centers, as well as Chesapeake Regional Medical Center (CRMC), are part of the Chesapeake Regional Healthcare network.
2. Recently, First Meridian Medical, LLC, doing business as MRI & CT Diagnostics ("First Meridian"), became part of the Chesapeake Regional Healthcare network. First Meridian operated three imaging centers in PD 20. As a result, the Chesapeake Regional Healthcare network now has five imaging centers in PD 20.
3. In COPN Request No. VA-8538, CDIC proposes to establish a specialized center for MRI services by relocating (and replacing) an MRI scanner within Chesapeake, specifically, from what it refers to as its Kingsborough facility to a new facility to be constructed at a site CDIC refers to as Western Branch, approximately 16 miles away in, according to CDIC, "the fast-growing western portion of [its] service area" ⁵ Total capital costs of this project ("Western Branch project"), as lowered at the IFFC, are \$3,858,282. ⁶
4. In COPN Request No. VA-8539, CDIC proposes to establish a specialized center for CT and MRI services by relocating (and replacing) a CT scanner and an MRI scanner from what it refers to as its Kempsville facility, in Norfolk, to a facility at a site CDIC refers to as Hanbury, approximately 15 miles away, in Chesapeake. The center at the Kempsville location would be closed following relocation. Total capital costs of this project ("Hanbury project") are \$5,613,818.
5. CDIC has submitted the two projects due to the relative proximity of the imaging centers currently operated by CDIC and those recently acquired from and formerly operated by First Meridian, five in total. CDIC states that the proposed projects "reflect efforts to redistribute CT and MRI equipment to locations that will best service imaging outpatients already seeking care at Chesapeake Regional Medical Center, CDIC, and MRI & CT Diagnostics." ⁷
6. Currently, PD 20 has 49 authorized CT scanners. This total reflects a calculated surplus of nine scanners and an average 2018 utilization level of 106.2 percent of the applicable operational standard contained in the State Medical Facilities Plan (SMFP). PD 20 has 33 authorized MRI scanners, reflecting a surplus of ten MRI scanners and an average utilization level of 78.2 percent of the operational standard in the SMFP.

⁵ *Id.*

⁶ IFFC Exhibit 12 at 5; IFFC Transcript at 32. As reviewed by DCOPN, the Western Branch project had carried total capital costs of \$4,978,040.

⁷ Application, COPN Request No. VA-8538 at 5.

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7. In a staff report dated January 19, 2021,⁸ prepared by the Virginia Department of Health, Division of Certificate of Public Need (DCOPN, or "division"), that division recommended that the Commissioner deny both applications.⁹

Summary and Incorporation of the DCOPN Staff Report

Regarding the Western Branch project, DCOPN recommended in its report (the "DCOPN staff report") that the Commissioner deny the project because:

- (i) The proposed project is not consistent with the applicable provisions and standards of the SMFP and the criteria in the COPN law;
- (ii) Approval of the project is likely to exacerbate the underutilization of existing MRI scanners located proximate to the proposed site;
- (iii) Approval of the project is likely to create a substantial institutional need for MRI capacity at the facility from which the applicant proposes to relocate an MRI scanner;
- (iv) Maintaining the status quo is a preferable alternative to the project; and
- (v) The capital costs of the project are not reasonable and consistent with the projects of this type.¹⁰

Regarding the Hanbury project, DCOPN recommended that the Commissioner deny the project because:

- (i) While consistent with the applicable criteria and standards of the SMFP, the proposed project is inconsistent with the criteria of the COPN law;
- (ii) CDIC has not established an unmet public need within PD 20 that the project would address; and
- (iii) Maintaining the status quo is a viable alternative to the project.

By reference and summarization, the discussion, analysis and recommendation in the DCOPN staff report to deny the Western Branch project, and the discussion and analysis in the report regarding the Hanbury project, to the extent such is consistent with the respective recommendation made herein, are incorporated into the present document for the purposes of

⁸ The IFFC on these two projects was continued from February 1, 2021, to July 27, 2021, at the request of the applicant.

⁹ The staff report (the "DCOPN staff report") on the two projects submitted by CDIC also addressed three other competing applications, *i.e.*, COPN Request Nos. VA-8533, -8534 and -8535. DCOPN recommended conditional approval of these other projects. Thereafter, DCOPN and all competing applicants entered into a stipulated agreement to remove these other applications from adjudication, and the Commissioner approved them on February 15, 2021.

¹⁰ As stated above, CDIC reduced the capital costs of the Western Branch project, announcing that reduction at the IFFC. Following this change, DCOPN observed that costs of the project "are reasonabl[y] consistent with other projects of this type." DCOPN Proposed Findings and Conclusions at 3.

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solidifying the two decisions recommended herein, and establishing and corroborating facts and demonstrating analysis that constitute and support an evidentiary basis on which the recommended decisions rest.

Analysis and Conclusions and Recommendation on the Proposed Projects

Salient analysis and conclusions regarding the projects and relating directly to the eight criteria of public need, contained in the COPN law (the “statutory considerations”),¹¹ appearing in bold type below, are set forth below in relation to each statutory consideration.

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, PD 20 has a generally well-distributed system of resources providing CT and MRI imaging services. The administrative record on the two applications under review contains no reliable evidence of significant unique barriers to access, or significant unmet need for or geographic maldistribution of CT or MRI imaging services in PD 20.

CDIC promotes itself, and the facilities operated by First Meridian before they became part of the Chesapeake Regional Healthcare network, as being the “only low-cost MRI and CT providers in PD 20.”¹² It touts the Western Branch project and the Hanbury project as offering considerable cost savings and geographic convenience to residents of the areas to be served who typically seek services from CDIC or sought services from MRI & CT Diagnostics.

The Western Branch project would relocate an MRI scanner to an entirely new facility to be located in an area of Chesapeake from which CDIC obtains a small percentage of its patients, creating a likelihood of diverting patients from other providers of diagnostic services. It would expand the reach of Chesapeake Regional Healthcare network-affiliated facilities into communities that are already well-served by other providers’ facilities; these other facilities have standing capacity to meet public need. Some nearby communities appear to lie beyond CDIC’s historical service areas. As DCOPN notes, approval of the Western Branch project would raise the possibility of a future need to backfill, *i.e.*, to replace the scanner now proposed for relocation with yet another scanner at the Kingsborough facility, as the two scanners located there are well-utilized, operating at 93 percent of the SMFP threshold.

The Hanbury project appears not to carry the issues presented by the Western Branch project. The project would be located within the primary service area of the Kempsville facility, from which the CT and MRI scanners would be relocated. The resulting imaging center would be located near a major traffic artery and in an area experiencing some population growth and development. Essentially, the Hanbury project would relocate the whole of the Kempsville facility to a site in the southern portion of Chesapeake – a geographically-expansive municipality, thereby increasing locational and practical access to diagnostic services. Indeed, it

¹¹ See Virginia Code § 32.1-102.3 (B). The DCOPN staff report contains additional analysis and conclusions.

¹² Proposed Findings and Conclusions at 4.

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would significantly improve financial access to CT and MRI services as well. As CDIC demonstrated at the IFFC and discussed in later briefing, “for four of the most common MRI procedures, Anthem would save “more than \$1,000 and the patient [would] save[] at least \$439 in each case.”¹³ Insurers and some patients stand to save significantly with approval of this 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 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.

DCOPN received numerous letters of support for both the Western Branch project and the Hanbury project. These letters came from members of the General Assembly and other government leaders, employers, physicians and insurers. Sentara Healthcare has written in opposition to the Western Branch project.

CDIC argues that approval of the projects is needed in order to rationally redistribute MRI and CT resources and to better locate those resources to offer low-cost scanning and geographic accessibility. It contends that the Kingsborough facility, from which the Western Branch project would relocate an MRI scanner, is too small to continue operating the two MRI scanners there. Regardless, relocation of an MRI scanner from the Kingsborough facility is not the only means of addressing spatial challenges at that facility. The Western Branch project appears to carry costs and challenges to the overall health care system that are greater than the attendant benefits. The better alternative to this project is maintaining the status quo.

The Hanbury project carries fewer risks to the existing system of diagnostic resources in PD 20; it would locate CT and MRI scanning services in an area that does not currently enjoy direct or near-immediate access to these services. CDIC points out that many patients make health care decisions, including whether to promptly receive recommended care, delay services or forego them altogether, based on cost and accessibility.

¹³ Procedures include brain and lumbar imaging with and without contrast. Proposed Findings and Conclusions at 11; IFFC Exhibit 6.

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3. The extent to which the proposed project is consistent with the State Health Services Plan [i.e., the SMFP].¹⁴

The COPN law requires that “[a]ny decision to issue . . . a [COPN] shall be consistent with the most recent applicable provisions of the [SMFP]”¹⁵ The SMFP, contained in the Virginia Administrative Code (VAC), includes several provisions applicable to a project proposing the establishment of a specialized center for CT and MRI services.¹⁶

PD 20 has a generally-accessible system of diagnostic facilities that offer CT and MRI scanning services, both inpatient and outpatient. These services exist well within the driving time standard of the SMFP. PD 20 has a surplus of both CT and MRI scanners.

DCOPN concluded that the Western Branch project is not consistent with the SMFP, and that the Hanbury project is consistent with the SMFP. I find no compelling reason not to concur. Upon consideration of the applicable SMFP provisions, I conclude that data and information in the record substantiate a determination that the Hanbury project is consistent with the SMFP, or in harmony or in general agreement with the SMFP or with the planning principles, public policies, interests and purposes to which that plan and the COPN law are dedicated.¹⁷

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 Western Branch project would be located proximate to several existing facilities with underutilized MRI scanners. It carries the distinct potential to decrease utilization of these existing resources, thereby introducing destructive institutional competition. The Hanbury project would increase beneficial institutional competition by providing low-cost CT and MRI scanning in an area that does not currently have direct or near-immediate access to CT and MRI scanning services.

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.

Although relocations of reviewable resources may allow deployment of those resources in a manner that more directly serves affected residents, public need does not, *ipso facto*, arise from an applicant's election to acquire formerly-competing resources and, thereafter, seek approval for strategic rearrangement. Regardless, both projects are inventory-neutral; neither would add diagnostic capacity to PD 20's ample inventories. Each would increase access to low-cost imaging. Approval of the Western Branch project would threaten continued operation and

¹⁴ While Senate Bill 763 (Acts of Assembly, c. 1271, 2020) calls for administrative promulgation and adoption of a State Health Services Plan (SHSP) to replace the SMFP, the process for developing the SHSP has not been completed. The SMFP remains in effect as a set of duly-adopted regulations providing operative guidance in reviewing applications for a COPN.

¹⁵ Va. Code § 32.1-102.3 (B).

¹⁶ 12 Virginia Administrative Code (VAC) 5-230-90 *et seq.*

¹⁷ See *Roanoke Mem. Hosp. v. Kenley*, 3 Va. App. 599, 352 S.E.2d 525 (1987).

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growth at several underutilized MRI services in the surrounding area, while the Hanbury project would position resources to increase access to services without raising such a threat.

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.

Each project is feasible. The Chesapeake Regional Healthcare network has the necessary financial resources to fund and implement both projects from accumulated reserves and without financing any of the costs. Diagnostic services are generally remunerative; the Chesapeake Regional Healthcare network would benefit. Human resources would be available, likely through transferal of existing staff. The cost of capital, as that matter is conventionally understood under this statutory consideration, does not appear to be an issue.

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.

Both the Western Branch project and the Hanbury project would provide high-quality, low-cost outpatient imaging performed on new scanners exhibiting up-to-date technology.

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, without prejudice to CDIC.

Conclusions and Recommendations Regarding the Projects

In relation to all eight statutory considerations and upon analytical review of the entire administrative record compiled in relation to the projects, I conclude that the Western Branch project fails to merit approval and that the Hanbury project merits approval. **I recommend that the application for authorization to initiate the Western Branch project be denied and the application for authorization to initiate the Hanbury project be approved.** Accordingly, CDIC should receive a certificate, with a condition requiring an appropriate level of charity care, authorizing the Hanbury project because, under the statutorily-required analysis, it is necessary to meet a demonstrated public need.


Specific reasons supporting these recommendations include:

- (i) The Western Branch project is inconsistent with the SMFP;

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- (ii) Approval of the Western Branch project carries the risk of worsening underutilization of several existing MRI scanners in the surrounding area;
- (iii) In relation to the Western Branch project, maintaining the status quo is a preferable alternative;
- (iv) The Hanbury project is consistent with the SMFP, and is in harmony or in general agreement with the SMFP and with the planning principles, public policies, interests and purposes to which that plan and the COPN law are dedicated;
- (v) Approval of the Hanbury project would not add to abundant inventories of CT and MRI scanners in PD 20, but would relocate low-cost CT and MRI services, to be provided on up-to-date scanners to the benefit of residents of the southern portion of Chesapeake; and
- (vi) The Hanbury project would enhance geographic, financial and practical access to diagnostic services, while lowering costs and potentially increasing beneficial competition.

