# VIRGINIA DEPARTMENT OF HEALTH

## Office of Licensure and Certification

### Division of Certificate of Public Need

### Staff Analysis

May 19, 2022

**COPN Request No. VA-8580**
Excellence ASC, LLC
Norfolk, Virginia
Establish an outpatient surgical hospital with two operating rooms limited to vitreoretinal and ophthalmic surgery

**Applicant**

Excellence ASC, LLC (EASC) is a limited liability company formed in 2021 under the laws of the Commonwealth of Virginia. EASC will be located in Norfolk, Virginia, which is in Planning District (PD) 20, Health Planning Region (HPR) V. The owners of EASC currently provide ophthalmic services at Wagner Macola & Retina Center (WMRC). WMRC has served Hampton Roads, the eastern portion of North Carolina and southern Maryland for 35 years. WMRC currently provides a wide array of ophthalmic services, education, public health outreach with health screening, and specializes in diabetic retinopathy, macular degeneration, eye tumors, and the diagnosis and management of complex medical and surgical eye disease.

**Background**

According to Division of Certificate of Public Need (DCOPN) records, there are 160 general purpose operating rooms (GPORs) located in PD 20. Of these 160 GPORs, 115 are located within acute care hospitals, and 45 are located within outpatient surgical hospitals (**Table 1**). DCOPN notes that of the 160 operating rooms in PD 20, nine operating rooms are dedicated to open-heart surgery, and ten operating rooms are restricted to ophthalmic use.

**Table 1: PD 20 COPN Authorized GPOR Inventory 2022**

| Facility | Number of Inpatient Operating Rooms | Number of Ophthalmic Operating Rooms |
|---|---|---|
| Bon Secours Harbor View Hospital | 4 | 0 |
| Bon Secours Maryview Medical Center | 9 | 0 |
| Bon Secours Southampton Memorial Hospital | 3 | 0 |
| Chesapeake Regional Medical Center | 14 | 0 |
| Children's Hospital of The King's Daughters | 12 | 0 |
| Riverside Smithfield Hospital | 4 | 0 |
| Sentara Leigh Hospital | 13 | 0 |
| Sentara Norfolk General Hospital | 30 | 0 |

| | | |
|---|---|---|
| Sentara Obici Hospital | 5 | 0 |
| Sentara Princess Anne Hospital | 9 | 0 |
| Sentara Virginia Beach General Hospital | 12 | 0 |
| **TOTAL Inpatient Operating Rooms** | **115** | **0** |
| | | |
| **Facility** | **Number of Outpatient Operating Rooms** | **Number of Ophthalmic Operating Rooms** |
| Bayview Physicians | 2 | 0 |
| Bon Secours Surgery Center at Harbour View | 6 | 0 |
| Bon Secours Surgery Center at Virginia Beach | 2 | 0 |
| Center for Visual Surgical Excellence | 1 | 1 |
| Chesapeake Regional Surgery Center at Virginia Beach | 2 | 0 |
| CHKD Health & Surgery Center (Virginia Beach) | 3 | 0 |
| Sentara BelleHarbour Ambulatory Surgical Center | 2 | 0 |
| Sentara Leigh - Ambulatory Surgery | 6 | 0 |
| Sentara Obici Ambulatory Surgery LLC | 2 | 0 |
| Sentara Princess Anne Ambulatory Surgery Center | 4 | 0 |
| Sentara Virginia Beach Ambulatory Surgery Center | 4 | 0 |
| Surgery Center of Chesapeake | 4 | 2 |
| Virginia Beach Eye Center | 1 | 1 |
| Virginia Center for Eye Surgery | 2 | 2 |
| Virginia Surgery Center, LLC | 4 | 4 |
| **TOTAL Outpatient Operating Rooms** | **45** | **10** |
| **TOTAL Operating Rooms Excluding Cardiac ORs** | **151** | |
| **GRAND TOTAL PD 20 Operating Rooms** | **160** | **10** |

**Source:** DCOPN Records

## Proposed Project

EASC proposes to establish an outpatient surgical hospital (OSH) with two operating rooms limited to vitreoretinal and ophthalmic surgery. The proposed OSH will be located at 863 Glenrock Road, Norfolk, Virginia. As previously mentioned, the owners of EASC currently provide ophthalmic services at WMRC. The practice has seven eye surgeons and a certified physician assistant. WMRC specializes in diabetic retinopathy, macular degeneration, eye tumors, and the diagnosis and management of complex medical and surgical eye disease. Until mid-2021, WMRC performed most of its surgeries at Bon Secours DePaul Medical Center (DePaul). EASC alleges that there were several reasons for this, namely, WMRC's intent was to provide quality care to its patients at a low cost, and DePaul had the most liberal charity care policy. Thus, the patients requiring charity care were best served at DePaul. Second, according to the applicant, WMRC has the only ocular oncologists in southeastern Virginia and northern North Carolina, and DePaul was the only facility with ocular oncology equipment, so it was the only place that WMRC could perform eye tumor surgery. However, once DePaul closed in 2021, WMRC physicians no longer had the option to perform surgeries at that location. The applicant alleges, however DCOPN cannot confirm, that currently, there is no facility in the Planning District in which to perform surgery for eye cancers, and those patients have to be referred to either Wills Eye Hospital in Philadelphia, Memorial Slone Kettering in New York City, or to Duke University Hospital in North Carolina. The applicant argues that it has tried

unsuccessfully on several occasions to persuade local hospitals and ASCs to install ocular oncology equipment. The response has been the same each time - the facilities do not want to pay for the cost of the equipment, nor make the time available for time sensitive procedures. The new Excellence ASC operating rooms will be fully outfitted with state-of-the-art ocular equipment that will allow for all ocular surgeries, including ocular oncology, subspecialty vitreoretinal surgery and associated ocular diseases.

The projected capital costs of the proposed project are $8,289,491, approximately 26.8% of which are attributed to direct construction costs (**Table 2**). Capital costs will be funded through a combination of commercial loans and the accumulated reserves of the applicant. If the Commissioner approves the project, construction is expected to begin in February 2023 and is projected to be completed in August 2023. The target date of opening is September 2023.

