

VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis

May 19, 2022

COPN Request No. VA-8615

Virginia Commonwealth University Health System Authority
Richmond, Virginia

Add four operating rooms dedicated to pediatric care at VCU Medical Center

COPN Request No. VA-8616

Virginia ENT Surgery Center, Inc.
Richmond, Virginia

Establish an outpatient surgical hospital with one operating room

COPN Request No. VA-8622

Chippenham Ambulatory Surgery Center, LLC
Richmond, Virginia

Add one operating room

Applicants

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority

The Virginia Commonwealth University Health Systems Authority (VCUHS), doing business as VCU Medical Center, is a public body corporate and political subdivision of the Commonwealth of Virginia, governed by the Virginia Commonwealth University Health System Authority Act of 1996-Title 23, Chapter 6.2, 23-50.16:1 of the Code of Virginia. Subsidiaries of the applicant include MCV Associated Physicians, Community Memorial Hospital, University Health Services, Inc., Virginia Premier Health Plan, Inc., Rehab JV, LLC, and Virginia Children's Care Network, LLC. VCUHS is located in Planning District (PD) 15, Health Planning Region (HPR) IV.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

Virginia ENT Surgery Center, Inc. (VENTSC) is a physician-owned, Virginia stock corporation formed in 2018. All of VENTSC's owners are physicians who are members of Virginia, Ear, Nose & Throat Associates, P.C. (VA ENT). VENTSC does not have any subsidiaries. The proposed project would be located in Richmond, Virginia in HPR IV, PD 15.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center

Chippenham Ambulatory Surgery Center, LLC (CASC) is a Virginia Limited Liability Company organized in 2009. Surgicare of Richmond, LLC, an HCA affiliate, owns 51% and OrthoVirginia owns 49% of CASC. CASC does not have any subsidiaries. CASC operates Boulders Ambulatory Surgery Center (Boulders), which is located in Richmond, Virginia in HPR IV, PD 15.

Background

According to Division of Certificate of Public Need (DCOPN) records, there are 188 general purpose operating rooms (GPORs) located in PD 15, 140 GPORs are within acute care hospitals, and 48 GPORs are within outpatient surgical hospitals (OSH) (Table 1).

Table 1: PD 15 COPN Authorized GPOR Inventory

Acute Care Hospital	Operating Rooms
Bon Secours Memorial Regional Medical Center	7
Bon Secours Richmond Community Hospital	3
Bon Secours St. Francis Medical Center	13
Bon Secours St. Mary's Hospital	21
Chippenham Hospital	10
Henrico Doctor's Hospital - Parham	11
Henrico Doctor's Hospital - Retreat	5
Henrico Doctors' Hospital - Forest	21
Johnston-Willis Hospital	16
VCU Health System	33
West Creek Medical Center, Inc.	4 ¹
Total GPORs in Acute Care Hospitals	140
Outpatient Surgical Hospital	
American Access Care of Richmond	2
Bon Secours Memorial Ambulatory Surgical Center	5
Boulders Ambulatory Surgery Center	3
Cataract and Refractive Surgery Center	1
Colon & Rectal Endoscopy Specialists & Surgery Center, LLC	1
Skin Surgery Center of Virginia	2
St. Mary's Ambulatory Surgery Center	4
MEDARVA Stony Point Surgery Center	6
MEDARVA Surgery Center at West Creek	2
Urosurgical Center of Richmond	3
VSA Vascular Center	2
VCU Health Courthouse Landing Pavilion	4
VCU NOW Center	6
VCU Medical Center-Pediatric Outpatient Surgery	2
Virginia Eye Institute	5
Total GPORs in Outpatient Surgical Hospitals	48
GPORs in PD 15	188

Source: DCOPN Records

¹ COPN No. VA-04179 authorized the establishment of West Creek Medical Center with four operating rooms to be opened concurrent with delicensure and closure of four operating rooms located in PD 15 at other HCA facilities. West Creek Medical Center's GPOR total is not included in the overall totals in Table 1.