Respectfully submitted,

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October 6, 2021

Douglas R. Harris, JD
Adjudication Officer

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH
MEDICAL CARE FACILITIES CERTIFICATE OF PUBLIC NEED

THIS CERTIFIES THAT Chesapeake Diagnostic Imaging Centers, LLC, is authorized to initiate the proposal as described herein.

NAME OF FACILITY: Hanbury Imaging Center.

LOCATION: 1034 Battlefield Boulevard, South.

OWNERSHIP AND CONTROL: The approved resources will be owned and operated by Chesapeake Diagnostic Imaging Centers, LLC, the equal members of which are CHG Holding Company, Inc., of Chesapeake, and Outpatient Imaging Affiliates, of Franklin, Tennessee. CHG Holding Company, Inc. is a wholly-owned subsidiary of the Chesapeake Hospital Authority.

SCOPE OF PROJECT: Establishment of a specialized center for computed tomography (CT) imaging and magnetic resonance imaging (MRI) services, through relocation of one CT scanner and one MRI scanner, in accordance with specifications and representations made during the course of review. The total authorized capital cost of the project is \$5,613,818. The project is scheduled to be completed by November 15, 2023.




Pursuant to Chapter 4, Article 1:1 of Title 32.1, Sections 32.1-102.1 through 32.1-102.11, Code of Virginia (1950), as amended and the policies and procedures promulgated thereunder, this Medical Care Facilities Certificate of Public Need is issued contingent upon substantial and continuing progress towards implementation of the proposal within twelve (12) months from the date of issuance. A progress report shall be submitted to the State Health Commissioner within twelve (12) months from the date of issuance along with adequate assurance of completion within a reasonable time period. The Commissioner reserves the right not to renew this Certificate in the event the applicant fails to fulfill these conditions. This Certificate is non-transferable and is limited to the location, ownership, control and scope of the project shown herein.

Certificate Number: VA-04761

Date of Issuance: October 8, 2021

Expiration Date: October 7, 2022

DocuSigned by:

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M. Norman Oliver, MD, MA
State Health Commissioner

Condition Placed on the Issuance of this Certificate:

Chesapeake Diagnostic Imaging Centers, LLC, shall provide CT and MRI imaging services to all persons in need of these services, regardless of their ability to pay, and shall facilitate the development and operation of primary medical care services to medically underserved persons in Planning District (PD) 20 in an aggregate amount equal to at least **5.1% of Chesapeake Diagnostic Imaging Centers, LLC's gross patient revenue derived from CT and MRI imaging services provided at the Hanbury Imaging Center.**

Compliance with this condition shall 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. Chesapeake Diagnostic Imaging Centers, LLC, shall 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, Inc. The value of charity care provided to individuals pursuant to this condition shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*

Chesapeake Diagnostic Imaging Centers, LLC, shall provide CT and MRI imaging services to individuals who are eligible for benefits under Title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*), Title XIX of the Social Security Act (42 U.S.C. § 1396 *et seq.*), and 10 U.S.C. § 1071 *et seq.* Additionally, Chesapeake Diagnostic Imaging Centers, LLC, shall facilitate the development and operation of primary and specialty medical care services in designated medically underserved areas of the applicant's service area.

VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis Report

January 19, 2021

COPN Request No. VA-8533

First Meridian Medical, LLC t/a MRI & CT Diagnostics

Virginia Beach, Virginia

Establish a specialized center for MRI imaging with one MRI scanner

COPN Request No. VA-8534

Children's Hospital of the King's Daughters, Inc.

Virginia Beach, Virginia

Introduce CT Services with One Cone Beam CT Unit at CHKD Health & Surgery Center

COPN Request No. VA-8535

Children's Hospital of the King's Daughters, Inc.

Norfolk, Virginia

Introduce CT Services with One Cone Beam CT Unit at CHKD Health Center at Fort Norfolk

COPN Request No. VA-8538

Chesapeake Diagnostic Imaging Centers, LLC

Chesapeake, Virginia

Establish a specialized center for MRI imaging with one MRI scanner through the relocation and replacement of existing MRI equipment

COPN Request No. VA-8539

Chesapeake Diagnostic Imaging Centers, LLC

Chesapeake, Virginia

Establish a specialized center for CT and MRI imaging with one CT scanner and one MRI scanner through the relocation and replacement of existing CT and MRI equipment

Applicants

First Meridian Medical, LLC t/a MRI & CT Diagnostics

First Meridian Medical LLC t/a MRI & CT Diagnostics is a member managed Virginia limited liability company converted from First Meridian Medical Corporation t/a MRI & CT Diagnostics on February 27, 2020. First Meridian Medical LLC t/a MRI & CT Diagnostics does business as MRI & CT Diagnostics ("First Meridian"). CGH Holding Company holds a 100% membership interest in First Meridian. The proposed project would be located in the City of Virginia Beach, Virginia in Health Planning Region (HPR) V, Planning District (PD) 20.

COPN Request Nos. VA-8533, 8534, 8535, 8538 & 8539
DCOPN Staff Report**Page 2 of 41**
January 19, 2021Children's Hospital of the King's Daughters, Inc.

Children's Hospital of the King's Daughters, Inc., doing business as Children's Hospital of the King's Daughters ("CHKD"), is a non-profit corporation, incorporated in the Commonwealth of Virginia. CHKD is a wholly owned subsidiary of Children's Health System, Inc. Subsidiaries of the applicant include Children's Medical Tower, LLC and Children's Health System Insurance, LLC. COPN Request No. VA-8534 would be located in the City of Virginia Beach, Virginia in Health Planning Region (HPR) V, Planning District (PD) 20. COPN Request No. VA-8535 would be located in the City of Norfolk, Virginia in Health Planning Region (HPR) V, Planning District (PD) 20.

Chesapeake Diagnostic Imaging Centers, LLC

Chesapeake Diagnostic Imaging Centers, LLC ("CDIC") is a 50/50 partnership between CGH Holding Company, Inc. in Chesapeake, Virginia and Outpatient Imaging Affiliates in Franklin, Tennessee. CDIC was organized as a limited liability company in Alabama in 1999. Both COPN Request No. VA-8538 and COPN Request No. VA-8539 would be located in the City of Chesapeake, Virginia in Health Planning Region (HPR) V, Planning District (PD) 20.

BackgroundFixed CT and MRI Inventories in PD 20

Division of Certificate of Public Need ("DCOPN") records show that there are currently 49 COPN authorized fixed CT scanners (**Table 1**) and 33 COPN authorized fixed MRI scanners (**Table 2**) in PD 20.

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DCOPN Staff Report

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Table 1. PD 20 COPN Authorized Fixed CT Units

| Facility | Number of Scanners |
|---|---------------------------|
| Bon Secours Cancer Institute at Harbour View | 1 |
| Bon Secours DePaul Medical Center | 3 |
| Bon Secours Harbour View Hospital | 1 |
| Bon Secours Maryview Medical Center | 3 |
| Bon Secours Southampton Memorial Hospital | 1 |
| Chesapeake Regional Imaging - Kempsville | 1 |
| Chesapeake Regional Medical Center | 5 |
| Children's Hospital of The King's Daughters | 2 |
| First Meridian d/b/a MRI & CT Diagnostics - Virginia Beach | 1 |
| First Meridian d/b/a MRI & CT Diagnostics -Chesapeake | 1 |
| Hampton Roads Radiation Oncology Center | 1 |
| Lakeview Medical Center | 1 |
| Princess Anne Cancer Center | 1 |
| Riverside Diagnostic Center - Smithfield | 1 |
| Sentara Advanced Imaging Center - Belleharbour | 2 |
| Sentara Advanced Imaging Center - Greenbrier Healthplex | 1 |
| Sentara Advanced Imaging Center - Leigh | 1 |
| Sentara Advanced Imaging Center - Princess Anne | 1 |
| Sentara Advanced Imaging Center - St. Luke's | 1 |
| Sentara Advanced Imaging Center at First Colonial | 1 |
| Sentara Advanced Imaging Center-Fort Norfolk | 1 |
| Sentara Independence | 1 |
| Sentara Leigh Hospital | 2 |
| Sentara Norfolk General Hospital | 6 |
| Sentara Obici Hospital | 2 |
| Sentara Princess Anne Hospital | 2 |
| Sentara Virginia Beach General Hospital | 3 |
| Vann-Virginia Center for Othopaedics, P.C. d/b/a Atlantic Orthopaedic Specialists | 1 |
| Virginia Oncology Associates at Sentara Cancer Center | 1 |
| Total | 49 |

Source: DCOPN records

COPN Request Nos. VA-8533, 8534, 8535, 8538 & 8539
DCOPN Staff Report

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Table 2. PD 20 COPN Authorized Fixed MRI Units

| Facility | Number of Scanners |
|--|---------------------------|
| Bon Secours DePaul Medical Center | 1 |
| Bon Secours Health Center at Harbour View | 3 |
| Bon Secours Southhampton Medical Center | 1 |
| Chesapeake Regional Imaging - Kempsville | 1 |
| Chesapeake Regional Imaging - Kingsborough | 2 |
| Chesapeake Regional Medical Center | 3 |
| Children's Hospital of The King's Daughters | 2 |
| First Meridian d/b/a MRI & CT Diagnostics - Virginia Beach | 3 |
| First Meridian d/b/a MRI & CT Diagnostics - Chesapeake | 2 |
| Hampton Roads Radiation Oncology Center | 1 |
| Sentara Advanced Imaging Center - Belleharbour | 1 |
| Sentara Advanced Imaging Center - Leigh | 2 |
| Sentara Advanced Imaging Center - Princess Anne | 1 |
| Sentara Advanced Imaging Center at First Colonial | 1 |
| Sentara Independence | 1 |
| Sentara Leigh Hospital | 1 |
| Sentara Norfolk General Hospital | 4 |
| Sentara Obici Hospital | 1 |
| Sentara Princess Anne Hospital | 1 |
| Sentara Virginia Beach General Hospital | 1 |
| Grand Total | 33 |

Source: DCOPN records

8533 – MRI & CT Diagnostics

First Meridian is a well-established provider of freestanding diagnostic imaging services, including MRI, CT, nuclear medicine, digital x-ray, and ultrasound imaging, that has been in operation for over thirty years. First Meridian currently operates two facilities in Virginia Beach and one facility in Chesapeake. In 2015, DCOPN issued COPN VA-04482 to First Meridian approving the relocation of one CT scanner and one MRI scanner from its Pembroke Boulevard facility in Virginia Beach (“Pembroke”) to its Clearfield Avenue facility located in Virginia Beach. The Clearfield Avenue location is located approximately two and a half miles from the Pembroke location. In January 2019, DCOPN issued COPN VA-04641 to First Meridian approving the move of one MRI scanner from the Pembroke facility to its Clearfield facility. The staff report for COPN VA-04641¹ states that First Meridian’s long-term goal is to relocate all equipment from the Pembroke facility to the Clearfield facility. On December 9, 2019, the Virginia State Health Commissioner (“Commissioner”) denied First Meridian’s application to move the final MRI scanner from the Pembroke location to a location in Suffolk approximately 22 miles from the Pembroke location². On February 27, 2020, First Meridian became part of the Chesapeake Regional Healthcare network.

8534 – CHKD Health & Surgery Center

CHKD’s main hospital is Virginia’s only freestanding, full-service children’s hospital. CHKD’s main hospital currently operates 206 beds and special units for neonatal and pediatric intensive

¹ COPN Request No. VA-8400.

² COPN Request No. VA-8453

care, cancer care, acute inpatient rehabilitation, medical and surgical care, and transitional care. CHKD also supports and participates in pediatric research and clinical trials that benefit children's health. CHKD additionally has dedicated child-focused outpatient facilities throughout the Hampton Roads region, including CHKD Health & Surgery Center at Concert Drive ("Concert Drive"). Concert Drive is Virginia Beach's only ambulatory surgery center exclusively dedicated to children's surgical needs. These include plastic and craniomaxillofacial surgery, ENT surgery, and other surgical specialty services. Concert Drive additionally offers diagnostic imaging services, endocrinology, gastroenterology, pulmonology, and other services.