**Table 2. Capital and Financing Costs:**

| | |
|---|---|
| Direct Construction Costs | $2,227,800 |
| Equipment Not Included in Construction Contract | $1,429,700 |
| Site Acquisition Costs | $3,772,042 |
| Architectural and Engineering Fees | $235,000 |
| Other Consultant Fees | $100,000 |
| Conventional Loan Financing | $521,949 |
| **Total Capital Costs** | **$8,289,491** |

**Source:** COPN Request No. VA-8580

## Project Definition

§32.1-102.1 of the Code of Virginia defines a project, in part, as the "[e]stablishment of a medical care facility." A medical care facility is defined, in part, as "any facility licensed as a hospital…"

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

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

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

**Table 3** shows projected population growth in PD 20 through 2030. Overall, the planning district was projected to add an estimated 356,377 people in the 10-year period ending in 2020. For the 10-year period ending in 2030, the planning district is projected to add an estimated 350,128 people. DCOPN notes that the population of PD 20 as a whole was expected to increase approximately 16% for the period ending in 2020 and approximately 14% for the period ending in 2030, rates nearly double that of the statewide average. With regard to the 65 and older age cohort, Weldon-Cooper projects a much more rapid increase (**Table 4**). Specifically, Weldon-Cooper projects an increase of approximately 114.6% among PD 20's collective 65 and older age

cohort from 2010-2030. This is significant, as this age group uses medical care resources, including surgical services, at a rate much higher than the rest of the population.

Weldon-Cooper data projects a total PD 20 population of 1,255,394 residents by 2030 (**Table 3**), which represents an approximate 9.6% increase in total population from 2010 to 2030. This is a much smaller percentage increase than the total for Virginia, which will increase by approximately 16.6% for the same period. With regard to the City of Norfolk, where EASC is to be located, specifically, Weldon-Cooper projects a total population increase of 7,086, or approximately a 3% increase from 2010 to 2030.

With regard to the 65 and older age cohort, Weldon-Cooper projects a total PD 20 population of 175,194 by 2030 (**Table 4**), which represents an approximate 73.4% increase in the population within that age cohort from 2010 to 2030. This is a slightly lower larger percentage increase than the total for Virginia, which will increase by approximately 76.4% for the same period. With regard to the City of Norfolk specifically, Weldon-Cooper projects a population increase in this age cohort of 10,692, or approximately 47% from 2010 to 2030.

**Table 3. PD 20 and Statewide Total Population Projections, 2010-2030**

| Locality | 2010 | 2020 | % Change | 2030 | % Change | 2010-2030 % Change |
|---|---|---|---|---|---|---|
| Chesapeake City | 222,209 | 249,244 | 12.2% | 270,506 | 8.5% | 21.7% |
| Franklin City | 8,582 | 8,268 | -3.7% | 8,140 | -1.6% | -5.2% |
| Isle of Wight | 35,270 | 38,060 | 7.9% | 41,823 | 9.9% | 18.6% |
| Norfolk City | 242,803 | 246,881 | 1.7% | 249,889 | 1.2% | 2.9% |
| Portsmouth City | 95,535 | 95,027 | -0.5% | 90,715 | -4.5% | -5.0% |
| Southampton | 18,570 | 17,739 | -4.5% | 17,711 | -0.2% | -4.6% |
| Suffolk City | 84,585 | 94,733 | 12.0% | 109,424 | 15.5% | 29.4% |
| Virginia Beach City | 437,994 | 457,699 | 4.5% | 467,187 | 2.1% | 6.7% |
| **Total PD 20** | **1,145,548** | **1,207,652** | **5.4%** | **1,255,394** | **4.0%** | **9.6%** |
| | | | | | | |
| Virginia | 8,001,024 | 8,655,021 | 8.2% | 9,331,666 | 7.8% | 16.6% |

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

**Table 4. PD 20 Population Projections for 65+ Age Cohort, 2010-2030**

| Locality | 2010 | 2020 | % Change | 2030 | % Change | 2010-2030 % Change |
|---|---|---|---|---|---|---|
| Chesapeake City | 23,146 | 33,439 | 44.5% | 47,651 | 42.5% | 105.9% |
| Franklin City | 1,480 | 1,663 | 12.3% | 1,781 | 7.1% | 20.4% |
| Isle of Wight | 5,165 | 7,759 | 50.2% | 10,944 | 41.1% | 111.9% |
| Norfolk City | 22,796 | 27,013 | 18.5% | 33,488 | 24.0% | 46.9% |
| Portsmouth City | 12,619 | 14,225 | 12.7% | 16,744 | 17.7% | 32.7% |
| Southampton | 2,828 | 3,669 | 29.7% | 4,842 | 32.0% | 71.2% |
| Suffolk City | 9,727 | 14,656 | 50.7% | 20,626 | 40.7% | 112.0% |
| Virginia Beach City | 46,435 | 65,468 | 41.0% | 86,768 | 32.5% | 86.9% |
| **Total PD 20** | **101,050** | **134,453** | **33.1%** | **175,194** | **30.3%** | **73.4%** |
| | | | | | | |
| Virginia | 976,937 | 1,352,448 | 38.4% | 1,723,382 | 27.4% | 76.4% |

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

EASC will be located at 863 Glenrock Road, Norfolk, Virginia. The site is located just East of Military Circle Mall and is bounded by four major highways – Route 13 to the west, Route 58 to

the North, I-64 to the East, and I-264 to the South. There is also a major Hampton Roads Transit bus stop directly across the street from the proposed site.

DCOPN notes that, according to regional and statewide data regularly collected by VHI for 2020, the most recent year for which such data is available, the average amount of charity care provided by HPR V facilities was 2.5% of all reported total gross patient revenues (**Table 5**). Recent changes to §32.1-102.4B of the Code of Virginia (the Code) now require DCOPN to place a charity care condition on every applicant seeking a COPN. As a new facility, EASC does not have charity care history. However, EASC has proffered to DCOPN that, should the proposed project be approved, EASC will commit to providing charity care at a rate of 6% of EASC's gross patient revenue. Should the State Health Commissioner (Commissioner) approve the project, EASC should be required to provide surgical services at a charity rate consistent with this proffer of 6%.