Proposed Projects

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority
 VCUHS proposes to expand its surgical services by adding four GPORs to the Children’s Tower’s two existing pediatric focused-GPORs. Specifically, the proposed GPORs will be located on the second floor that combines the Children’s Tower and Children’s Hospital of Richmond (CHoR) Pavilion, co-located with the pediatric emergency department one level above, and with direct access to the patient transport elevators that go directly to the pediatric helipad. If the State Health Commissioner (Commissioner) approves the proposed project, VCUHS will have a resulting inventory of 37 GPORS on the downtown campus, six of which will be exclusively dedicated to pediatric care.

The projected capital costs of the proposed project total \$18,397,053, approximately 60% of which represent direct construction costs. The entirety of the capital costs will be funded using the accumulated reserves of the applicant (**Table 2**). Accordingly, there are no financing costs associated with this project.

Table 2. VCUHS Projected Capital Costs

Direct Construction Costs	\$11,067,891
Equipment Not Included in Construction Contract	\$6,357,792
Site Acquisition Costs	\$0
Site Preparation Costs	\$0
Architectural and Engineering Fees	\$822,186
Other Consultant Fees	\$149,184
Total Capital Costs	\$18,397,053

Source: COPN Request No. VA-8615

Construction on the Children’s Tower² building began on March 15, 2019 and is expected to be completed by November 7, 2022. The applicant anticipates an opening date in April 2023.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

VENTSC proposes to establish an OSH with one operating room, limited to ear, nose and throat (ENT) procedures. VENTSC’s current operatory was established in 2018 with two procedure rooms and support space. The applicant explains that VENTSC’s operatory was built to meet the same modern construction and design specifications of licensed and accredited OSHs. The applicant further explains that it is seeking COPN approval to establish an OSH because government payors, including Medicare, Medicaid and TRICARE, impose reimbursement restrictions on surgical services performed in a physician office-based operatory. Even if services could be performed more efficiently within VENTSC, many patients must be seen at other local OSHs or hospitals because of these payor restrictions. Licensure of VENTSC as an OSH would allow VA ENT physicians to provide the benefits of a specialized surgical setting to any VA ENT patient appropriate for outpatient surgery, regardless of payment source.

² COPN No. VA-04302, dated August 15, 2011, authorized the establishment of the Children’s Hospital of Richmond Pavilion, an outpatient facility with two operating rooms.

The projected capital costs of the proposed project total \$5,047,087, the entirety of which represent lease expenses, and will be funded using the operating revenue of the applicant (**Table 3**). Accordingly, there are no financing costs associated with this project.

Table 3. VENTSC Projected Capital Costs

Direct Construction	\$0
Equipment Not Included in Construction Contract	\$0
Site Acquisition Costs	\$5,047,087
Site Preparation Costs	\$0
Architectural and Engineering Fees	\$0
Other Consultant Fees	\$0
Total Capital Costs	\$5,047,087

Source: COPN Request No. VA-8616

No construction is required for the proposed project. The applicant anticipates an opening date three months after COPN approval.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

CASC has expressed an institutional need to expand surgical services at Boulders by adding one GPOR. If the proposed project is approved, Boulders will have a total complement of four GPORs. The proposed expansion will be accomplished through the conversion of a medical equipment room to a GPOR.

The projected capital costs of the proposed project total \$1,509,700, approximately 50% of which represent direct construction costs (**Table 4**). The applicant anticipates using conventional mortgage loan financing for the proposed project.

Table 4. CASC Projected Capital Costs

Direct Construction	\$760,655
Equipment Not Included in Construction Contract	\$193,540
Site Acquisition Costs	\$178,550
Site Preparation Costs	\$0
Architectural and Engineering Fees	\$111,726
Conventional Loan Financing	\$265,229
Total Capital Costs	\$1,509,700

Source: COPN Request No. VA-8622

Construction for the proposed project is expected to begin in October 2022 and to be completed in July 2023. The applicant anticipates an opening date in August 2023.