8535 – CHKD Health Center at Fort Norfolk

CHKD's main hospital is Virginia's only freestanding, full-service children's hospital. CHKD's main hospital currently operates 206 beds and special units for neonatal and pediatric intensive care, cancer care, acute inpatient rehabilitation, medical and surgical care, and transitional care. CHKD also supports and participates in pediatric research and clinical trials that benefit children's health. CHKD additionally has dedicated child-focused outpatient facilities throughout the Hampton Roads region, including CHKD Health Center at Fort Norfolk ("Fort Norfolk"). The applicant states that Fort Norfolk provides the same high quality specialized pediatric care in a cost-effective and more accessible outpatient setting. Fort Norfolk offers a range of specialized pediatric services including plastic and craniomaxillofacial surgery, dermatology allergology, immunology, ophthalmology, and psychology.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

CDIC is an established provider of outpatient imaging services that has operated in PD 20 for 20 years. CDIC operates two facilities located in Norfolk and Chesapeake. CDIC is part of the Chesapeake Region Healthcare network.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

CDIC is an established provider of outpatient imaging services that has operated in PD 20 for 20 years. CDIC operates two facilities located in Norfolk and Chesapeake. CDIC is part of the Chesapeake Region Healthcare network.

Proposed Projects

8533 – MRI & CT Diagnostics

The applicant proposes to relocate and replace the final fixed MRI scanner currently located at their Pembroke Boulevard location to a nearby site approximately seven miles away on Lynnhaven Avenue in Virginia Beach ("Lynnhaven"). The applicant states that the Pembroke location, where the applicant is currently a tenant, has experienced a number of building-related issues, including leaking, flooding, and power fluctuations. Should the proposed project receive approval, the applicant would not renew the lease on the Pembroke location and would cease to occupy it once the Lynnhaven facility was opened. The total capital and financing cost of the proposed project is \$4,056,066 (**Table 3**). The applicant states that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. The applicant asserts that it does not anticipate that the proposed project will affect the cost of its services.

Table 3. Capital and Financing Costs

| | |
|---|--------------------|
| Direct Construction Costs | \$2,007,422 |
| Equipment Not Included in Construction Contract | \$970,973 |
| Site Acquisition Costs | \$798,929 |
| Site Preparation Costs | \$60,000 |
| Architectural and Engineering Fees | \$218,742 |
| TOTAL Capital and Financing Costs | \$4,056,066 |

Source: COPN Request No. VA-8533

8534 – CHKD Health & Surgery Center

The applicant proposes to establish CT services at Concert Drive through the addition of one fixed cone beam CT scanner. The applicant asserts that the cone beam CT scanner is necessary to support its growing plastic and oral maxillofacial and craniomaxillofacial surgery practice at Concert Drive. The applicant additionally states that the availability of cone beam CT scans facilitates accurate diagnosis and offers invaluable information for pre-surgery planning, the performance of surgical procedures, and post-surgery assessment. Compared to conventional CT scans, cone beam CT scans expose the patient to 15-18 times less radiation and are less time intensive. The total capital and financing cost of the proposed project is \$70,000 (**Table 4**). The applicant asserts that this service is essential for pediatric oral craniomaxillofacial surgeons who must navigate pediatric patients' small anatomy and developmental considerations. The project will be paid through the use of CHKD's accumulated reserves. The applicant asserts that the proposed project is not expected to have any impact on the cost of care.

Table 4. Capital and Financing Costs

| | |
|---|-----------------|
| Equipment Not Included in Construction Contract | \$70,000 |
| TOTAL Capital and Financing Costs | \$70,000 |

Source: COPN Request No. VA-8534

8535 – CHKD Health Center at Fort Norfolk

The applicant proposes to establish CT services at Fort Norfolk through the addition of one fixed cone beam CT scanner. The applicant asserts that the cone beam CT scanner is necessary to support its growing plastic and oral maxillofacial and craniomaxillofacial surgery practice at Fort Norfolk. The applicant additionally states that the availability of cone beam CT scans facilitates accurate diagnosis and offers invaluable information for pre-surgery planning, the performance of surgical procedures, and post-surgery assessment. Compared to conventional CT scans, cone beam CT scans expose the patient to 15-18 times less radiation and are less time intensive. The total capital and financing cost of the proposed project is \$78,045 (**Table 5**). The project will be paid through the use of CHKD's accumulated reserves. The applicant asserts that the proposed project is not expected to have any impact on the cost of care.

Table 5. Capital and Financing Costs

| | |
|---|-----------------|
| Equipment Not Included in Construction Contract | \$70,000 |
| Site Acquisition Costs | \$8,045 |
| TOTAL Capital and Financing Costs | \$78,045 |

Source: COPN Request No. VA-8535

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

The applicant proposes to relocate and replace one MRI scanner from its Kingsborough facility to a new Portsmouth Boulevard facility (“Portsmouth”) located approximately 16 miles away from the Kingsborough facility. The applicant asserts that, now that First Meridian has become part of the Chesapeake Regional Healthcare network, redistribution of MRI and CT equipment is necessary to best serve imaging outpatients already seeking care at Chesapeake Regional Medical Center, CDIC, and First Meridian. The applicant additionally asserts that the new location is highly-accessible to patients, within the primary service area (“PSA”) of the existing facility, within an area of high population growth, and conveniently-located near a range of other medical services. The total capital and financing cost of the proposed project is \$4,978,040 (**Table 6**). The applicant states that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. The applicant asserts that it does not anticipate that the proposed project will affect the cost of its services.

Table 6. Capital and Financing Costs

| | |
|---|--------------------|
| Direct Construction Costs | \$2,426,688 |
| Equipment Not Included in Construction Contract | \$965,338 |
| Site Acquisition Costs | \$1,265,325 |
| Site Preparation Costs | \$60,000 |
| Architectural and Engineering Fees | \$260,689 |
| TOTAL Capital and Financing Costs | \$4,978,040 |

Source: COPN Request No. VA-8538

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

The applicant proposes to relocate and replace one fixed CT scanner and one fixed MRI scanner from their Kempsville location in Norfolk to a new facility (“Hanbury”) approximately 15 miles away in Chesapeake. The applicant asserts that, now that First Meridian has become part of the Chesapeake Regional Healthcare network, redistribution of MRI and CT equipment is necessary to best serve imaging outpatients already seeking care at Chesapeake Regional Medical Center, CDIC, and First Meridian. The applicant additionally asserts that the new location is highly-accessible to patients, within the PSA of the existing facility, within an area of high population growth, and conveniently-located near a range of other medical services. The total capital and financing cost of the proposed project is \$5,613,818 (**Table 7**). The applicant states that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. The applicant asserts that it does not anticipate that the proposed project will affect the cost of its services.

Table 7. Capital and Financing Costs

| | |
|---|--------------------|
| Direct Construction Costs | \$3,493,320 |
| Equipment Not Included in Construction Contract | \$1,393,167 |
| Site Preparation Costs | \$330,000 |
| Architectural and Engineering Fees | \$397,331 |
| TOTAL Capital and Financing Costs | \$5,613,818 |

Source: COPN Request No. VA-8539

Project Definition**8533 – MRI & CT Diagnostics**

Section 32.1-102.1:3 of the Code of Virginia defines a project, in part, as the “[e]stablishment of a medical care facility described in subsection A.” A medical care facility includes “[a]ny specialized center or clinic or that portion of a physician's office developed for the provision of...magnetic resonance imaging (MRI)...”

8534 – CHKD Health & Surgery Center

Section 32.1-102.1:3 of the Code of Virginia defines a project, in part, as, “[t]he addition by an existing medical care facility described in subsection A of any new medical equipment for the provision of... computed tomographic (CT) scanning... when such medical care facility has not provided such service in the previous 12 months.” A medical care facility includes “[a]ny specialized center or clinic or that portion of a physician's office developed for the provision of outpatient or ambulatory surgery...”

8535 – CHKD Health Center at Fort Norfolk

Section 32.1-102.1:3 of the Code of Virginia defines a project, in part, as, “[t]he addition by an existing medical care facility described in subsection A of any new medical equipment for the provision of... computed tomographic (CT) scanning... when such medical care facility has not provided such service in the previous 12 months.” A medical care facility includes “[a]ny specialized center or clinic or that portion of a physician's office developed for the provision of outpatient or ambulatory surgery...”

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

Section 32.1-102.1:3 of the Code of Virginia defines a project, in part, as the “[e]stablishment of a medical care facility described in subsection A.” A medical care facility includes “[a]ny specialized center or clinic or that portion of a physician's office developed for the provision of...magnetic resonance imaging (MRI)...”

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

Section 32.1-102.1:3 of the Code of Virginia defines a project, in part, as the “[e]stablishment of a medical care facility described in subsection A.” A medical care facility includes “[a]ny specialized center or clinic or that portion of a physician's office developed for the provision of...computed tomographic (CT) scanning, magnetic resonance imaging (MRI)...”

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;**

8533 – MRI & CT Diagnostics

The applicant proposes to relocate and replace the final fixed MRI scanner currently located at their Pembroke Boulevard location to the Lynnhaven facility, which is located approximately seven miles away. The applicant states that the Pembroke location, where the applicant is currently a tenant, has experienced a number of building related issues, including leaking, flooding, and power fluctuations. As such, approval of the project will allow the applicant to move the final MRI at this location to a more reliable facility and avoid any downtime with the MRI scanner that might result from the flooding, leaking, and power fluctuations. Moreover, the proposed project would be inventory neutral with regard to both MRI scanners and the number of facilities in the planning district. Finally, the location of the new facility would remain deep within First Meridian's primary service area and is unlikely to effect the utilization of existing providers in the area.

Geographically, the Lynnhaven Avenue facility is located less than a mile from I-264. The applicant states that public parking is available at the location. Public transportation is readily available via Hampton Roads Transit, which has a bus stop one block from the facility.

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

8534 – CHKD Health & Surgery Center

The applicant proposes to establish CT services at Concert Drive through the addition of one fixed cone beam CT scanner. The applicant asserts that the cone beam CT scanner is necessary to support its growing plastic and oral maxillofacial and craniomaxillofacial surgery practice at Concert Drive. The applicant additionally states that the availability of cone beam CT scans facilitates accurate diagnosis and offers invaluable information for pre-surgery planning, the performance of surgical procedures, and post-surgery assessment. As discussed above, compared to conventional CT scans, cone beam CT scans expose the patient to 15-18 times less radiation. Moreover conventional CT scanning is more time intensive and typically requires that pediatric patients be sedated. Moreover, the applicant asserts, and DCOPN records corroborate, that there are currently no COPN-authorized cone beam CT scanners located in PD 20. Any cone beam CT scanners within the planning district are located in dentist or oral surgeon offices and are limited to dental and oral surgery applications. As such, approval of the project would introduce a new form of CT scanning that would offer several benefits to pediatric patients compared to existing services.

Geographically, Concert Drive is located at the intersection of Princess Anne Road and Dam Neck Road. The facility is readily accessible from both I-64 and I-264. The applicant asserts that public transportation is available in the area but does not provide additional information to support this.

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

8535 – CHKD Health Center at Fort Norfolk

The applicant proposes to establish CT services at Fort Norfolk through the addition of one fixed cone beam CT scanner. The applicant asserts that the cone beam CT scanner is necessary to support its growing plastic and oral maxillofacial and craniomaxillofacial surgery practice at Concert Drive. The applicant additionally states that the availability of cone beam CT scans facilitates accurate diagnosis and offers invaluable information for pre-surgery planning, the performance of surgical procedures, and post-surgery assessment. Compared to conventional CT scans, cone beam CT scans expose the patient to 15-18 times less radiation. Moreover conventional CT scanning is more time intensive and typically requires that pediatric patients be sedated. Moreover, the applicant asserts, and DCOPN records corroborate, that there are currently no COPN-authorized cone beam CT scanners located in PD 20. Any cone beam CT scanners within the planning district are located in dentist or oral surgeon offices and are limited to dental and oral surgery applications. As such, approval of the project would introduce a new form of CT scanning that would offer several benefits to pediatric patients compared to existing services.

Geographically, Fort Norfolk is located in downtown Norfolk on CHKD's campus. Fort Norfolk is readily accessible from I-64, I-264, and I-664. Public transportation is readily available via Norfolk's public bus system and Norfolk's light rail system, The Tide.