**Table 5. HPR V Charity Care Contributions: 2020**

| 2020 Charity Care Contributions at or below 200% of Federal Poverty Level | | | |
|---|---|---|---|
| **Hospital** | **Gross Patient Revenues** | **Adjusted Charity Care Contribution** | **Percent of Gross Patient Revenue:** |
| Riverside Tappahannock Hospital | $165,747,566 | $8,843,478 | 5.34% |
| Riverside Shore Memorial Hospital | $247,007,286 | $10,695,992 | 4.33% |
| Riverside Doctors' Hospital Williamsburg | $149,491,510 | $6,064,567 | 4.06% |
| Riverside Walter Reed Hospital | $252,482,633 | $9,401,927 | 3.72% |
| Bon Secours DePaul Medical Center | $363,165,760 | $12,756,832 | 3.51% |
| Sentara Careplex Hospital | $909,090,883 | $31,651,344 | 3.48% |
| Sentara Obici Hospital | $914,294,131 | $26,301,718 | 2.88% |
| Sentara Virginia Beach General Hospital | $1,265,310,067 | $36,146,887 | 2.86% |
| Sentara Norfolk General Hospital | $3,753,299,758 | $106,756,170 | 2.84% |
| Sentara Leigh Hospital | $1,330,835,003 | $34,335,012 | 2.58% |
| Riverside Regional Medical Center | $2,191,107,102 | $53,859,556 | 2.46% |
| Chesapeake Regional Medical Center | $986,713,280 | $21,292,946 | 2.16% |
| Hampton Roads Specialty Hospital | $46,913,449 | $1,010,073 | 2.15% |
| Sentara Princess Anne Hospital | $1,032,703,976 | $21,443,232 | 2.08% |
| Bon Secours Maryview Medical Center | $1,148,940,309 | $22,068,850 | 1.92% |
| Bon Secours Mary Immaculate Hospital | $620,268,395 | $11,887,663 | 1.92% |
| Sentara Williamsburg Regional Medical Center | $655,360,428 | $11,516,832 | 1.76% |
| Bon Secours Rappahannock General Hospital | $70,546,600 | $1,148,522 | 1.63% |
| Children's Hospital of the King's Daughters | $1,120,616,182 | $4,135,241 | 0.37% |
| Bon Secours Southampton Memorial Hospital | $211,414,625 | $460,731 | 0.22% |
| Lake Taylor Transitional Care Hospital | $44,295,918 | $0 | 0.00% |
| Hospital For Extended Recovery | $30,370,572 | $0 | 0.00% |
| Total Facilities Reporting | | | 22 |
| **Total $ & Mean %** | **$17,509,975,433** | **$431,777,573** | **2.5%** |

**Source:** VHI (2020)

**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;**

DCOPN received 24 letters of support in support of the proposed project from members of the medical community in Norfolk, local universities, and elected officials including:

- Attorney General Jason Miyares
- Delegate Angelia Williams Graves
- Delegate Nancy Guy
- Susan Seward, Chair of the Sussex County Board of Supervisors
- Mayor Bobby Dyer, Mayor of Virginia Beach
- Councilman Aaron Rouse, Virginia Beach City Council
- Andria P. McClellan, Norfolk City Councilmember
- Vice Mayor Jimmy Gray, Hampton City Council

Collectively, these letters articulate numerous benefits of the project, including:

- Dr. Alan Wagner and Dr. Kapil Kapoor, the owners of EASC, have many years worth of experience providing ophthalmic care in the region at a low cost.

- There is a need for additional low-cost ophthalmic care in the area.

- Outpatient surgical services will improve quality of care and reduce overall cost of care.

- EASC will also provide access for teaching hands-on clinical education and create opportunities for clinical rotational, skills transfer, and research for medical students within our region and throughout Virginia.

DCOPN received one letter of opposition from Bon Secours Surgery Center at Virginia Beach (BSSCVB). BSSCVB made several arguments in favor of recommending denial of the project including:

- Ample capacity currently exists in PD 20 to meet the need for ophthalmic surgical services.

- Contrary to the applicant's assertion of not having "block time" to perform procedures, Dr. Wagner and Dr. Kapoor are both partial owners of BSSCVB, and both currently receive block scheduling time at BSSCVB. Moreover, other ASCs have available block time including Bon Secours Surgery Center at Harbour View.

- There is no need for a new ASC to perform trials for a new macular degeneration treatment, as these trials can be done at BSSCVB, in addition to ocular oncology procedures.

- EASC will not be able to provide a lower cost option for ophthalmic surgery, and the capital costs for the project (nearly $9 million) are excessive.

- Approval of two additional operating rooms in PD 20 would negatively affect existing ophthalmic surgery providers.

- Even if the proposed project were to be approved, the applicant would still require future DCOPN approval for radiation therapy equipment in order to properly provide ocular oncological treatment.

- Finally, BSSCVB points out that, despite the applicant's emphasis on ocular oncology as a justification for approval, based on the applicant's own projections, the vast majority of the projected surgeries that are to be performed at EASC are of the variety that are currently being performed at other existing providers within PD 20.

In response to this letter, EASC argues that many of BSSCVB's assertions are erroneous. Specifically, EASC argues that its owners have attempted for many years to work with local facilities, including BSSCVB, to provide equipment necessary for ocular oncology, and it was BSSCVB who, writing to Dr. Wagner and Dr. Kapoor on February 25, 2019, indicated that ocular oncology cases could not be done at BSSCVB.

Additionally, EASC reiterates that BSSCVB does not have sufficient capacity or time to accommodate Dr. Wagner and Dr. Kapoor's caseloads. Moreover, EASC's response letter takes issue with BSSCVB's provision of charity care, noting that none of Dr. Wagner or Dr. Kapoor's patients could receive charity chair subsequent to August of 2021, because BSSCVB had already reached its max for the charity care that would be allotted to WMRC physicians for that year. Moreover, EASC's response letter argues that BSSCVB's provision of charity care has been woeful, pointing out that in 2017, "its charity care was only 0.24% of gross patient revenue; in 2018, it was 0.28%; and in 2019, it dropped to 0.18%."

Public Hearing

DCOPN provided notice to the public regarding this project on March 10, 2022. The public comment period closed on April 25, 2022. Section 32.1-102.6 B of the Code of Virginia directs DCOPN to hold one public hearing on each application in a location in the county or city in which the project is proposed or a contiguous county or city in the case of competing applications; or in response to a written request by an elected local government representative, a member of the General Assembly, the Virginia State Health Commissioner, the applicant, or a member of the public. The proposed project is not competing, and no public hearing was requested by the applicant, the Commissioner, an interested party, or member of the public. As such, no public hearing was held.

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

DCOPN has calculated a surplus of 18 GPORs in PD 20 for the 2027 planning year. If approved, the proposed project would increase this surplus by two GPORs. Consequently, it can be surmised that there is adequate capacity overall for general surgical services in PD 20.

Moreover, as will be discussed later, as it pertains to the specific need for ophthalmic surgical services, despite the apparent rising need for ophthalmic surgical services in PD 20, with the inventory of these restricted operating rooms effectively doubling since 2020 from five to ten, it is unlikely that the demand for these services has kept pace with the supply. As it pertains to geographic access to ophthalmic surgical services, there are currently (depending on the source) no fewer than three facilities, consisting of seven ophthalmic-restricted operating rooms, within a 20 minute drive of the proposed EASC site. Most notably, Virginia Surgery Center, LLC, the most utilized provider of ophthalmic surgical services in PD 20, is a mere three minute drive away from the proposed EASC site. Accordingly, it can be surmised that there is likely to be adequate existing capacity to meet the demand of ophthalmic surgical services.

Additionally, as BSSCVB points out, despite the applicant's emphasis on ocular oncology as a justification for approval, based on the applicant's own projections, the vast majority of the projected surgeries that are to be performed at EASC are of the variety that are currently being performed at other existing providers within PD 20, of which, based on the 2027 projection, there is a surplus. Consequently, were the proposed project to be approved, it is exceedingly likely to have a negative effect on existing providers, particularly providers of ophthalmic surgical services.