Project Definitions

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority §32.1-102.1:3 of the Code of Virginia (the Code) defines a project, in part, as “An increase in the total number of...operating rooms in an existing medical care facility described in subsection A.”

Medical care facilities are further defined, in part, as “Any facility licensed as a hospital, as defined in § 32.1-123.”

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

§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 includes “[a]ny facility licensed as a hospital, as defined in Section 32.1 – 123.”

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

§32.1-102.1:3 of the Code of Virginia (the Code) defines a project, in part, as “An increase in the total number of...operating rooms in an existing medical care facility described in subsection A.” A medical care facility includes “[a]ny facility licensed as a hospital, as defined in Section 32.1 – 123.”

The Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations at 12VAC5-220-220 requires that applications for the same or similar services which are proposed for the same planning district shall be considered as competing applications. As all three COPN requests involve surgical services in PD 15, they are deemed to be competing requests.

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

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

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

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

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

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

Locality	2010 - 2020				2020 - 2030		
	2010	2020	% Change	Avg Ann % Change	2030	% Change	Avg Ann % Change
Charles City	7,256	6,982	-3.78%	-1.51%	6,941	-0.59%	0.06%
Chesterfield	316,236	353,841	11.89%	1.10%	396,647	12.10%	1.15%
Goochland	21,717	23,547	8.43%	0.79%	26,702	13.40%	1.27%
Hanover	99,863	109,244	9.39%	0.88%	119,360	9.26%	0.89%
Henrico	306,935	332,103	8.20%	0.77%	363,259	9.38%	0.90%
New Kent	18,429	23,474	27.38%	2.39%	28,104	19.72%	1.82%
Powhatan	28,046	29,909	6.64%	0.63%	33,440	11.81%	1.12%
Richmond city	204,214	232,533	13.87%	1.28%	245,483	5.57%	0.54%
Total PD 15	1,002,696	1,111,633	10.86%	1.01%	1,219,936	9.74%	0.93%
PD 15 65+	116,609	172,249	47.72%	3.88%	224,417	30.29%	2.68%
Virginia	8,001,024	8,655,021	8.17%	0.77%	9,331,666	7.82%	0.76%
Virginia 65+	976,937	1,352,448	38.44%	3.22%	1,723,382	27.43%	2.45%

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

According to regional and statewide data regularly collected by Virginia Health Information (VHI), for 2020, the most recent year for which such data is available, the average amount of charity care provided by HPR IV facilities was 1.3% of all reported total gross patient revenues (Table 6).

Table 6. HPR IV 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
Bon Secours St. Francis Medical Center	\$909,600,664	\$28,930,399	3.18%
Bon Secours Richmond Community Hospital	\$916,350,189	\$28,612,659	3.12%
Bon Secours St. Mary's Hospital	\$2,028,786,995	\$51,459,409	2.54%
Bon Secours Memorial Regional Medical Center	\$1,425,167,696	\$28,386,279	1.99%
Centra Southside Community Hospital	\$324,125,273	\$5,447,210	1.68%
Sentara Halifax Regional Hospital	\$279,469,170	\$3,668,115	1.31%
CJW Medical Center	\$7,560,037,769	\$86,592,596	1.15%
VCU Health System	\$6,172,966,084	\$69,698,687	1.13%
John Randolph Medical Center	\$1,032,491,952	\$10,903,791	1.06%
Henrico Doctors' Hospital	\$4,859,466,138	\$51,444,601	1.06%
VCU Community Memorial Hospital	\$317,168,977	\$1,932,837	0.61%
Bon Secours Southern Virginia Regional Medical Center	\$183,898,466	\$1,059,319	0.58%
Bon Secours Southside Regional Medical Center	\$1,875,804,250	\$5,837,542	0.31%
Vibra Hospital of Richmond LLC	\$145,408,947	\$0	0.00%
Cumberland Hospital for Children and Adolescents	\$54,279,874	\$0	0.00%
Total Facilities			15
Median			1.1%
Total \$ & Mean %	\$28,085,022,444	\$373,973,444	1.3%