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

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

The applicant proposes to relocate and replace one MRI scanner from its Kingsborough location to the new Portsmouth location, which is located approximately 16 miles away from the Kingsborough facility. The applicant asserts that, now that First Meridian has become part of the Chesapeake Regional Healthcare network, redistribution of MRI and CT equipment is necessary to best serve imaging outpatients already seeking care at Chesapeake Regional Medical Center, CDIC, and First Meridian. The applicant additionally asserts that the new location is highly-accessible to patients, within the PSA of the existing facility, within an area of high population growth, and conveniently-located near a range of other medical services. In their letter opposing the proposed project, Sentara Healthcare ("Sentara") states that, by the applicant's own admission, only 12.9% of the patients originate from this area. The applicant refutes this claim and submitted substantial data showing a total of 5,848 non-emergency department outpatient scans. It is important to note, however, that these numbers are calculated across all of Chesapeake Regional Healthcare, and not just from the Kingsborough location or CDIC's numbers. Looking at the submitted data, including the data provided, only 2,515 of the 5,848 scans come from CDIC facilities. Moreover, given that DCOPN has not yet received any 2019 utilization data from VHI, it is also unable to determine the percentage of CDIC's patients originating from this area. As discussed below, even if the patient population is as significant as presented by CDIC, DCOPN, the Adjudication Officer, and the Commissioner have considered a nearly identical move to be outside of the applicant's PSA. As such, while DCOPN would consider this an entry into a new area not previously serviced by CDIC, this relocation is unlikely to increase substantive access to MRI services because, as discussed in detail below, it is highly likely to exacerbate the underutilization of existing providers in the immediate area.

Geographically, the Portsmouth location is located in an existing mall near Portsmouth Boulevard, a major east-west thoroughfare, and less than two miles from I-664. The applicant states that public parking is available at the location. Public transportation is readily available via a Hampton Roads Transit bus located two blocks from the Portsmouth facility.

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

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

The applicant proposes to relocate and replace one fixed CT scanner and one fixed MRI scanner from their Kempsville location in Norfolk to the Hanbury facility, located approximately 15 miles away in Chesapeake. The applicant asserts that, now that First Meridian has become part of the Chesapeake Regional Healthcare network, redistribution of MRI and CT equipment is necessary to best serve imaging outpatients already seeking care at Chesapeake Regional Medical Center, CDIC, and First Meridian. The applicant additionally asserts that the new location is highly-accessible to patients, within the PSA of the existing facility, within an area of high population growth, and conveniently-located near a range of other medical services. DCOPN concurs with the applicant that the Hanbury facility is located in CRMC's PSA. Moreover, DCOPN notes that the proposed project would be inventory neutral with regard to both MRI scanners and the number of facilities in the planning district. However, while the applicant states that this project is necessary to redistribute diagnostic imaging resources following CRMC's acquisition of First Meridian, they make no case as to why moving the MRI and CT scanners located at the Kempsville location in Norfolk, where First Meridian has no presence, to Chesapeake, where First Meridian has one office, is necessary to effectuate this. Moreover, the applicant does not provide any other factors that DCOPN should consider with regard to how the proposed project would 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 Hanbury facility is located near Hanbury Road, a major east-west thoroughfare, and less than a mile from SR-168. Unlike COPN Request Nos. VA-8533 and 8538, which were also prepared by CRMC, the applicant does not make any assertions regarding public parking. Public transportation is additionally not readily available at the location with the nearest Hampton Roads Transit bus station located approximately two miles away.

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

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;**

8533 – MRI & CT Diagnostics

DCOPN received 18 letters of support from; Virginia Delegate Glenn R. Davis, the president and CEO of the Hampton Roads Chamber, two health insurance providers, MedCost and Anthem BlueCross BlueShield, the CEO of Eastern Shore Rural Health System, members of the local medical community, and individuals associated with First Meridian. Collectively, these letters articulate the long standing efforts of First Meridian to provide charity care to indigent patients at various locations. Moreover, they state that the proposed project would increase access to their patients seeking imaging services at First Meridian's new location.

8534 – CHKD Health & Surgery Center

DCOPN received two letters of support from physicians associated with CHKD. Collectively, these letters provide a detailed explanation of the benefits of the cone beam CT for surgeons operating in the face and head area. These letters additionally emphasized the importance of the detailed anatomical information provided by the cone beam CT scanner for surgeons operating on still developing pediatric anatomy.

8535 – CHKD Health Center at Fort Norfolk

DCOPN received two letters of support from physicians associated with CHKD. Collectively, these letters provide a detailed explanation of the benefits of the cone beam CT for surgeons operating in the face and head area. These letters additionally emphasized the importance of the detailed anatomical information provided by the cone beam CT scanner for surgeons operating on still developing pediatric anatomy.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

DCOPN received 17 letters of support from; Virginia Delegate Glenn R. Davis, Virginia Delegate Stephen E. Heretick, the president and CEO of the Hampton Roads Chamber, two health insurance providers, MedCost and Anthem BlueCross BlueShield, members of the local medical community, and individuals associated with CDIC. Collectively, these letters articulate the long standing efforts of First Meridian to provide charity care to indigent patients at various locations. Moreover, they state that the proposed project would increase access to their patients seeking imaging services at CDIC's new location.

DCOPN received one letter of opposition submitted by Sentara. In opposing this project, Sentara first states that the request would result in the net addition of one medical care facility through the bifurcation of the Kingsborough facility. Sentara next asserts that the Portsmouth facility would be located 16 miles away from the Kingsborough site and 5 miles from the site that was the subject of COPN Request No. VA-8453. Sentara notes that COPN Request No. VA-8453 was denied by the Commissioner, in part, because there was a surplus of available capacity in the area. Finally, Sentara notes that, given the high utilization at the Kingsborough facility, relocation of the MRI would likely result in an immediate institutional need for additional capacity at the Kingsborough location.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

DCOPN received 28 letters of support from; Virginia Delegate Glenn R. Davis, Virginia Delegate James A. Leftwich, Jr., the president and CEO of the Hampton Roads Chamber, two health insurance providers, MedCost and Anthem BlueCross BlueShield, members of the

local medical community, and individuals associated with CDIC. Collectively, these letters articulate the long standing efforts of First Meridian to provide charity care to indigent patients at various locations. Moreover, they state that the proposed project would increase access to their patients seeking imaging services at CDIC's new location.

Public Hearing

A public hearing was required due to there being three competing applicants in the review (Va Code § 32.1-102.6). DCOPN conducted the required public hearing by telephone on November 30, 2020. A total of 25 individuals called in to the public hearing. Each of the projects were presented by representatives from the applicant organizations. No members of the public opted to provide additional comment in support or opposition to MRI & CT Diagnostics' COPN Request number VA-8533, Chesapeake Diagnostic Imaging Centers – Portsmouth's COPN Request number VA-8538, or Chesapeake Diagnostic Imaging Centers – Battlefield's COPN Request number VA-8539. One member of the public spoke in support of each of the projects proposed by CHKD, COPN Request numbers VA-8534 and VA-8435, with nobody voicing opposition.

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

8533 – MRI & CT Diagnostics

The proposed project is more advantageous than the alternative of the status quo. The applicant has experienced serious issues at the current location, including flooding, leaking, and power fluctuations. The most recent request to move this MRI scanner, COPN Request No. VA-8453, was denied by the Commissioner because the proposed project would move the MRI scanner outside of First Meridian's PSA and would likely exacerbate the underutilization of existing MRI services proximate to the proposed site. The proposed project differs from COPN Request No. VA-8453 in that the current project is within the heart of First Meridian's PSA and is highly unlikely to affect the utilization of existing providers. As such, DCOPN concludes that the proposed project is somewhat more advantageous than the alternative of the status quo.

8534 – CHKD Health & Surgery Center

The proposed project offers several advantages over the alternative of the status quo. The proposed project, along with COPN Request No. VA-8535, would introduce the first COPN-authorized cone beam CT scanners in the planning district. As discussed above, cone beam CT scanners expose patients to 15-18 times less than that of conventional CT scanners. Moreover, the time required by a cone beam CT scanner is significantly less than that of a conventional CT scanner. This is very important because CT scans of facial anatomy of pediatric patients can be taken of pediatric without having to sedate them. As such, DCOPN concludes that the proposed project is more advantageous than the alternative of the status quo.

8535 – CHKD Health Center at Fort Norfolk

The proposed project offers several advantages over the alternative of the status quo. The proposed project, along with COPN Request No. VA-8534, would introduce the first COPN-authorized cone beam CT scanners in the planning district. As discussed above, cone beam CT scanners expose patients to 15-18 times below that of conventional CT scanners. Moreover, the time required by a cone beam CT scanner is significantly less than that of a conventional CT scanner. This is very important because CT scans of facial anatomy of pediatric patients can be taken of pediatric without having to sedate them. As such, DCOPN concludes that the proposed project is more advantageous than the alternative of the status quo.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

The status quo is a viable alternative to the proposed project. The Kingsborough location's two fixed MRI scanners operated at near peak capacity with a utilization of 93.2% of the SMFP threshold in 2018, the last year for which DCOPN has data from VHI. While CDIC contends that the Hanbury location will address any problems with overutilization with the remaining MRI scanner, there is no guarantee that patients will so easily funnel to this new location nor is there any guarantee that the Hanbury location, should it be approved, would commence operations when anticipated or be completed at all. Sentara alleges in their letter of opposition, and DCOPN concurs, that it is far more likely that approval of the project will result in an immediate and significant institutional need for a second fixed MRI scanner at the Kingsborough location. As such, DCOPN concludes that maintenance of the status quo, which will not result in the creation of significant institutional need in a busy and high performing outpatient imaging center, is preferable to the proposed project.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

The status quo, in conjunction with replacement of the existing MRI and CT scanners at the Kempsville location, is a viable alternative to the proposed project. While the proposed project, unlike COPN Request No. VA-8538, does not carry the likelihood of adversely effecting other providers in the area, the applicant fails to make a case for why the proposed project should be approved. As discussed above, the applicant states that this project is necessary to redistribute diagnostic imaging resources following CRMC's acquisition of First Meridian, but makes no case as to why moving the MRI and CT scanners in the Kempsville location in Norfolk, where First Meridian has no presence, to Chesapeake, where First Meridian has one office, is necessary to effectuate this. Absent any showing of need for this move beyond a broad statement without additional supporting information, DCOPN must conclude that the status quo, in conjunction with replacement of the existing MRI and CT scanners at the Kempsville location, is a viable alternative to the proposed project.

(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 V designated by the Virginia Department of Health to serve as the Health Planning Agency for PD 20. Therefore, this consideration is not applicable to the review of the proposed project.

(iv) any costs and benefits of the proposed project;8533 – MRI & CT Diagnostics

As discussed above, the total capital and financing cost of the proposed project is \$4,056,066 (**Table 3**). The applicant states that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. The costs for the project are reasonable and, while somewhat less expensive, are still generally consistent with previously approved projects that seek to establish MRI services through the addition of one fixed MRI scanner. For example, COPN VA-04525 issued to VCU Health System to establish fixed MRI services at Children's Hospital of Richmond Pavilion by adding one fixed MRI scanner, which cost approximately \$4,304,851. As discussed above, the proposed project would not offer a negative effect to other providers in the area. Moreover, the proposed project would resolving the ongoing issues that First Meridian has had with the Pembroke location and their inability to resolve these issues with the landlord.

8534 – CHKD Health & Surgery Center

As discussed above, the total capital and financing cost of the proposed project is \$70,000 (**Table 4**), which would be paid through the use of CHKD's accumulated reserves. The costs for the project are reasonable and significantly less than previously approved projects to add one cone beam CT scanner. For example, COPN VA-04644 issued to Abingdon Ear, Nose and Throat, PC establish a specialized center for CT imaging through the addition of one cone beam CT scanner, which cost approximately \$257,370. Of those costs, \$225,000 of the capital costs of COPN VA-03865 are attributed to the cost of the cone beam CT scanner. Comparatively, \$70,000 of the capital costs for the proposed project are attributed to the costs of the cone beam CT scanner. The proposed project to add one cone beam CT scanner would offer several benefits. First, it would provide high quality scanning at a fraction of the cost of conventional CT scanners. Moreover, the cone beam CT exposes patients to 15-18 times less radiation than conventional CT scanners. Finally, the cone beam CT scanner is significantly less time intensive than conventional CT scanners, which would eliminate the need to sedate pediatric patients before CT scanning.