Moreover, as it pertains generally to ophthalmic surgical care, there is a reasonable alternative to the proposed project, namely, having the doctors of WMRC continue to perform their surgeries at BSSCVB. On this point, the applicant has argued that they have been denied block time for surgeries by BSSCVB, in addition to charity care, as well as being denied the necessary equipment to perform ocular oncological surgeries at BSSCVB – although, DCOPN will note that the evidence for this equipment refusal is from 2019, which predates the closure of DePaul. To the contrary, BSSCVB has posited that they are able to provide adequate block time for WMRC physicians, and that another reasonable alternative exists in the form of the Bon Secours Surgery Center at Harbour View, which, BSSCVB alleges, the applicant has not approached for block time within the last four years.

With respect to the applicant's claim that there are no other providers in the area for ocular oncological procedures, DCOPN can neither confirm nor refute this claim. However, assuming there are no other existing providers, then approval of the proposed project has the potential to meet a need that is currently unmet in the area to be served. However, as has been argued by BSSCVB, even with approval for the establishment of an outpatient surgical hospital, in order for EASC to adequately treat ocular oncology surgical cases, the applicant would still require future approval from the DCOPN to establish radiation therapy treatment services – however, it is worth noting that the same limitation exists for BSSCVB, who, similar to the applicant, are not authorized currently for radiation therapy services. It is notable that, as BSSCVB points out, the applicant has not

enumerated the number of ocular oncological cases it anticipates. BSSCVB posits in its opposition letter that the applicant did not disclose this number "probably because the 2018-2020 volume of such cases at Bon Secours DePaul was only 35."[1] DCOPN was unable to confirm these numbers, as the VHI data for DePaul during those years does not reflect any "Variable (Superficial/Orthovoltage)" procedures, which are indicative of brachytherapy treatments. It is difficult, if not impossible, to surmise precisely where the truth lies with respect to the questions addressed above. However, given the totality of the evidence, in conjunction with the data demonstrating a surplus of operating room capacity, and the proximity of several existing ophthalmic surgical providers, DCOPN contends that the status quo is more preferable than 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;**

The projected capital costs of the proposed project are $8,289,491, approximately 26.8% of which are attributed to direct construction costs (Table 2). Capital costs will be funded through a combination of commercial loans and the accumulated reserves of the applicant. DCOPN concludes that when compared to similar projects these costs are significant, but in line with similar projects. For example, COPN No. VA-04509 issued to Sentara Hospitals d/b/a Sentara Obici Hospital to establish an outpatient surgical hospital with two GPORs costing approximately $9,109,648 and COPN No. VA-04661 issued to StoneSprings Surgicenter, LLC to establish an outpatient surgical hospital with two GPORs costing approximately $7,096,128.

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

- There is no facility in PD 20 in which to perform surgery for eye cancers, and those patients have to be referred to either Wills Eye Hospital in Philadelphia, Memorial Slone Kettering in New York City, or to Duke University Hospital in North Carolina.

- The new Excellence ASC operating rooms will be fully outfitted with state-of-the-art ocular equipment that will allow for all ocular surgeries, including ocular oncology, subspecialty vitreoretinal surgery and associated ocular diseases.

- The applicant contends that a new surgical procedure recently approved by the FDA will greatly increase the demand for surgical capacity. The procedure is for the treatment of "wet" age-related macular degeneration, a disease that impacts approximately 20 million people worldwide and is a leading cause of blindness in people over the age of 60.

[1] April 18, 2022 letter from Robin Cross, Administrator at Bon Secours Surgery Center at Virginia Beach

- EASC has proffered to commit to provide a level of charity care no less than 6% of gross patient revenues.

- EASC intends to provide "bandwidth" of operating room access and teaching facilities for both Eastern Virginia Medical School's Department of Ophthalmology, as well as Norfolk State University's School of Health Sciences for clinical rotations and skills transfer. EASC has indicated that ocular operations and education will be provided in an environment that will meet and/or exceed national industry standards. EASC will provide full perioperative services to support safe and secure patient care and excellence in the patient's experience.

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

The Pro Forma Income Statement provided by the applicant projects a net profit of $320,018 by the end of the first year of operation and a net profit of $780,011 by year 2, indicating that the proposed project is financially feasible both in the immediate and in the long-term (**Table 6**). The projected capital costs of the proposed project are $8,289,491, approximately 26.8% of which are attributed to direct construction costs (**Table 2**). Capital costs will be funded through a combination of commercial loans and the accumulated reserves of the applicant. As already discussed, DCOPN maintains that costs for the proposed project are significant but consistent with previously approved projects similar in clinical scope. The Pro Forma also includes a line item for charity care, which calculates to 6% of the applicant's projected gross patient revenue. As previously discussed, 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. DCOPN notes that, if approved, the proposed project should be subject to a charity care condition consistent with the applicant's proffer of 6% of gross patient revenue.

**Table 6. EASC Pro Forma Income Statement**

| | **Year 1** | **Year 2** |
|---|---|---|
| **Total Gross Revenue** | **$8,048,000** | **$9,511,424** |
| Contractual Discounts | ($3,872,870) | ($4,577,314) |
| Provision for Charity | ($482,880) | ($570,685) |
| **Net Revenue** | **$3,692,250** | **$4,363,425** |
| Total Operating Expenses | $3,372,232 | $3,583,414 |
| **Income from Operations** | **$320,018** | **$780,011** |

**Source**: COPN Request No. VA-8580

**(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 did not identify any other factors, not previously discussed in this staff report, to bring to the Commissioner's attention with respect to determining a public need for the proposed project.

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

§ 32.1-102:1 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 SMFP.