Source: VHI (2020)

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority
Geographically, VCU Medical Center is located at 1000 East Broad Street, Richmond, Virginia, in close proximity to Interstates 95 and 64. Additionally, the VCU Medical Center campus is served by public transportation, including the GRTC Pulse system – a modern high quality, high-capacity rapid transit system that serves a 7.6-mile route along Broad Street and Main Street, two major thoroughfares in the city of Richmond. There is a Pulse station on the same block as the Children’s Tower, at its Broad Street entrance.

Regarding socioeconomic barriers to access to the applicant’s services, 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 IV facilities was 1.3% of all reported total gross patient revenues (**Table 6**). For that same year, VCUHS provided 1.13% of its gross patient revenue in charity care (**Table 6**). Pursuant to § 32.1-102.4B of the Code of Virginia DCOPN must now 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 0.1% to be derived from gross patient services revenue derived from pediatric surgical services in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia. 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.

DCOPN is not aware of any other distinct and unique geographic, socioeconomic, cultural, transportation, or other barriers to care that this project would address.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

Geographically, VENTSC is located near several major thoroughfares that transverse the Richmond area. The facility is located adjacent to the east and west bound access ramps for Interstate 64 off Broad Street and is located at the intersection of West Broad Street and Forest Avenue. For patients without access to private transportation, a Greater Richmond Transit Company bus stop is located 200 feet from the building. The area is also well served by a variety of taxi and ride sharing services.

Regarding socioeconomic barriers to access to the applicant’s services, 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 IV facilities was 1.3% of all reported total gross patient revenues (**Table 6**). As a proposed new OSH, VENTSC has no history of providing charity care. Pursuant to § 32.1–102.4 of the Code of Virginia, should the Commissioner approve the proposed project, VENTSC should be subject to a charity care condition no less than the 1.3% HPR IV average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia.

DCOPN is not aware of any other distinct and unique geographic, socioeconomic, cultural, transportation, or other barriers to care that this project would address.

³ COPN No. VA-04737

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

Geographically, Boulders is located immediately off Jahnke Road, which is a short distance from the Powhite Parkway and Chippenham Parkway. Boulders is also easily accessible from the Midlothian Turnpike. There is no public transportation to the facility, but ride sharing services can access the facility.

Regarding socioeconomic barriers to access to the applicant's services, 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 IV facilities was 1.3% of all reported total gross patient revenues (**Table 6**). Pursuant to § 32.1-102.4 of the Code of Virginia, should the Commissioner approve the proposed project, CASC should be subject to a charity care condition no less than the 1.3% HPR IV average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia.

DCOPN is not aware of any other distinct and unique geographic, socioeconomic, cultural, transportation, or other barriers to care that this project would address.

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

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

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority

DCOPN received 14 letters of support for the proposed project from members of the Richmond medical community, patients of VCUHS, Virginia State Senator Ghazala F. Hashmi, Delegate Delores L. McQuinn, Richmond Mayor Levar M. Stoney, Richmond City Councilwomen Cynthia Newbille, and Ellen F. Robertson. DCOPN also received a petition with 452 community member signatures and a petition with 231 provider signatures. Collectively, these letters articulate several benefits of the project, including:

- Over the past several years, VCUHS has cultivated a unique and specialized environment for pediatric patients. The health system's commitment to serving the area's youngest patients is evident in the state-of-the-art buildings dedicated purely to pediatric health and wellness that are operating or under construction on campus.
- These settings enable VCUHS to address the complex emotional and clinical needs of pediatric patients in child-friendly settings with pediatric-specific resources such as operating rooms, equipment, supplies, and personnel.
- To continue fulfilling its role as the region's trusted provider for complex pediatric care, including specialized and subspecialized surgical care, VCUHS needs sufficient capacity and resources.
- Access to high quality, affordable health care is a paramount interest— and in fact necessity — for all Richmonders.