8535 – CHKD Health Center at Fort Norfolk

As discussed above, the total capital costs of the proposed project are \$78,045 (**Table 5**), which would be paid through the use of CHKD's accumulated reserves. The costs for the project are reasonable and significantly less than previously approved projects to add one cone beam CT scanner. For example, COPN VA-04644 issued to Abingdon Ear, Nose and Throat, PC establish a specialized center for CT imaging through the addition of one cone beam CT scanner, which cost approximately \$257,370. Of those costs, \$225,000 of the capital costs of COPN VA-03865 are attributed to the cost of the cone beam CT scanner. Comparatively, \$70,000 of the capital costs for the proposed project are attributed to the costs of the cone beam CT scanner. The proposed project to add one cone beam CT scanner would offer several benefits. First, it would provide high quality scanning at a fraction of the cost of conventional CT scanners. Moreover, the cone beam CT exposes patients to 15-18 times less radiation than conventional CT scanners. Finally, the cone beam CT scanner is significantly less time intensive than conventional CT scanners, which would eliminate the need to sedate pediatric patients before CT scanning.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

As discussed above, the total capital costs of the proposed project are \$4,978,040 (**Table 6**). The applicant states that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. Compared to other similar projects, including those within this report, this project is significantly higher in cost than other projects that seek to establish MRI services through the addition of one fixed MRI scanner. For example, COPN VA-04525 issued to VCU Health System to establish fixed MRI services at Children’s Hospital of Richmond Pavilion by adding one fixed MRI scanner, which cost approximately \$4,304,851. Comparing the costs of the Portsmouth project to the Lynnhaven project, which both seek to establish MRI services at a new location in PD 20, a sizeable portion of the difference in cost appears to relate to costs of material and labor. The Lynnhaven project anticipates a cost of materials of \$585,498 and a cost of labor of \$652,412 whereas the Portsmouth project anticipates a cost of materials of \$707,840 and a cost of labor of \$788,736. There is also a sizeable difference in site lease costs between the two projects with the Lynnhaven project anticipating a site lease cost of \$789,929 over the entire term of the ten-year initial lease whereas the Portsmouth project anticipates a site lease cost of \$1,265,325 over the entire term of the ten-year initial lease. As such, DCOPN concludes that the proposed costs of the Portsmouth project are not reasonable or consistent with previously approved similar projects or the similar project within this staff report.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

As discussed above, the total capital costs of the proposed project are \$5,613,818 (**Table 7**). The applicant states that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. The costs for the project are reasonable and consistent with previously approved projects to add one CT scanner and one MRI scanner. For example, COPN VA-03533 issued to Medical Imaging of Fredericksburg to establish a facility for CT and MRI services, which cost approximately \$5,732,450; and COPN VA-03980 issued to Louise Obici Memorial Hospital to add one MRI scanner and one CT scanner, which cost approximately \$5,537,490. As discussed above, while the proposed project is not disadvantageous to the planning district, the applicant does not make a case for any unmet need in the planning district that would justify this expenditure. The applicant alleges that a significant portion of CDIC’s MRI scans are performed on patients residing closer to the proposed site than to any other existing CDIC locations. As such, approval of the project would reduce travel times for First Meridian’s patients, allowing them to spend less time away from work.

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

8533 – MRI & CT Diagnostics

According to regional and statewide data regularly collected by VHI, for 2018, the average amount of charity care provided by the facilities in HPR V that reported such charity care for that year was 5.1% of all reported total gross patient revenues. While the applicant asserts that they provide significant levels of charity care, DCOPN does not have a record of the charity care provided by First Meridian during 2018. This reporting issue was addressed by

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the applicant following DCOPN's issuance of the staff report for COPN Request No. VA-8453. First Meridian has addressed this reporting error and it will no longer be an issue moving forward. DCOPN additionally notes that the vast majority of the letters submitted in support of the application indicated that the applicant had provided significant charity care to the authors' indigent patients. In accordance with section 32.1-102.4.B of the Code of Virginia, should the proposed project receive approval, First Meridian is expected to provide a level of charity care for total gross patient revenues that is no less than the equivalent average for charity care contributions in HPR V.

Table 8. HPR V 2018 Charity Care Contributions

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

Source: VHI

8534 – CHKD Health & Surgery Center and 8535 – CHKD Health Center at Fort Norfolk

According to regional and statewide data regularly collected by VHI, for 2018, the average amount of charity care provided by the facilities in HPR V that reported such charity care for that year was 5.1% of all reported total gross patient revenues. During the same period, CHKD provided 0.60% of its gross patient revenue in the form of charity care (**Table 8**). The applicant asserts that the services related to the requested cone beam CT scanner are, and will continue to be, available without limitation or restriction to all pediatric patients in need

of such services without regard to the patient's ability to pay or payment source. Recent changes to § 32.1-102.4B of the Code of Virginia now require DCOPN to place a charity care condition on every applicant seeking a COPN. Accordingly, should the Commissioner approve the proposed project, DCOPN recommends a charity care condition of 0.6% to be derived from gross patient services revenue derived from surgical services. This condition is in line with a DCOPN charity care recommendation that was issued after the changes to § 32.1-102.4B of the Code of Virginia³.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth and 8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

According to regional and statewide data regularly collected by VHI, for 2018, the average amount of charity care provided by the facilities in HPR V that reported such charity care for that year was 5.1% of all reported total gross patient revenues. During the same period, CRMC provided 1.7% of its gross patient revenue in the form of charity care (**Table 8**). DCOPN notes that, despite these low reported numbers, the vast majority of the letters submitted in support of the application indicated that the applicant had provided significant charity care to the authors' indigent patients. In accordance with section 32.1-102.4.B of the Code of Virginia, should the proposed project receive approval, CDIC is expected to provide a level of charity care for total gross patient revenues that is no less than the equivalent average for charity care contributions in HPR V.

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

The State Health Services Plan

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

Narrowly Tailored CT Scanners

The Commissioner, in approving COPN No. VA-04595, adopted the Adjudication Officer's recommendation that the SMFP threshold should not be an obstacle to narrowly tailored CT scanners that offer technological innovation and substantial benefit to patients with little potential of systemic effect. The Commissioner subsequently adopted this position again when approving COPN No. VA-04644. In both cases, the CT scanner that was approved was a Morita 3D Accuitomo 170, a cone beam CT scanner.

COPN Request No. VA-8453

As discussed above, in 2019, First Meridian submitted an application to relocate the final fixed MRI scanner at its Pembroke location to a location in Suffolk. On July 19, 2020, DCOPN issued a staff recommending denial of the proposed project. On August 29, 2019, an IFFC was held on this project. On December 9, 2019, the Commissioner issued his

³ COPN No. VA-04715

decision adopting both DCOPN and the Adjudication Officer's recommendation of denial for the project. In denying the project, the Commissioner cited the following specific reasons:

- 1) The First Meridian project would exacerbate the underutilization of existing MRI services that are proximate to the proposed site;
- 2) Although First Meridian maintains that the proposed site is closer than its other sites to 20% of its patients, the project would involve a distant relocation of approximately 22 miles;
- 3) The project is not necessary to enhance accessibility to low-cost imaging in PD 20; and
- 4) The status quo is an appropriate and preferable to the proposed project.

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.

Currently, there are 49 COPN authorized CT scanners in PD 20. The heavy black line in Figure 1 is the boundary of PD 20. The blue H icons indicate facilities that currently offer fixed MRI services. The white H icons indicate the locations of the facilities proposed by COPN Request Nos. VA-8534, 8535, and 8539. The grey shading illustrates the area that is within a thirty-minute drive under normal driving conditions of all MRI service providers in PD 20. Any shading associated with the new locations was covered by the shading associated with existing MRI service providers. As such, DCOPN concludes that the proposed project would not increase access to patients not currently within a thirty-minute drive under normal driving conditions of CT services. However, as Figure 1 clearly illustrates, MRI services are already well within a 30 minute drive under normal conditions of 95% of the residents of the planning district.

The map displays the Hampton Roads region in Virginia, including parts of Prince George, Surrey, Sussex, and South Hampton counties. Key locations marked include York, Poquoson, Newport News, Hampton, Norfolk, Portsmouth, Suffolk, Chesapeake, Virginia Beach, and South Hampton. Major highways shown are I-64, I-95, I-264, and US-17. The map also indicates the location of the Chesapeake Bay, James River, and the Great Dismal Swamp National Wildlife Refuge. A thick black line outlines the area covered by the map. Callouts point to specific locations: 'CHKD Health Center at F...', 'CHKD Health & Surgery C...', and 'CDC Hanbury Imaging C...'.

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.

COPN authorized CT scanners = 49

PD 20 Calculated Need = 40 CT scanners

PD 20 Calculated Surplus = 9 CT scanners

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Table 9. PD 20 COPN Authorized Fixed CT Units: 2018

| Facility | Number of Scanners | Number of Scans | Utilization Rate |
|--|--------------------|-----------------|------------------|
| Bon Secours DePaul Medical Center | 2 | 14,886 | 100.6% |
| Bon Secours Maryview Medical Center | 4 | 25,860 | 87.4% |
| Chesapeake Regional Imaging - Kempsville | 1 | 962 | 13.0% |
| Chesapeake Regional Medical Center | 4 | 39,420 | 133.2% |
| Children's Hospital of The King's Daughters | 1 | 4,199 | 56.7% |
| First Meridian d/b/a MRI & CT Diagnostics - Virginia Beach | 1 | 5,303 | 71.7% |
| First Meridian d/b/a MRI & CT Diagnostics -Chesapeake | 1 | 2,375 | 32.1% |
| Riverside Diagnostic Center - Smithfield | 1 | 439 | 5.9% |
| Sentara Advanced Imaging Center - Belleharbour | 1 | 7,608 | 102.8% |
| Sentara Advanced Imaging Center - Greenbrier Healthplex | 1 | 3,213 | 43.4% |
| Sentara Advanced Imaging Center - Leigh | 1 | 5,199 | 70.3% |
| Sentara Advanced Imaging Center - Princess Anne | 1 | 3,712 | 50.2% |
| Sentara Advanced Imaging Center at First Colonial | 1 | 4,901 | 66.2% |
| Sentara Advanced Imaging Center-Fort Norfolk | 1 | 1,817 | 24.6% |
| Sentara Independence | 1 | 7,484 | 101.1% |
| Sentara Leigh Hospital | 2 | 31,185 | 210.7% |
| Sentara Norfolk General Hospital | 5 | 47,330 | 127.9% |
| Sentara Obici Hospital | 2 | 22,669 | 153.2% |
| Sentara Princess Anne Hospital | 2 | 27,491 | 185.8% |
| Sentara Virginia Beach General Hospital | 3 | 28,878 | 130.1% |
| Southampton Memorial Hospital | 1 | 5,747 | 77.7% |
| 2018 Total and Average | 37 | 290,678 | 106.2% |

Source: Virginia Health Information ("VHI") & DCOPN interpolations

8533 – MRI & CT Diagnostics and 8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

Not applicable. Neither of the proposed projects seek to establish or expand CT services.

8534 – CHKD Health & Surgery Center

As noted in **Table 9** below, the utilization of existing CT scanners in the planning district was 106.2% of the 7,400 procedures per scanner necessary to introduce CT scanning services to a new location under this section of the SMFP. Despite this high utilization, DCOPN calculates a surplus of nine fixed CT scanners in PD 20. While this surplus would normally preclude approval of the proposed cone beam CT scanner, the proposed cone beam CT scanner that will be used to solely for pediatric patients clearly falls into the very narrow category carved out by the Commissioner of narrowly tailored CT scanners that offer technological innovation and substantial benefit to patients with little potential of systemic effect. As such, DCOPN concludes that the CT surplus in the planning district should not be a bar to approval of the proposed project.

8535 – CHKD Health Center at Fort Norfolk

As noted in **Table 9** above, the utilization of existing CT scanners in the planning district was 106.2% of the 7,400 procedures per scanner necessary to introduce CT scanning services to a new location under this section of the SMFP. Despite this high utilization, DCOPN calculates a surplus of 9 fixed CT scanners in PD 20. While this surplus would normally preclude approval of the proposed cone beam CT scanner, the proposed cone beam CT scanner that will be used to

solely for pediatric patients clearly falls into the very narrow category carved out by the Commissioner of narrowly tailored CT scanners that offer technological innovation and substantial benefit to patients with little potential of systemic effect. As such, DCOPN concludes that the CT surplus in the planning district should not be a bar to approval of the proposed project.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

As noted in **Table 9** above, the utilization of existing CT scanners in the planning district was 106.2% of the 7,400 procedures per scanner necessary to introduce CT scanning services to a new location under this section of the SMFP. Despite this high utilization, DCOPN calculates a surplus of 9 fixed CT scanners in PD 20. While this surplus would normally preclude approval of the proposed project, DCOPN notes that the CT scanner portion of the proposed project is inventory neutral. Moreover, because CDIC would cease to offer CT services at its Kempsville location, the proposed project would also be inventory neutral with regard to facilities in the planning district. Finally, DCOPN notes that the Hanbury location is located a mere 5 miles from CRMC. As such, it is highly unlikely that this move, which is inventory neutral with regard to both fixed CT scanners and facilities and remains deeply within CRMC's PSA, would affect the utilization of existing providers in the area. As such, DCOPN concludes that the proposed project meets this standard.