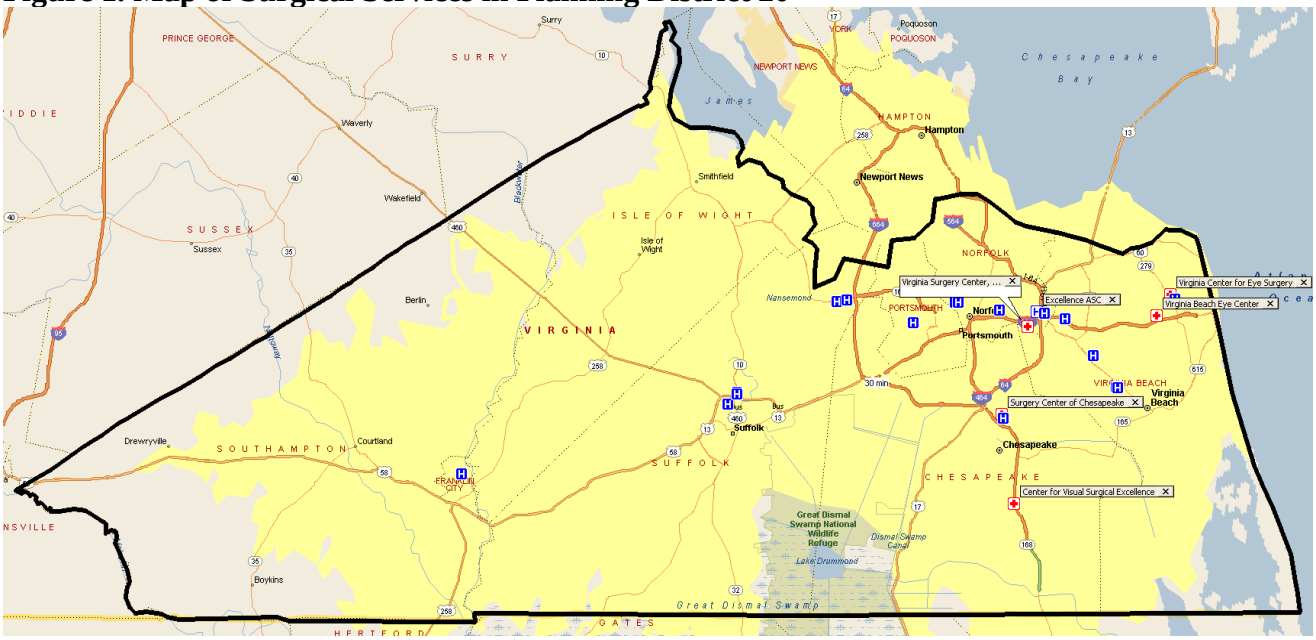
Part V of the SMFP contains criteria and standards for the addition of operating rooms. They are as follows:

**Part V**
**General Surgical Services**

**12VAC5-230-490. Travel time.**
**Surgical services should be available within 30 minutes driving time one way under normal conditions of 95% of the population of the health planning district using mapping software as determined by the commissioner.**

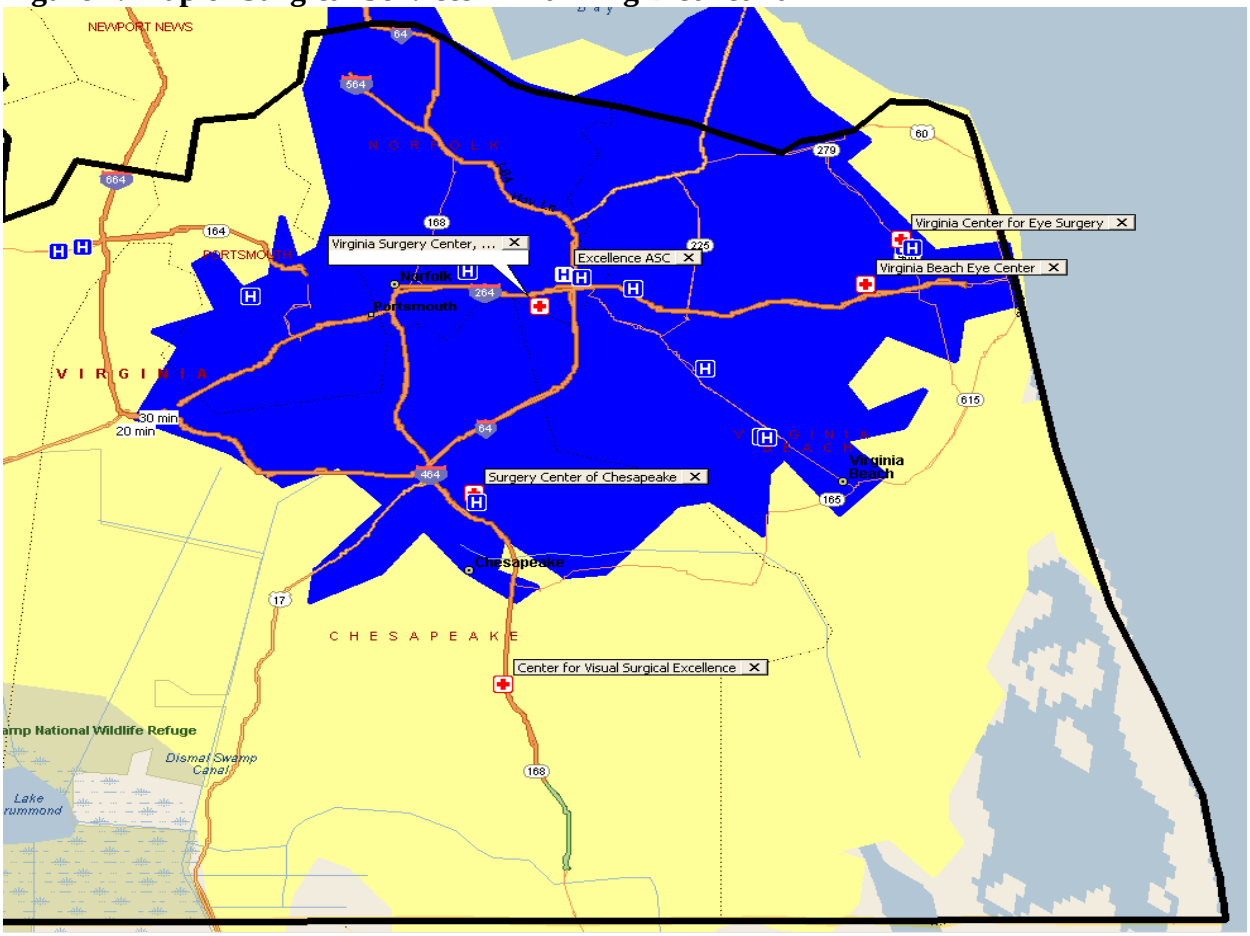
The heavy black line in **Figure 1** is the boundary of PD 20. The blue "H" signs mark the locations of the COPN approved surgical services. The white "H" sign marks the location of EASC. The red "+" signs mark the locations of the COPN approved ophthalmic-specific surgical services. The shaded area includes all locations that are within 30 minutes driving time one way under normal conditions of surgical services in PD 20. Based on the shading in **Figure** 1, it appears that surgical services are available within 30 minutes driving time one-way under normal traffic conditions of 95% of the population of PD 20. Consequently, approval of the proposed project will not significantly improve the geographical distribution or driving time access to surgical services for the residents of PD 20.

**Figure 1. Map of Surgical Services in Planning District 20**



The heavy black line in **Figure 2** is the boundary of PD 20. The white "H" sign marks the location of EASC. The red "+" signs mark the locations of the COPN approved ophthalmic-specific surgical services. The yellow shaded area includes all locations that are within 30 minutes driving time one way under normal conditions of surgical services in PD 20. The blue shaded area includes all locations that are within 20 minutes driving time one way under normal conditions of the proposed EASC site. Based on the shading in **Figure 2**, it appears that ophthalmic surgical services are available at no fewer than four locations within 20 minutes driving time one-way under normal traffic conditions of the proposed EASC site. Consequently, approval of the proposed project will not significantly improve the geographical distribution or driving time access to ophthalmic-specific surgical services for the residents of PD 20.