- The surgical needs of children are often different and more complex than those of adults. VCUHS is an established, trusted provider of pediatric surgical services in Central Virginia and is intimately familiar with the complexities of pediatric care.
- All four GPORs will be equipped and operated to address inpatient, outpatient, and emergent surgical services and will be co-located with complementary ancillary and support services for children and families.

DCOPN received one letter of opposition from Bon Secours Richmond Health System (Bon Secours' Opposition Letter), dated April 25, 2022. The Bon Secours Opposition Letter discussed:

- Whether the SMFP needs analysis for ORs in PD 15 is calculated based on 2015-2019 data or 2016-2020 data, there remains a surplus of approximately 9-10 ORs, including newly approved but not operational capacity. Clearly, there is no public need for additional surgical capacity in PD15.
- Even with the addition of its twelve new ORs, VCUHS alleges its 2021 utilization is at 106% of the SMFP standard.
- A careful examination of 2020 VHI data reveals that VCUHS' turnaround time (TAT) for its general and trauma ORs is significantly higher than the PD 15 average. Overall, in 2020, with 23,975 cases and 31,904 TAT hours for these cases, VCUHS averaged 1.33 TAT hours per case, which is more than double the PD average. This incredibly high TAT is driving the appearance that VCUHS' ORs are overutilized.
- It is premature for VCUHS to ask for four more ORs based on the same institutional need argument that it has been using for four years before it addresses its inefficiencies and operationalizes all of the approved ORs intended to decant the Main Hospital. Instead, a more reasonable and efficient alternative is for VCUHS to relocate four ORs from the Main Hospital to CHoR. These ORs are currently serving VCUHS' pediatric population and can continue to do so through an inventory neutral relocation to CHoR.
- Pediatric surgeons employed by Medical College of Virginia Physicians (MCVP) frequently perform surgeries at St. Mary's Hospital (SMH). In each of 2020 and 2021, these surgeons performed 252 and 250 pediatric surgeries at SMH, respectively. If VCUHS is approved for four new ORs, these surgeons will likely be encouraged to perform their surgeries at CHoR instead of performing them at SMH. Losing these surgeries will not only have a severe financial impact, but it will jeopardize the sustainability of SMH's comprehensive pediatric program.

On May 11, 2022, VCUHS responded to the Bon Secours Opposition Letter. The VCUHS response discussed:

- VCUHS respectfully disagrees with Bon Secours' alleged concerns. Its letter is factually and legally misleading, unpersuasive, and at times wrong.