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 diagnostic CT scanners in PD 20 with respect to the proposed projects.

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.

Not applicable. None of the proposed projects seek to expand fixed site CT services.

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.

Not applicable. None of the proposed projects seek to add or expand mobile CT services or to convert authorized mobile CT scanners to fixed site scanners.

12VAC5-230-130. Staffing.

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

8533 – MRI & CT Diagnostics and 8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

Not applicable. Neither of the proposed projects seek to establish or expand CT services.

8534 – CHKD Health & Surgery Center

The applicant confirmed that cone beam CT services at the Concert Drive facility will be under the direct supervision of one or more qualified physicians.

8535 – CHKD Health Center at Fort Norfolk

The applicant confirmed that cone beam CT services at the Fort Norfolk facility will be under the direct supervision of one or more qualified physicians.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

The applicant states medical direction of CDIC is provided by Dr. Patel, a board-certified radiologist with extensive training in the interpretation of CT and MRI images.

Article 2

Criteria and Standards for Magnetic Resonance Imaging

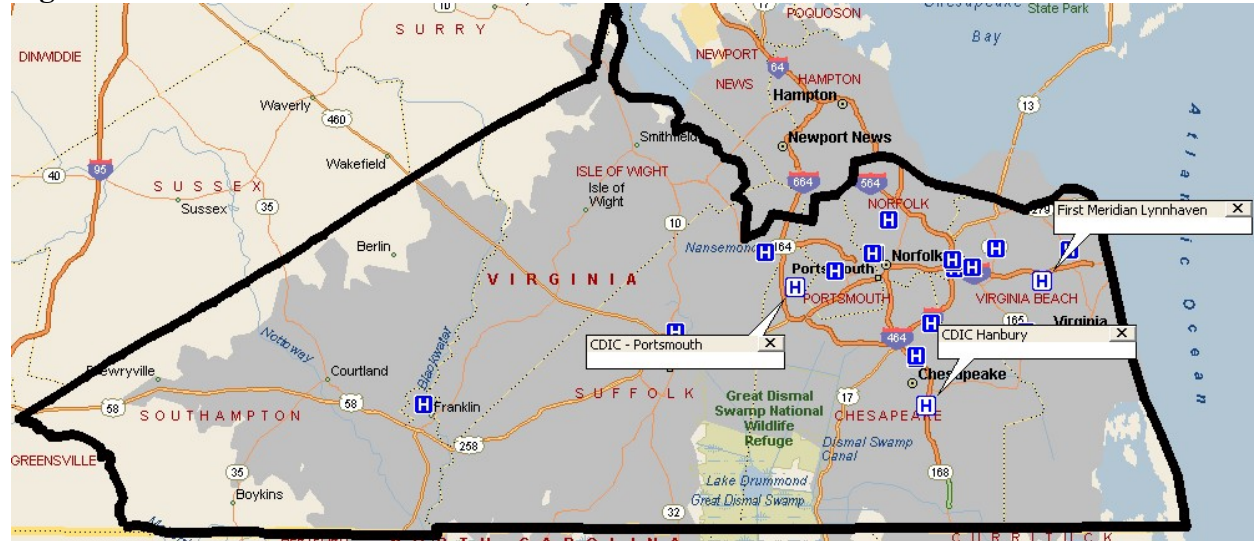
12VAC5-230-140. Travel time.

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.

Currently, there are 33 COPN authorized MRI scanners in PD 20. The heavy dark line in Figure 2 identifies the boundaries of PD 20. The blue H icons indicate facilities that currently offer fixed MRI services. The white H icons indicate the locations of the facilities proposed by COPN Request Nos. VA-8533, 8538, and 8539. The grey shading illustrates the area that is within a thirty-minute drive under normal driving conditions of all MRI service providers in PD 20. Any shading associated with the new locations was covered by the shading associated with existing MRI service providers. As such, DCOPN concludes that the proposed project would not increase access to patients not currently within a thirty-minute drive under normal driving

conditions of MRI services. However, as Figure 2 clearly illustrates, MRI services are already well within a 30 minute drive under normal conditions of 95% of the residents of the planning district.

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.

Calculated Needed Fixed MRI Scanners in PD 20

COPN authorized MRI scanners = 33

Calculated Needed MRI scanners =

113,397 scans in the PD / 5,000 scans / scanner = 22.7 (23) scanners needed

PD 20 Calculated Need = 23 MRI scanners

PD 20 Calculated Surplus = 10 MRI scanners

Table 10. PD 20 COPN Authorized Fixed MRI Units: 2018

| Facility | Number of Scanners | Number of Scans | Utilization Rate |
|--|--------------------|-----------------|------------------|
| Bon Secours DePaul Medical Center | 1 | 3,256 | 65.1% |
| Bon Secours Maryview Medical Center | 3 | 10,743 | 71.6% |
| Chesapeake Regional Imaging - Kempsville | 1 | 2,300 | 46.0% |
| Chesapeake Regional Imaging - Kingsborough | 2 | 9,318 | 93.2% |
| Chesapeake Regional Medical Center | 3 | 8,015 | 53.4% |
| Children's Hospital of The King's Daughters | 2 | 5,323 | 53.2% |
| First Meridian d/b/a MRI & CT Diagnostics - Virginia Beach | 2 | 9,544 | 95.4% |
| First Meridian d/b/a MRI & CT Diagnostics - Chesapeake | 2 | 10,883 | 108.8% |
| Sentara Advanced Imaging Center - Belleharbour | 1 | 3,394 | 67.9% |
| Sentara Advanced Imaging Center - Leigh | 2 | 3,476 | 34.8% |
| Sentara Advanced Imaging Center - Princess Anne | 1 | 3,428 | 68.6% |
| Sentara Advanced Imaging Center at First Colonial | 1 | 3,758 | 75.2% |
| Sentara Independence | 1 | 3,548 | 71.0% |
| Sentara Leigh Hospital | 1 | 6,380 | 127.6% |
| Sentara Norfolk General Hospital | 3 | 10,824 | 72.2% |
| Sentara Obici Hospital | 1 | 5,525 | 110.5% |
| Sentara Princess Anne Hospital | 1 | 6,713 | 134.3% |
| Sentara Virginia Beach General Hospital | 1 | 6,969 | 139.4% |
| 2018 Total and Average | 29 | 113,397 | 78.2% |

Source: VHI & DCOPN interpolations

8533 – MRI & CT Diagnostics

As noted in **Table 10** below, the utilization of existing MRI services in the planning district was only 78.2% of the 5,000 procedures per scanner necessary to introduce a MRI scanning services to a new location under this section of the SMFP. DCOPN calculates a surplus of 10 fixed MRI scanners in the planning district. While this surplus would normally preclude approval of the proposed project, DCOPN notes that the MRI scanner portion of the proposed project is inventory neutral. Moreover, because CDIC would cease to offer MRI services at its Pembroke location, the proposed project would also be inventory neutral with regard to facilities in the planning district. Finally, DCOPN notes that the Lynnhaven location is located 7 miles from the Pembroke facility and remains within the heart of First Meridian's PSA. As such, it is highly unlikely that this move, which is inventory neutral with regard to both fixed MRI scanner and facilities, would remain deeply within First Meridian's PSA would affect the utilization of existing providers in the area. As such, DCOPN concludes that the proposed project meets this standard.

8534 – CHKD Health & Surgery Center and 8535 – CHKD Health Center at Fort Norfolk

Not applicable. The proposed projects do not seek to establish or expand MRI services.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

As noted in **Table 10** above, the utilization of existing MRI services in the planning district was only 78.2% of the 5,000 procedures per scanner necessary to introduce a MRI scanning services to a new location under this section of the SMFP. DCOPN calculates a surplus of 10 fixed MRI

scanners in the planning district. Unlike COPN Request No. VA-8453, which the Adjudication Officer found did not represent the establishment of a new service because it was a relocation of an MRI scanner and a facility, the proposed project will relocate an existing fixed MRI scanner, but will add an additional facility to the total number of facilities in the planning district. Because this application is creating a new service in the facility added to the total number of facilities offering fixed MRI scanning services in the planning district, DCOPN concludes that this is undeniably the establishment of a new fixed site service. Based on the information above, DCOPN concludes that the proposed project does not meet the requisite threshold of an average of 5,000 procedures per scanner in the planning district necessary to establish a new fixed site service.

Moreover, DCOPN concludes that the proposed project is highly likely to reduce significantly the utilization of existing fixed site MRI providers in the planning district. While the proposed project is somewhat different from COPN Request No. VA-8453 in that it is only 16 miles away from the original site rather than 22 and is approximately five to six miles away from the underutilized facilities rather than 1.7 miles, the facility is still proximate to these underutilized facilities. Moreover, as pointed out by Sentara in their letter of opposition, since COPN Request No. VA-8453, these facilities proximate to the proposed location have experienced a further decline in utilization. As such, DCOPN concludes that the commissioner's determination on COPN Request No. VA-8453, that the proposed project would exacerbate the underutilization of existing MRI services that are proximate to the proposed site is remains applicable to the proposed project.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

As noted in **Table 10** above, the utilization of existing MRI services in the planning district was only 78.2% of the 5,000 procedures per scanner necessary to introduce a MRI scanning services to a new location under this section of the SMFP. DCOPN calculates a surplus of 10 fixed MRI scanners in the planning district. While this surplus would normally preclude approval of the proposed project, DCOPN notes that the MRI scanner portion of the proposed project is inventory neutral. Moreover, because CDIC would cease to offer MRI services at its Kempsville location, the proposed project would also be inventory neutral with regard to facilities in the planning district. Finally, DCOPN notes that the Hanbury location is located a mere five miles from CRMC. As such, it is highly unlikely that this move, which is inventory neutral with regard to both fixed MRI scanner and facilities, would remain deeply within CRMC's PSA would affect the utilization of existing providers in the area. As such, DCOPN concludes that the proposed project meets this standard.

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.

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January 19, 2021**8533 – MRI & CT Diagnostics, 8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth, and 8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

Not applicable. These applicants are proposing to establish fixed MRI services rather than expand an existing fixed site service.

8534 – CHKD Health & Surgery Center and 8535 – CHKD Health Center at Fort Norfolk

Not applicable. Neither of the proposed projects seek to establish or expand MRI services.

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. None of the proposed projects seek to add or expand mobile MRI services or to convert authorized mobile MRI scanners to fixed site scanners.

12VAC5-230-180. Staffing.

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

8533 – MRI & CT Diagnostics

The applicant states that medical direction at First Meridian is provided by Dr. Camden, a board-certified radiologist with extensive training in the interpretation of CT and MRI images. Moreover, the applicant asserts that the other radiologists on the staff of First Meridian are also board-certified. Finally, the applicant states that all MRI and CT exams conducted are under the direct on-sight control and supervision of one of these physicians.

8534 – CHKD Health & Surgery Center and 8535 – CHKD Health Center at Fort Norfolk

Not applicable. Neither of the proposed projects seek to establish or expand MRI services.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

The applicant states that medical direction of CDIC is provided by Hiten Patel, MD, a board-certified radiologist with extensive training in the interpretation of CT and MRI images. The applicant additionally provide a list of four additional physicians employed at CDIC that are fellowship trained in various areas of radiology. As such, DCOPN concludes that the applicant meets this criteria.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

The applicant states that medical direction of CDIC is provided by Hiten Patel, MD, a board-certified radiologist with extensive training in the interpretation of CT and MRI images. The applicant additionally provide a list of four additional physicians employed at CDIC that are fellowship trained in various areas of radiology. As such, DCOPN concludes that the applicant meets this criteria.

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;

8533 – MRI & CT Diagnostics

The proposed project is an inventory neutral move with regard to both fixed MRI scanners and facilities within the planning district that will relocate one fixed MRI scanner seven miles away from its currently location. The Lynnhaven location remains located squarely within the heart of First Meridian's PSA. As such, DCOPN concludes that the proposed project will not foster any institutional competition.

8534 – CHKD Health & Surgery Center

As the location is associated with CHKD, Virginia's only freestanding children's hospital, the proposed project is highly unlikely to foster institutional competition. Moreover, the proposed cone beam CT scanner is a narrowly tailored CT scanners that offer technological innovation and substantial benefit to patients with little potential of systemic effect. As such, DCOPN concludes that the proposed project will not foster any institutional competition.