**Figure 2. Map of Surgical Services in Planning District 20**



**12VAC5-230-500. Need for new service.**

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

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

**Where:**

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

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

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

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

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

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

This standard is used to assess whether there is currently a need or excess of GPORs in PD 20. The preceding formula can also be used to determine the overall need for GPORs within PD 20 five years from the current year, i.e., in the year 2027. Based on operating room utilization submitted to and complied by VHI, for the five-year period from 2016-2020, which is the most recent five-year period for which relevant data is available, the total number of reported inpatient and outpatient GPOR visits to hospital-based and ambulatory surgical centers are shown below in **Table 7**.

**Table 7. Inpatient & Outpatient GPOR Visits in PD 20: 2016-2020**

| Year | Total Inpatient & Outpatient Operating Room Visits |
|---|---|
| 2016 | 113,155 |
| 2017 | 113,080 |
| 2018 | 113,402 |
| 2019 | 112,617 |
| 2020 | 103,330 |
| **Total** | **555,584** |
| **Average** | **111,117** |

**Source**: VHI (2016-2020)

Based on actual population counts derived as a result of the U.S. Census and population projections as complied by Weldon Cooper, **Table 8** presents the population estimates for PD 20 for the five years from 2016 to 2020 and the projected population estimate for 2027.

**Table 8. PD 20 Population 2016-2020 & 2027**

| Year | Population |
|---|---|
| 2016 | 1,177,214 |
| 2017 | 1,183,747 |
| 2018 | 1,190,659 |
| 2019 | 1,197,962 |
| 2020 | 1,205,664 |
| **Total** | **5,955,245** |
| **Average** | **1,191,049** |
| **2027** | **1,237,962** |

**Source**: Weldon Cooper

The cumulative total population of PD 20 for the same historical five-year period as referenced above, 2016-2020, was 5,955,245, while the population of PD 20 in the year 2027 (PROPOP – five years from the current year) is projected to be 1,237,962. These figures are necessary for the application of the preceding formula, as follows:

| ORV ÷ | POP = | CSUR |
|---|---|---|
| Total PD 20 GPOR Visits 2016 to 2020 | PD 20 Historical Population 2016 to 2020: | Calculated GPOR Use Rate 2016 to 2020: |
| **555,584** | **5,955,245** | **0.0932** |

| CSUR X | PROPOP = | PORV |
|---|---|---|
| Calculated GPOR Use Rate 2016 to 2020 | PD 20 Projected Population 2027 | Projected GPOR Visits 2027: |
| **0.0932** | **1,235,886** | **115,299** |

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

According to VHI data from 2020, the most recent year for which such data is available, there were 103,330 inpatient and outpatient operating room hours for that year (**Table 9**). AHORV = 190,653 total inpatient and outpatient operating room hours reported to VHI for 2020, divided by 103,330 total inpatient and outpatient operating room visits reported to VHI for that same year.

**AHORV = 1.8451**

**Table 9. 2020 PD 20 General Purpose Operating Room Utilization**

| Acute Care Hospital | Number of Operating Rooms | Inpatient OR Hours | Outpatient OR Hours | Total Hours | Hours per OR | OR Utilization |
|---|---|---|---|---|---|---|
| Bon Secours DePaul Medical Center | 10 | 1,543 | 2,166 | 3,709 | 371 | 23.2% |
| Bon Secours Maryview Medical Center | 9 | 3,287 | 3,573 | 6,860 | 762 | 47.6% |
| Bon Secours Southampton Memorial Hospital | 5 | 778 | 1,143 | 1,921 | 384 | 24.0% |
| Chesapeake Regional Medical Center | 15 | 6,654 | 11,565 | 18,219 | 1,215 | 75.9% |
| Children's Hospital of The King's Daughters | 10 | 3,912 | 8,698 | 12,610 | 1,261 | 78.8% |
| Sentara Leigh Hospital | 17 | 10,493 | 12,666 | 23,159 | 1,362 | 85.1% |
| Sentara Norfolk General Hospital | 25 | 22,991 | 15,323 | 38,314 | 1,533 | 95.8% |
| Sentara Obici Hospital | 5 | 4,138 | 5,917 | 10,055 | 2,011 | 125.7% |
| Sentara Princess Anne Hospital | 10 | 6,861 | 8,152 | 15,013 | 1,501 | 93.8% |
| Sentara Virginia Beach General Hospital | 10 | 9,398 | 9,022 | 18,420 | 1,842 | 115.1% |
| **TOTAL** | **116** | **70,055** | **78,225** | **148,280** | **1,278** | **79.9%** |
| **Outpatient Surgical Hospital** | | | | | | |
| Bayview Medical Center, Inc | 2 | 0 | 928 | 928 | 464 | 29.0% |
| Bon Secours Surgery Center at Harbour View | 6 | 0 | 3,693 | 3,693 | 616 | 38.5% |
| Bon Secours Surgery Center at Virginia Beach | 2 | 0 | 3,120 | 3,120 | 1,560 | 97.5% |
| CHKD Health & Surgery Center (Virginia Beach) | 3 | 0 | 3,093 | 3,093 | 1,031 | 64.4% |
| Princess Anne Ambulatory Surgery Center | 2 | 0 | 3,690 | 3,690 | 1,845 | 115.3% |
| Sentara BelleHarbour Ambulatory Surgery Center | 2 | 0 | 266 | 266 | 133 | 8.3% |
| Sentara Leigh - Ambulatory Surgery | 6 | 0 | 6,963 | 6,963 | 1,161 | 72.5% |
| Sentara Obici Ambulatory Surgery LLC | 2 | 0 | 3,757 | 3,757 | 1,879 | 117.4% |
| Sentara Virginia Beach Ambulatory Surgery Center | 4 | 0 | 4,836 | 4,836 | 1,209 | 75.6% |
| Surgery Center of Chesapeake* | 4 | 0 | 4,301 | 4,301 | 1,075 | 67.2% |
| Virginia Beach Eye Center** | 1 | 0 | 732 | 732 | 366 | 45.7% |
| Virginia Center for Eye Surgery*** | 2 | 0 | 2,496 | 2,496 | 1,248 | 78.0% |
| Virginia Surgery Center, LLC**** | 2 | 0 | 4,498 | 4,498 | 2,249 | 140.6% |
| **TOTAL** | **38** | **0** | **42,373** | **42,373** | **1,086** | **67.9%** |
| **GRAND TOTAL and Average** | **154** | **70,055** | **120,598** | **190,653** | **1,230** | **76.9%** |

**Source:** VHI (2020)

*Surgery Center of Chesapeake is authorized for two operating rooms dedicated to ophthalmic surgery.