- The proposal addresses a quantitative need for more operating rooms so that VCUHS' capacity challenges do not worsen and so that pediatric patients who cannot or choose not to receive surgical services elsewhere can have timely access to lifesaving care. VCUHS' proposal also addresses a qualitative need to ensure pediatric surgical services are provided by the most proficient pediatric care teams.
- VCUHS acknowledges this surplus [in PD 15] and has explained in detail why none of the surplus ORs are capable of addressing the specialized needs of VCUHS' pediatric patients or VCUHS' institutional need for additional surgical capacity. Based on 2016-2020 VHI data, the calculated surplus appears to have declined to 3.2 ORs, or just 1.7% of authorized inventory. The Commissioner frequently has recognized that need for new ORs can exist despite a PD wide surplus.
- In short, Bon Secours' assertion that there is no public need for additional OR capacity in PD 15 based solely on the existence of a marginal surplus is legally incorrect, inconsistent with precedent approving capacity at Bon Secours' facilities, and inconsequential to VCUHS' proposal, which seeks an institutional need-based expansion of pediatric surgical services.
- Based on 2019 and 2020 VHI data, VCUHS operates the single busiest hospital surgical program in PD 15 (meaning it reports the highest hours and cases among PD 15 hospitals) and reports the highest percentage surgical utilization among the three major health systems in PD 15 (even accounting for not-yet-reported ORs). Further, at nearly 24,000 surgical cases in 2019 just on its downtown campus, VCUHS has the third highest case volumes of any facility in the state.
- That the Commissioner found that VCUHS had an institutional need for its first-ever off campus ASC, or another off-campus ASC to serve lower-acuity adult surgical outpatients, neither addresses nor eradicates VCUHS' institutional need here for more pediatric surgical capacity downtown. VCUHS' application materials are replete with evidence that supports VCUHS' continuing institutional need for more surgical capacity, and particularly pediatric capacity, notwithstanding prior approvals.
- VCUHS does not dispute that it has longer-than-average prep and clean-up times as compared to other PD 15 hospitals. This is for good reason – VCUHS treats higher acuity patients like trauma, transplant, burn, and gunshot wound patients, and provides more complex services than all other hospitals in PD 15.
- Incremental approvals have helped VCUHS address significant overutilization of its ORs, but data clearly show that VCUHS' surgical services continue to operate above capacity.
- In short, relocating four ORs from Main Hospital to the Children's Tower/CHoR Pavilion would almost immediately result in a backfill need for more ORs at Main Hospital. It defies sound health planning principles to knowingly relocate overutilized capacity that would trigger a backfill application – such an approach would unnecessarily burden state health planning resources, constitute an inefficient use of internal resources, and frustrate care delivery.

- Even accounting for all 43 approved ORs, VCUHS' 2021 utilization would have been 106% of the SMFP threshold.
- MCVP's pediatric surgeons currently provide surgical services at multiple community hospitals in PD 15, including, but not limited to, SMH. These community partnerships reflect VCUHS' long-standing commitment to ensuring access to high-quality pediatric surgical services in the region. This proposal furthers that commitment by ensuring that the region's only Level 1 Pediatric Trauma Center and Level 1 Children's Surgery Center has adequate capacity to address pediatric surgical needs, including higher acuity and more complex needs that are not, and cannot be, addressed elsewhere in PD 15.
- [The pediatric discharge data] reflects different and higher acuity services provided by VCUHS to its pediatric patients – services that have been, and will continue to be, provided downtown in the best interest of patient care.
- Pediatric payor mix is another key difference between the pediatric programs at VCUHS and SMH, indicating that any adverse impact to SMH will be greatly outweighed by financial access benefits (among many others) to the pediatric community. VCUHS' inpatient payor mix for pediatrics reflects a much higher percentage of Medicaid patients than at SMH based on 2021 VHHA inpatient data.

Public Hearing

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 Commissioner, the applicant, or a member of the public. COPN Request No. VA-8615 is competing with COPN Request Nos. VA-8616 & 8622 in this batch cycle. DCOPN conducted a public hearing on April 21, 2022 by teleconference. A total of 21 individuals attended the teleconference. Seven individuals spoke in support of the project. The project was presented by the applicant, who discussed:

- VCU Medical Center is a Level 1 pediatric trauma center – one of only a few on the east coast.
- In 2016, the CHoR opened. VCUHS plans to consolidate all pediatric services at CHoR.
- VCUHS asserts an institutional need to add four GPORs dedicated to pediatric care.
- VCUHS's GPORs operated at 143% in 2019, 136% in 2020 and 146% in 2021.
- The status quo is not a viable alternative. VCUHS' current complement cannot meet current and projected demand. Additionally, there are no GPORs available for reallocation.
- The need cannot be met by other facilities in the region. Patients come from all over the state for specialized and sub-specialized care.