8535 – CHKD Health Center at Fort Norfolk

As the location is associated with CHKD, Virginia's only freestanding children's hospital, the proposed project is highly unlikely to foster institutional competition. Moreover, the proposed cone beam CT scanner is a narrowly tailored CT scanners that offer technological innovation and substantial benefit to patients with little potential of systemic effect. As such, DCOPN concludes that the proposed project will not foster any institutional competition.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

In his recommendation to the Commissioner regarding COPN Request No. VA-8453, the Adjudication Officer concurred with DCOPN that "access to low-cost MRI services already exists in PD 20 and that approval of the project is likely to have a detrimental effect on current providers in the immediate area, which have available capacity." The Adjudication Officer added that approval of the project would "impose additional, non-beneficial competition." As discussed above, DCOPN concluded that the proposed project, while marginally different with regard to distances, remains entirely consistent with, and raises the same concerns as, the Commissioner's decision regarding COPN Request No. VA-8453. As such, DCOPN concludes that access to low-cost MRI services already exists in PD 20 and that approval of the project is likely to have a detrimental effect on current providers in the immediate area, which have available capacity. Moreover, DCOPN joins the Adjudication Officer in concluding that

approval of the proposed project would impose additional, non-beneficial competition in the immediate area.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

The proposed project is an inventory neutral move with regard to fixed MRI scanners, fixed CT scanners, and facilities within the planning district that will relocate one fixed CT scanner and one MRI scanner to a new location that is located 5 miles away from CRMC. As such, DCOPN concludes that the proposed project will not foster any institutional competition.

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;

8533 – MRI & CT Diagnostics

As discussed above, the proposed project will merely relocate and replace one fixed MRI scanner. The proposed project will be inventory neutral with regard to both fixed MRI scanners and the number of facilities in the planning district. The new Lynnhaven location remains deeply within First Meridian's PSA. As such, the proposed project is highly unlikely to affect the utilization and efficiency of existing providers.

8534 – CHKD Health & Surgery Center

The applicant asserts that CHKD, as the Commonwealth's sole freestanding pediatric hospital, serves a unique role in the existing health care system of the service area. The applicant further states that this role has long been recognized by the health care community within the area. DCOPN finds that this assertion is supported by the lack of opposition provided by the other health care providers in the area. In an area as frequently contentious as PD 20, where it is relatively uncommon for a resource as sought after as a CT scanner to go uncontested by other health care systems, the lack of comment by other providers speaks to the unique position of CHKD within the market. Moreover, as discussed throughout this report, the proposed cone beam CT scanner is a narrowly tailored CT scanners that offer technological innovation and substantial benefit to patients with little potential of systemic effect. As such, DCOPN concludes that, between CHKD's unique role within the planning district and the specialized nature of the proposed CT scanner, approval of the project is highly unlikely to have a material impact on the utilization of providers of surgical services within the planning district.

8535 – CHKD Health Center at Fort Norfolk

The applicant asserts that CHKD, as the Commonwealth's sole freestanding pediatric hospital, serves a unique role in the existing health care system of the service area. The applicant further states that this role has long been recognized by the health care community within the area. DCOPN finds that this assertion is supported by the lack of opposition provided by the other health care providers in the area. In an area as frequently contentious as PD 20, where it is relatively uncommon for a resource as sought after as a CT scanner to go uncontested by other health care systems, the lack of comment by other providers speaks to the unique position of CHKD within the market. Moreover, as discussed throughout this report, the proposed cone beam CT scanner is a narrowly tailored CT scanners that offer technological innovation and substantial benefit to patients with little potential of systemic effect. As such, DCOPN concludes that, between CHKD's unique role within the planning district and the specialized nature of the

proposed CT scanner, approval of the project is highly unlikely to have a material impact on the utilization of providers of surgical services within the planning district.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

Because of the proximity of the proposed site to several imaging providers with underutilized MRI scanners, the proposed project would likely have a harmful impact on existing providers in close proximity to the proposed location. Moreover, as discussed above, the proposed project would likely create a severe institutional need at the already highly utilized Kingsborough location from which the applicant proposes to move the fixed MRI scanner.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

As discussed above, the proposed project will merely relocate and replace one fixed CT scanner and one fixed MRI scanner. The proposed project will be inventory neutral with regard to fixed CT scanners, fixed MRI scanners, and the number of facilities in the planning district. The new Hanbury location is close to CRMC and remains deeply within CDIC PSA. As such, the proposed project is highly unlikely to affect the utilization and efficiency of existing providers.

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;

8533 – MRI & CT Diagnostics

The total capital and financing cost of the proposed project is \$4,056,066 (**Table 3**). The costs for the project are reasonable and, while somewhat less expensive, are still generally consistent with previously approved projects to add one fixed MRI scanner. For example, COPN VA-04525 issued to VCU Health System to add one fixed MRI scanner at Children’s Hospital of Richmond Pavilion, which cost approximately \$4,304,851; and COPN VA-04076 issued to Bon Secours – Memorial Regional Medical Center to add one fixed MRI scanner, which cost approximately \$4,286,673. As discussed above, the applicant states that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. The applicant also asserts that it does not anticipate that the proposed project will affect the cost of its services. As such, DCOPN concludes that the proposed project is feasible with regard to financial costs.

With regard to staffing, the applicant asserts that the proposed project will be effectuated using solely the existing staff at the Pembroke location. As there are no additional staffing needs, DCOPN concludes that the proposed project is feasible with regards to staffing and will not adversely affect existing providers.

8534 – CHKD Health & Surgery Center

The total capital and financing cost of the proposed project is \$70,000 (**Table 4**). The costs for the project are reasonable and significantly less than previously approved projects to add one cone beam CT scanner. For example, COPN VA-04644 issued to Abingdon Ear, Nose and Throat, PC establish a specialized center for CT imaging through the addition of one cone beam CT scanner, which cost approximately \$257,370. Of those costs, \$225,000 of the capital costs of COPN VA-03865 are attributed to the cost of the cone beam CT scanner. Comparatively,

\$70,000 of the capital costs for the proposed project are attributed to the costs of the cone beam CT scanner. As discussed above, the applicant states that the proposed project would be paid through the use of CHKD's accumulated reserves and is not expected to have any impact on the cost of care. As such, DCOPN concludes that the proposed project is feasible with regard to financial costs.

With regard to staffing, the applicant asserts that no additional staff will be needed to operationalize the cone beam CT service at Concert Drive. As there are no additional staffing needs, DCOPN concludes that the proposed project is feasible with regards to staffing and will not adversely affect existing providers.

8535 – CHKD Health Center at Fort Norfolk

The total capital and financing cost of the proposed project is \$78,045 (**Table 5**). The costs for the project are reasonable and significantly less than previously approved projects to add one cone beam CT scanner. For example, COPN VA-04644 issued to Abingdon Ear, Nose and Throat, PC establish a specialized center for CT imaging through the addition of one cone beam CT scanner, which cost approximately \$257,370. Of those costs, \$225,000 of the capital costs of COPN VA-03865 are attributed to the cost of the cone beam CT scanner. Comparatively, \$70,000 of the capital costs for the proposed project are attributed to the costs of the cone beam CT scanner. As discussed above, the applicant states that the proposed project would be paid through the use of CHKD's accumulated reserves and is not expected to have any impact on the cost of care. As such, DCOPN concludes that the proposed project is feasible with regard to financial costs.

With regard to staffing, the applicant asserts that no additional staff will be needed to operationalize the cone beam CT service at Concert Drive. As there are no additional staffing needs, DCOPN concludes that the proposed project is feasible with regards to staffing and will not adversely affect existing providers.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

The total capital and financing cost of the proposed project is \$4,978,040 (**Table 6**). Compared to other similar projects, including those within this report, this project is significantly higher than other projects that seek to establish MRI services through the addition of one fixed MRI scanner. For example, COPN VA-04525 issued to VCU Health System to establish fixed MRI services at Children's Hospital of Richmond Pavilion by adding one fixed MRI scanner, which cost approximately \$4,304,851. Comparing the costs of the Portsmouth project to the Lynnhaven project, which both seek to establish MRI services at a new location in PD 20, a sizeable portion of the difference in cost appears to relate to costs of material and labor. The Lynnhaven project anticipates a cost of materials of \$585,498 and a cost of labor of \$652,412 whereas the Portsmouth project anticipates a cost of materials of \$707,840 and a cost of labor of \$788,736. There is also a sizeable difference in site lease costs between the two projects with the Lynnhaven project anticipating a site lease cost of \$789,929 over the entire term of the ten-year initial lease whereas the Portsmouth project anticipates a site lease cost of \$1,265,325 over the entire term of the ten-year initial lease. As such, DCOPN concludes that the proposed costs of the Portsmouth project are not reasonable and consistent with previously approved similar projects or the similar project within this staff report. As discussed above, the applicant states

that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. The applicant also asserts that it does not anticipated that the proposed project will affect the cost of its services. While the costs of the project are not considered reasonable and consistent with previously approved similar projects or the similar project within this staff report, it nonetheless concludes that, because the project is able to be funded entirely from CRMC's ample accumulated reserves, the proposed project is feasible with regard to financial costs.

With regard to staffing, the applicant asserts that the proposed project will be effectuated by transferring existing staff from the Kingsborough Square location. As there are no additional staffing needs, DCOPN concludes that the proposed project is feasible with regards to staffing and will not adversely affect existing providers.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

The total capital and financing cost of the proposed project is \$4,056,066 (**Table 7**). The costs for the project are reasonable and consistent with previously approved projects to add one CT scanner and one MRI scanner. For example, COPN VA-03533 issued to Medical Imaging of Fredericksburg to establish a facility for CT and MRI services, which cost approximately \$5,732,450; and COPN VA-03980 issued to Louise Obici Memorial Hospital to add one MRI scanner and one CT scanner, which cost approximately \$5,537,490. As discussed above, the applicant states that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. The applicant also asserts that it does not anticipated that the proposed project will affect the cost of its services. As such, DCOPN concludes that the proposed project is feasible with regard to financial costs.

With regard to staffing, the applicant asserts that the proposed project will be effectuated by transferring existing staff from the Kempsville location. As there are no additional staffing needs, DCOPN concludes that the proposed project is feasible with regards to staffing and will not adversely affect existing 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 basis; (iii) any cooperative efforts to meet regional health care needs; and (iv) at the discretion of the Commissioner, any other factors as may be appropriate; and**

8533 – MRI & CT Diagnostics

The applicant states that the proposed project will provide quality diagnostic imaging at low cost. As the applicant is an outpatient imaging center, DCOPN concludes that this is likely to be the case. Additionally, though the replacement of the older MRI scanner will not introduce any technological innovations, the upgraded scanners will likely permit the applicant to utilize more efficiently the scanners at its disposal.

8534 – CHKD Health & Surgery Center

As discussed above, the proposed project would introduce the first COPN-authorized cone beam CT scanners in PD 20. This new technology would expose patients to 15-18 times less radiation than conventional CT scanners. Moreover, the cone beam CT scanner is significantly less time intensive than conventional CT scanners, which would eliminate the need to sedate pediatric patients before CT scanning, which will improve access to pediatric CT scanning services on an outpatient basis.

8535 – CHKD Health Center at Fort Norfolk

As discussed above, the proposed project would introduce the first COPN-authorized cone beam CT scanners in PD 20. This new technology would expose patients to 15-18 times less radiation than conventional CT scanners. Moreover, the cone beam CT scanner is significantly less time intensive than conventional CT scanners, which would eliminate the need to sedate pediatric patients before CT scanning, which will improve access to pediatric CT scanning services on an outpatient basis.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

As discussed above, the applicant states that the proposed project will provide quality diagnostic imaging at low cost. As the applicant is an outpatient imaging center, DCOPN concludes that this is likely to be the case. Additionally, though the replacement of the older MRI scanner will not introduce any technological innovations, the upgraded scanner will likely permit the applicant to utilize more efficiently the scanners at its disposal. However, as noted above, this could be effectuated through registration at the Kingsborough location. Moreover, DCOPN concludes that the possible improvements in efficiencies for the new MRI unit are outweighed by the high likelihood that approval of the proposed project would exacerbate existing inefficiencies in the Suffolk service area.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

As discussed above, the applicant raises no benefits of the proposed project that could not be effectuated through merely replacing the existing MRI and CT scanner at the Kempsville location.

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

8533 – MRI & CT Diagnostics

Not applicable. First Meridian is not affiliated with a teaching hospital associated with a public institution of higher education or a medical school in the area to be served.

8534 – CHKD Health & Surgery Center and 8535 – CHKD Health Center at Fort Norfolk

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

“CHKD is a leading innovator and pioneer of pediatric research. As the region’s preferred provider of pediatric services, CHKD participates in a number of research projects and clinical trials, including those that require imaging services. Availability of cone beam CT services at the Centers would benefit CHKD’s efforts and ability to participate in groundbreaking surgical research opportunities and bring potential new treatments and surgical procedures to the pediatric patients of Eastern Virginia.