**Virginia Beach Eye Center is authorized for one operating room dedicated to ophthalmic surgery. It is unclear why the VHI data for 2020 reflects two operating rooms.

***Virginia Center for Eye Surgery is authorized for two operating rooms dedicated to ophthalmic surgery.

****Virginia Surgery Center, LLC is authorized for four operating rooms dedicated to ophthalmic surgery. Two operating rooms recently authorized via COPN No. VA-04708.

*****Center for Visual Surgical Excellence's one operating room dedicated to ophthalmic surgery came online in January of 2020, but is not reflected in the VHI data.

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

$$\text{FOR} = \frac{((555{,}584 / 5{,}955{,}245) \times (1{,}235{,}886)) \times 1.8451}{1600}$$

**FOR = 212,739 / 1600**

**FOR = 132.9 (133) General Purpose Operating Rooms Needed in PD 20 in 2027**

**Current PD 20 GPOR Inventory: 160 (Table 1)**
**Current PD 20 GPOR Inventory excluding cardiac ORs: 151 (Table 1)**

**Net Surplus: 18 GPORs for 2027 Planning Year**

As shown above, DCOPN has calculated a surplus of 18 GPORs in PD 20 for the 2027 planning year. If approved, the proposed project would increase this surplus by two GPORs. Furthermore, DCOPN notes that the 154 PD 20 GPORs in operation in 2020 operated at a collective utilization of 76.9%. DCOPN notes that the utilization of surgical services was significantly lower in 2020 than in 2019, where the utilization average for PD 20 was 98.1%. This decrease in utilization is also reflected in the number of total operating room hours, where the number of operating room hours fell from 213,359 hours in 2019 to 120,598 hours in 2020. Clearly, the impact of COVID-19, including the suspension of elective surgical procedures, had a significant impact on the utilization of these services in 2020. However, with that said, recent DCOPN analysis of surgical services data for planning year 2026, which does not include 2020 utilization data, projected a need for 142 GPORs[2], which would still amount to a surplus of 9 GPORs, which would still make the proposed project to add an additional two operating rooms to the PD 20 inventory ill advisable.

While the analysis above focuses on the need for overall general purpose operating rooms, the forthcoming analysis will evaluate the specific need for ophthalmic surgical services. As demonstrated by **Table 10** below, the utilization of ophthalmic surgical services in 2020 was considerably higher in terms of the average for the entirety of PD 20. However, a closer analysis demonstrates that the vast majority of these procedures were performed in one single facility – Virginia Surgery Center, LLC. It is notable that Virginia Surgery Center, LLC has subsequently received authorization to relocate its outpatient surgical hospital with its two existing operating rooms, as well as an additional two operating rooms dedicated to ophthalmic surgery. In total, since the 2020 surgical data was collected, the number of ophthalmic restricted operating rooms has doubled from five to ten – all of which exist in an outpatient surgical hospital setting.

[2] DCOPN Staff Report VA-8572 & VA-8573, October 19, 2021.

**Table 10. 2020 PD 20 Ophthalmic Restricted Operating Room Utilization**

| Facility | Number of Operating Rooms | Total Hours | Hours per OR | OR Utilization |
|---|---|---|---|---|
| Virginia Beach Eye Center | 1 | 732 | 732 | 45.8% |
| Virginia Center for Eye Surgery | 2 | 2,496 | 1,248 | 78.0% |
| Virginia Surgery Center, LLC | 2 | 4,498 | 2,249 | 140.6% |
| **TOTAL and Average** | **5** | **7,726** | **1,545** | **96.6%** |

**Source:** VHI (2020)
*Surgery Center of Chesapeake is authorized for two operating rooms dedicated to ophthalmic surgery, however, DCOPN was unable to assess the utilization of these two specific operating rooms because they are all reported together to VHI.

As demonstrated by **Table 11** below, the overall utilization of ophthalmic surgical services was considerably lower in 2019. The one glaring commonality between the two years is the consistently high utilization of services at Virginia Surgery Center, LLC. However, it must also be pointed out, though it is unclear why, no data was published for the Virginia Center for Eye Surgery.

**Table 11. 2019 PD 20 Ophthalmic Restricted Operating Room Utilization**

| Facility | Number of Operating Rooms | Total Hours | Hours per OR | OR Utilization |
|---|---|---|---|---|
| Virginia Beach Eye Center | 1 | 433 | 433 | 27.1% |
| Virginia Surgery Center, LLC | 2 | 3,043 | 1,522 | 95.1% |
| **TOTAL and Average** | **3** | **3,476** | **1,159** | **72.4%** |

**Source:** VHI (2019)

**Table 12** below shows the reported 2019 utilization as well as the inclusion of Virginia Center for Eye Surgery, whose numbers have been calculated by DCOPN as proxies, are an average of what the facility reported to VHI in 2018 and 2020.

**Table 12. 2019* PD 20 Ophthalmic Restricted Operating Room Utilization**

| Facility | Number of Operating Rooms | Total Hours | Hours per OR | OR Utilization |
|---|---|---|---|---|
| Virginia Beach Eye Center | 1 | 433 | 433 | 27.1% |
| Virginia Center for Eye Surgery* | 2 | 3,099 | 1,550 | 96.8% |
| Virginia Surgery Center, LLC | 2 | 3,043 | 1,522 | 95.1% |
| **TOTAL and Average** | **5** | **6,575** | **1,315** | **82.2%** |

**Source:** VHI (2018, 2019 & 2020)

Ultimately, despite the 2019 and 2020 data demonstrating a trend of increasing need for ophthalmic surgical services, it nonetheless remains ill advisable to recommend approval of the proposed project. Firstly, the applicant does not meet the threshold for a new service site pursuant to 12VAC5-230-500, as there is a projected surplus of 18 GPORs for the year 2027 in PD 20. Moreover, despite the apparent rising need for ophthalmic surgical services in PD 20, with the inventory of these restricted operating rooms effectively doubling since 2020, it is unlikely that the demand for these services has kept pace with the supply. The applicant has argued that a new surgical procedure recently approved by the FDA will greatly increase the demand for surgical capacity. The procedure is for the treatment of "wet" age-related macular degeneration, a disease that impacts approximately 20 million people worldwide and is a leading cause of blindness in

people over the age of 60. However, considering that the existing utilization data demonstrates that the current need is being met, to say nothing of 2026 and 2027 projections, in addition to the existence of approved ophthalmic-specific operating rooms that have yet to come online, it is arguable that the applicant's perception of a need is premature. It is also notable that, as has been discussed, the applicant currently has the ability to perform these surgeries at BSSCVB, and they can be performed generally, at any of the existing ophthalmic surgical providers in PD 20.