- Centralizing pediatric services is beneficial to patients and their families. The proposed project will improve timely access to pediatric services and centralize the teams, which will allow for faster response times and more timely surgeries for pediatric patients. Pediatric surgeries need to be first thing in the morning for the patients' comfort.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

DCOPN received 37 letters of support for the proposed project from members of the VA ENT medical community, the Richmond Academy of Medicine, patients of VA ENT, business owners in the Richmond area, and Delegate Dawn M. Adams. Collectively, these letters articulate several benefits of the project, including:

- The high quality of surgical services offered by the physicians of VA ENT.
- VENTSC has been a proud partner of Access Now since 2008.
- Approval of the project would eliminate barriers based on payor source and allow even more patients to have access to the high-quality, specialized ear, nose and throat surgical services offered by VENTSC.
- Approval of the project would ensure that the benefits of specialized staff, equipment, and a center designed around ENT procedures are available to the community.
- The project is conveniently located on West Broad Street right next to the Interstate-64 ramps.
- VENTSC would be independent of large local health systems and would help ensure availability of lower cost outpatient surgical services and meaningful beneficial competition.

DCOPN did not receive any letters in opposition to the proposed project.

Public Hearing

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 Commissioner, the applicant, or a member of the public. COPN Request No. VA-8616 is competing with COPN Request Nos. VA-8615 & 8622 in this batch cycle. DCOPN conducted a public hearing on April 21, 2022 by teleconference. A total of 20 individuals attended the teleconference. Seven individuals spoke in support of the project. The project was presented by the applicant, who discussed:

- There are no construction costs or additional operating costs to convert the procedure room to a GPOR.
- The Commissioner has recognized the benefits of a specialized ASC in the past.

- Currently, the procedure location is determined by the patient’s payor source.
- The status quo is not the best option from quality of care and efficiency standpoint. A “patchwork” process hinders optimal patient care.
- Converting the procedure room to a GPOR allows for decreased case times, increased efficiency, enhanced patient safety and a specialty trained surgical team.
- Reducing the number of different facilities patients are exposed to adds infection control benefit.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

DCOPN received three letters of support for the proposed project from OrthoVirginia and the Richmond Academy of Medicine, Inc. Collectively, these letters articulate several benefits of the project, including:

- Boulders ASC is an invaluable partner in helping attain the goals of OrthoVirginia – to champion healthy, vibrant, active communities, one person at a time, and to set the standard of excellence for patient – centered, high – quality care.
- Utilization of the existing operating rooms at Boulders ASC is above capacity. 2021 operating hours were at 125% of the SMFP standard.
- Access Now, an agency of the Richmond Academy of Medicine, ensures free specialty medical care for those who have no health insurance since 2008. Boulders ASC provides consistently high – quality care and has been very accommodating in the scheduling of patients referred by Access Now.

DCOPN did not receive any letters in opposition to the proposed project.

Public Hearing

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 Commissioner, the applicant, or a member of the public. COPN Request No. VA-8622 is competing with COPN Request Nos. VA-8615 & 8616 in this batch cycle. DCOPN conducted a public hearing on April 21, 2022 by teleconference. A total of 14 individuals attended the teleconference. The project was presented by the applicant, who discussed:

- Boulders has an institutional need to add an additional GPOR.
- Boulders is exceeding the capacity of its three GPORs and cannot meet the needs of its patients.

- Boulders works with Access Now, an agency of the Richmond Academy of Medicine, which ensures free medical care for those who have no health insurance. Access Now is in support of Boulders' application.

(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;