CHKD is also a teaching hospital and plays a vital role in educating the next generation of leaders in children’s health. With cone beam CT services available at the Centers, students and residents rotating through the outpatient locations would be exposed to the standard-of-care in maxillofacial imaging.”

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth and 8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

Not applicable. CDIC is not affiliated with a teaching hospital associated with a public institution of higher education or a medical school in the area to be served.

DCOPN Staff Findings and Conclusion

8533 – MRI & CT Diagnostics

DCOPN finds that the proposed project to establish a specialized center for MRI imaging through the relocation and replacement of one fixed MRI scanner from the applicant’s Pembroke Avenue facility in Virginia Beach to a new location on Lynnhaven Parkway in Virginia Beach is consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia.

Moreover, DCOPN the proposed project is more advantageous than the alternative of the status quo. The applicant has experienced serious issues at the current location, including flooding, leaking, and power fluctuations. The most recent request to move this MRI scanner, COPN Request No. VA-8453, was denied by the Commissioner because the proposed project would move the MRI scanner outside of First Meridian’s PSA and would likely exacerbate the underutilization of existing MRI services proximate to the proposed site. The proposed project differs from COPN Request No. VA-8453 in that the current project is within the heart of First Meridian’s PSA and is therefore highly unlikely to affect the utilization of existing providers. Therefore, while the status quo is an alternative to the proposed project, the lack of negative effect to other providers coupled with the benefit of resolving the well documented and long-running issues that First Meridian has had with the Pembroke location and their inability to resolve these issues with the landlord is sufficient to consider the proposed project more advantageous than the alternative of the status quo.

Finally, DCOPN finds that the total capital costs of the proposed project are \$4,056,066 (**Table 3**). The applicant states that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. The costs for the project are reasonable and, while somewhat less expensive, are still generally consistent with previously approved projects to add one fixed MRI scanner. For example, COPN VA-04525 issued to VCU Health System to add one fixed MRI scanner at Children's Hospital of Richmond Pavilion, which cost approximately \$4,304,851; and COPN VA-04076 issued to Bon Secours – Memorial Regional Medical Center to add one fixed MRI scanner, which cost approximately \$4,286,673.

8534 – CHKD Health & Surgery Center

DCOPN finds that the proposed project to add one cone beam CT scanner at CHKD Health & Surgery Center is consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. While there is a surplus of CT scanners in PD 20, the Commissioner has consistently determined that the SMFP threshold should not be an obstacle to narrowly tailored CT scanners that offer technological innovation and substantial benefit to patients with little potential of systemic effect. As the proposed cone beam CT scanner falls within these criteria, DCOPN concludes that the proposed project is consistent.

Moreover, DCOPN finds that the proposed project is more advantageous than the alternative of the status quo. The proposed project, along with COPN Request No. VA-8535, would introduce the first COPN-authorized cone beam CT scanners in the planning district. Cone beam CT scanners expose patients to 15-18 times less than that of conventional CT scanners. Moreover, the time required by a cone beam CT scanner is significantly less than that of a conventional CT scanner. This is very important because CT scans of the facial anatomy of pediatric patients can be taken of pediatric without having to sedate them.

Finally, DCOPN finds that the total capital costs of the proposed project are \$70,000 (**Table 4**), which would be paid through the use of CHKD's accumulated reserves. The costs for the project are reasonable and significantly less than previously approved projects to add one cone beam CT scanner. For example, COPN VA-04644 issued to Abingdon Ear, Nose and Throat, PC establish a specialized center for CT imaging through the addition of one cone beam CT scanner, which cost approximately \$257,370. Of those costs, \$225,000 of the capital costs of COPN VA-03865 are attributed to the cost of the cone beam CT scanner. Comparatively, \$70,000 of the capital costs for the proposed project are attributed to the costs of the cone beam CT scanner.

8535 – CHKD Health Center at Fort Norfolk

DCOPN finds that the proposed project to add one cone beam CT scanner at CHKD Health & Surgery Center is consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. While there is a surplus of CT scanners in PD 20, the Commissioner has consistently determined that the SMFP threshold should not be an obstacle to narrowly tailored CT scanners that offer technological innovation and substantial benefit to patients with little potential of systemic effect. As the proposed cone beam CT scanner falls within these criteria, DCOPN concludes that the proposed project is consistent.

Moreover, DCOPN finds that the proposed project is more advantageous than the alternative of the status quo. The proposed project, along with COPN Request No. VA-8534, would introduce the first COPN-authorized cone beam CT scanners in the planning district. Cone beam CT scanners expose patients to 15-18 times less than that of conventional CT scanners. Moreover, the time required by a cone beam CT scanner is significantly less than that of a conventional CT scanner. This is very important because CT scans of the facial anatomy of pediatric patients can be taken of pediatric without having to sedate them.

Finally, DCOPN finds that the total capital costs of the proposed project are \$78,045 (**Table 5**), which would be paid through the use of CHKD's accumulated reserves. The costs for the project are reasonable and significantly less than previously approved projects to add one cone beam CT scanner. For example, COPN VA-04644 issued to Abingdon Ear, Nose and Throat, PC establish a specialized center for CT imaging through the addition of one cone beam CT scanner, which cost approximately \$257,370. Of those costs, \$225,000 of the capital costs of COPN VA-03865 are attributed to the cost of the cone beam CT scanner. Comparatively, \$70,000 of the capital costs for the proposed project are attributed to the costs of the cone beam CT scanner.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

DCOPN finds that the proposed project to establish a specialized center for MRI imaging through the relocation and replacement of one fixed MRI scanner from its Kingsborough facility to a new Portsmouth Boulevard facility is inconsistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. The 2018 VHI data, the most recent data available to DCOPN, shows that the fixed MRI scanners in PD 20 operated at only 78.2% of the SMFP standard required to establish a new fixed site service.

Moreover, the status quo is preferable alternative to the proposed project. The proposed project is likely to exacerbate the underutilization of MRI services within the close proximity of the proposed location. Moreover, outpatient imaging is already readily available in PD 20. Additionally, any approval of the proposed project is likely to create a significant institutional need at the location from which the fixed MRI scanner would be moved. Finally, any improvements to imaging that would be effectuated by the replacement of the existing MRI scanner can be effectuated through the registration process at its current location.

Finally, DCOPN finds that the total capital costs of the proposed project are \$4,978,040 (**Table 6**). The applicant states that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. The applicant states that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. Compared to other similar projects, including those within this report, this project is significantly higher than other projects that seek to establish MRI services through the addition of one fixed MRI scanner. For example, COPN VA-04525 issued to VCU Health System to establish fixed MRI services at Children's Hospital of Richmond Pavilion by adding one fixed MRI scanner, which cost approximately \$4,304,851. Moreover these costs are significantly higher than COPN Request No. VA-8533, which also proposes to establish MRI services through the relocation and replacement of one MRI scanner. As such, DCOPN find that the capital costs are not reasonable and consistent with other projects of this type.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

DCOPN finds that the proposed project to establish a specialized center for CT and MRI imaging through the relocation and replacement of one fixed CT scanner and one fixed MRI scanner from its Kempsville location in Norfolk to its new Hanbury facility in Chesapeake is consistent with the applicable criteria and standards of the SMFP, but is inconsistent with the Eight Required Considerations of the Code of Virginia. The applicant states that this project is necessary to redistribute diagnostic imaging resources following CRMC's acquisition of First Meridian, but makes no case as to why moving the MRI and CT scanners in the Kempsville location in Norfolk, where First Meridian has no presence, to Chesapeake, where First Meridian has one office, is necessary to effectuate this. While the applicant successfully establishes that the proposed project would not be detrimental, the applicant fails to provide compelling evidence showing how the proposed project meets an unmet public need within the planning district or provides some benefit the residents of the planning district. As such, DCOPN finds the status quo, in conjunction with replacement of the existing MRI and CT scanner, is a viable alternative to the proposed project.

Finally, DCOPN finds that the total capital costs of the proposed project are \$5,613,818 (**Table 7**). The applicant states that tenant improvements would be funded with internal resources and equipment lease payments will be paid from operating revenues. The costs for the project are reasonable and consistent with previously approved projects to add one CT scanner and one MRI scanner. For example, COPN VA-03533 issued to Medical Imaging of Fredericksburg to establish a facility for CT and MRI services, which cost approximately \$5,732,450; and COPN VA-03980 issued to Louise Obici Memorial Hospital to add one MRI scanner and one CT scanner, which cost approximately \$5,537,490.

Staff Recommendation8533 – MRI & CT Diagnostics

The Division of Certificate of Public Need recommends **conditional approval** of the applicant's COPN request to establish a specialized center for MRI imaging through the relocation and replacement of one fixed MRI scanner for the following reasons:

1. The project is 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 project is highly unlikely to have an adverse effect on the utilization of existing providers.
3. The proposed project is more advantageous than the alternative of the status quo.
4. The capital costs are reasonable and consistent with the projects of this type.

Recommended Condition

First Meridian Medical, LLC t/a MRI & CT Diagnostics will provide MRI services to all persons in need of these services, regardless of their ability to pay, and will provide as charity care to all indigent persons free services or rate reductions in services and facilitate the development and operation of primary care services to medically underserved persons in an aggregate amount equal to at least 5.1% of First Meridian Medical, LLC t/a MRI & CT Diagnostics' total patient services revenue derived from MRI services provided at Lynnhaven Imaging Center as valued under the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. Compliance with this condition will be documented to the Division of Certificate of Public Need annually by providing audited or otherwise appropriately certified financial statements documenting compliance with the preceding requirement. First Meridian Medical, LLC t/a MRI & CT Diagnostics will accept a revised percentage based on the regional average after such time regional charity care data valued under the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. is available from Virginia Health Information. The value of charity care provided to individuals pursuant to this condition shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.

First Meridian Medical, LLC t/a MRI & CT Diagnostics will provide MRI 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 First Meridian Medical, LLC t/a MRI & CT Diagnostics will facilitate the development and operation of primary and specialty medical care services in designated medically underserved areas of the applicant's service area.

8534 – CHKD Health & Surgery Center

The Division of Certificate of Public Need recommends **conditional approval** of the applicant's COPN request to add one cone beam CT scanner at CHKD Health & Surgery Center for the following reasons:

1. The project is 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 proposed cone beam CT scanner is a narrowly tailored CT scanner that offers technological innovation and substantial benefit to patients with little potential of systemic effect.
3. The proposed project is more advantageous than the alternative of the status quo.
4. The capital costs are significantly less than other projects of this type.

Recommended Condition

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

Children's Hospital of the King's Daughters, 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 Children's Hospital of the King's Daughters, 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.

8535 – CHKD Health Center at Fort Norfolk

The Division of Certificate of Public Need recommends **conditional approval** of the applicant's COPN request to add one cone beam CT scanner at CHKD Health Center at Fort Norfolk for the following reasons:

1. The project is 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 proposed cone beam CT scanner is a narrowly tailored CT scanner that offers technological innovation and substantial benefit to patients with little potential of systemic effect.
3. The proposed project is more advantageous than the alternative of the status quo.
4. The capital costs are significantly less than other projects of this type.

Recommended Condition

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

Children's Hospital of the King's Daughters, 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 Children's Hospital of the King's Daughters, 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.

8538 – Chesapeake Diagnostic Imaging Centers – Portsmouth

The Division of Certificate of Public Need recommends **denial** of the applicant's COPN request to establish a specialized center for MRI imaging through the relocation and replacement of one fixed MRI scanner for the following reasons:

1. The proposed project is not consistent with the applicable criteria and standards of the State Medical Facilities Plan and the Eight Required Considerations of the Code of Virginia.
2. Approval of this project is likely to exacerbate the underutilization of existing MRI units that are proximal to the proposed project site.
3. Approval of this project is likely to create a substantial institutional need at the facility from which the applicant proposes to relocate the fixed MRI unit.
4. The status quo is a preferable alternative to the proposed project.
5. The capital costs are not reasonable and consistent with the projects of this type.

8539 – Chesapeake Diagnostic Imaging Centers – Battlefield

The Division of Certificate of Public Need recommends **denial** of the applicant's COPN request to establish a specialized center for CT and MRI imaging through the relocation and replacement of one fixed CT scanner and one fixed MRI scanner for the following reasons:

1. The project is consistent with the applicable criteria and standards of the State Medical Facilities Plan, but is inconsistent with the Eight Required Considerations of the Code of Virginia.
2. The applicant has not established an unmet public need within the planning district that the proposed project would address.
3. The status quo is a viable alternative to the proposed project.