**Table 13. Distance to EASC**

| Facility | Minutes | Miles | Number of Ophthalmic ORs |
|---|---|---|---|
| Center for Visual Surgical Excellence | 23 | 18.4 | 1 |
| Surgery Center of Chesapeake | 16 | 9 | 2 |
| Virginia Beach Eye Center | 19 | 9.6 | 1 |
| Virginia Center for Eye Surgery | 23 | 11.9 | 2 |
| Virginia Surgery Center, LLC | 3 | 1.8 | 4 |
| **Average** | **16.8** | **10.1** | |

**Source:** Mapquest

Finally, as demonstrated by **Table 13** above, it is difficult to justify the project based on geographic access to ophthalmic surgical services. For example, there are currently (depending on the source) no fewer than three facilities, consisting of seven ophthalmic-restricted operating rooms, within a 20 minute drive of the proposed EASC site. Most notably, Virginia Surgery Center, LLC, the most utilized provider of ophthalmic surgical services in PD 20, is a mere three minute drive away from the proposed EASC site.

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

Not applicable. The applicant is not seeking approval to relocate an existing operating room.

**12VAC5-230-510. Staffing.**
**Surgical services should be under the direction or supervision of one or more qualified physicians.**

The applicant has provided assurances that surgical services will be under the direction or supervision of one or more qualified physicians.

## Eight Required Considerations Continued

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

As shown in **Table 1**, there are currently 15 outpatient surgical hospitals in PD 20, comprising of 45 GPORs, ten of which are dedicated to ophthalmic surgical procedures. Moreover, as demonstrated by **Table 13**, there are currently no fewer than three facilities, consisting of seven ophthalmic-restricted operating rooms, within a 20 minute drive of the proposed EASC site. Most notably, Virginia Surgery Center, LLC, the most utilized provider of ophthalmic surgical services in PD 20, is a mere three minute drive away from the proposed EASC site. As pointed out in BSSCVB's letter of opposition, despite the applicant's emphasis on ocular oncology as a justification for approval, based on the applicant's own projections, the vast majority of the projected surgeries that are to be performed at EASC are of the variety that are currently being performed at other existing providers within PD 20. Therefore, DCOPN concludes that approval of the proposed project may introduce institutional competition, but likely to the detriment of already established providers in the area to be served.

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

The applicant is not part of an existing health system. A review of the surgical utilization of PD 20 facilities in 2020 demonstrates that capacity exists within the current inventory to accommodate current public need. Furthermore, as previously discussed, DCOPN has calculated a net surplus of 18 GPORs in PD 20 for the 2027 planning year. If approved, the proposed project would increase this surplus by two GPORs. For these reasons, DCOPN contends that approval of the proposed project is less advantageous than the status quo.

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

The Pro Forma Income Statement provided by the applicant projects a net profit of $320,018 by the end of the first year of operation and a net profit of $780,011 by year 2, indicating that the proposed project is financially feasible both in the immediate and in the long-term. The Pro Forma also includes a line item for charity care, which calculates to 6% of the applicant's projected gross patient revenue. The projected capital costs of the proposed project are $8,289,491, approximately 26.8% of which are attributed to direct construction costs (**Table 2**). Capital costs will be funded through a combination of commercial loans and the accumulated reserves of the applicant. As already discussed, DCOPN maintains that costs for the proposed project are significant but consistent with previously approved projects similar in clinical scope.

The applicant anticipates the need to hire 11 full time equivalent employees to staff the proposed project. DCOPN maintains that the applicant will not have difficulty filling the required positions or that doing so will have a significant negative impact on existing providers of surgical services.

**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 ay be appropriate; and**

DCOPN contends that approval of the proposed project would not provide any significant improvement or innovations in the financing and delivery of health care services in the area to be served. While the proposed project would add to the number of outpatient operating rooms providing ophthalmic surgical services, there is no demonstrated need for additional capacity.

**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.**

EASC intends to provide "bandwidth" of operating room access and teaching facilities for both Eastern Virginia Medical School's Department of Ophthalmology, as well as Norfolk State University's School of Health Sciences for clinical rotations and skills transfer. EASC has indicated that ocular operations and education will be provided in an environment that will meet and/or exceed national industry standards. EASC will provide full perioperative services to support safe and secure patient care and excellence in the patient's experience.

## DCOPN Staff Findings and Conclusions

DCOPN finds that the proposed project to establish an outpatient surgical hospital with two operating rooms limited to vitreoretinal and ophthalmic surgery is generally inconsistent with the applicable criteria and standards of the State Medical Facilities Plan and the eight Required Considerations of the Code of Virginia. According to DCOPN records, there are 160 general purpose operating rooms (GPORs) located in PD 20. Of these 160 GPORs, 115 are located within acute care hospitals, and 45 are located within outpatient surgical hospitals (**Table 1**). As discussed, DCOPN has calculated a surplus of 18 GPORs in PD 20 for the 2027 planning year. If approved, the proposed project would increase this surplus by two GPORs. In 2020, the most recent year for which utilization data is available, surgical service providers in PD 20 operated at a collective utilization rate of 76.9%.

Moreover, as it pertains to the specific need for ophthalmic surgical services, despite the apparent rising need for ophthalmic surgical services in PD 20, with the inventory of these restricted operating rooms effectively doubling since 2020 from five to ten, it is unlikely that the demand for these services has kept pace with the supply. As it pertains to geographic access to ophthalmic surgical services, there are currently no fewer than three facilities, consisting of seven ophthalmic-restricted operating rooms, within a 20 minute drive of the proposed EASC site. Most notably,

Virginia Surgery Center, LLC, the most utilized provider of ophthalmic surgical services in PD 20, is a mere three minute drive away from the proposed EASC site.

As discussed, there is a reasonable alternative to the proposed project, namely, having the doctors of WMRC continue to perform their surgeries at BSSCVB. Additionally, as BSSCVB points out, despite the applicant's emphasis on ocular oncology as a justification for approval, based on the applicant's own projections, the vast majority of the projected surgeries that are to be performed at EASC are of the variety that are currently being performed at other existing providers within PD 20, of which, based on both the 2026 and 2027 projects, there is a surplus. Consequently, were the proposed project to be approved, it is exceedingly likely to have a negative effect on existing providers, particularly providers of ophthalmic surgical services, and is therefore not advisable.

## DCOPN Staff Recommendation

The Division of Certificate of Public Need recommends **denial** of Excellence ASC, LLC's request to establish an outpatient surgical hospital with two operating rooms limited to vitreoretinal and ophthalmic surgery for the following reasons:

1. The proposed project is inconsistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia

2. There is an existing surplus of operating rooms in PD 20.

3. The status quo is a preferable alternative to the proposed project.

4. There is known opposition to the proposed project.