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority
VCUHS has expressed an institutional need to expand its surgical services with four dedicated pediatric GPORs. As noted in **Table 12** below, for 2020, the most recent year for which VHI data is available, the existing 33 GPORs at VCU displayed 72,734 surgical hours and operated at a utilization rate of 137.8%, well above the SMFP threshold for expansion. Additionally, the applicant reports that in 2021 the 31 GPORs displayed operated at 146% utilization. In analyzing the potential need for the requested four GPORs at CHoR, DCOPN calculated that, even when adding the requested four GPORs, the six GPORs approved in COPN No. VA-04686 and the four GPORs approved in COPN No. VA-04757, the total hours for VCUHS in 2019 would still result in it operating at 96.7% of the SMFP threshold. In its letter of opposition, Bon Secours alleges, "A careful examination of 2020 VHI data reveals that VCUHS' TAT for its general and trauma ORs is significantly higher than the PD 15 average." In response, VCUHS acknowledges that it has higher than average prep and cleanup times but explains that this is because "VCUHS treats higher acuity patients like trauma, transplant, burn, and gunshot wound patients, and provides more complex services than all other hospitals in PD 15." In summary, the high utilization data shows that VCUHS does not have any underutilized capacity that would be appropriate for reallocation. Furthermore, reallocating any GPORs from the main hospital to the Children's Tower would create an immediate need to replace the highly utilized GPORs in the main hospital.

DCOPN is not aware of any reasonable alternatives to the proposed project. Under the status quo, VCUHS would continue to experience high volumes that would result in delaying and rescheduling of non-emergent pediatric surgical cases. Moreover, performing pediatric surgeries in the adult focused GPORs on the downtown campus after all pediatric services are consolidated to the CHoR will lead to fragmentation of care. As discussed below, pediatric patients have unique clinical needs that are different from adult patients, including the need to receive surgical care early in the day without the risk of rescheduling, sedation even for routine procedures, age and size based supplies, and specially trained pediatric staff. Finally, as will be discussed in greater detail below, VCUHS must keep one GPOR unscheduled and available at all times to address the surgical needs of pediatric trauma patients to comply with the requirements for its Level 1 Pediatric Trauma Center designation. For these reasons, the status quo is not a preferable alternative to the proposed project.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

As previously discussed, VENTSC proposes to establish an OSH with one operating room, limited to ENT procedures. The applicant explains that VENTSC's operatory was built to meet the same modern construction and design specifications of licensed and accredited OSHs. The applicant further explains that because VENTSC is not licensed as an OSH, it is not able to receive

reimbursements from Medicare, Medicaid and TRICARE. Because of these restrictions, even if services could be performed more efficiently within VENTSC, many patients must be seen at other local OSHs or hospitals spread throughout PD 15. According to the applicant, the low number of cases performed at each multispecialty OSH naturally leads to inefficiencies and fragmentation created by the need to travel to perform procedures at these various facilities. In contrast, because VENTSC was designed to specifically accommodate ENT procedures, the functional layout of the procedure rooms, pre-op and post-op areas, and other support spaces has been optimized to that use and patients at VENTSC benefit from a specialized clinical team that has received specific training in the types of ENT procedures performed on a daily basis. The applicant asserts that this specialization helps reduce surgical times and the amount of time a patient is under anesthesia, thus reducing recovery time and providing a more comfortable patient experience.

Furthermore, in his recommended case decision for COPN Request No. VA-8547, which the Commissioner adopted in his approval of COPN No. VA-04763, the Adjudication Officer notes,

In past decisions, the Commissioner has repeatedly acknowledged the benefits and clinical appropriateness of single-purpose OSHs, even when the procedures performed therein could be performed in a physician's office. In addition, recent medical literature shows that surgeon specialization and concentration of practice have promising effects on outcomes, while significantly reducing complications.

DCOPN notes that there are no restricted-use ENT GPORs in PD 15, and that VENTSC would be the first ENT-specific OSH in PD 15.

DCOPN also notes that the applicant will incur no additional construction or operating costs by converting the existing physician based operatory into a licensed OSH, as the existing operatory was built to the same design and construction standards as an OSH.

For these reasons, DCOPN finds that the proposed project to establish an OSH with one operating room in PD 15 is more advantageous than maintaining the status quo.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

CASC has expressed an institutional need to expand its surgical services by adding one GPOR at Boulders. As noted in **Table 12** below, for 2020, the most recent year for which VHI data is available, Boulders' three GPORs operated at a utilization rate of 100.2%. Additionally, the applicant reports that the three GPORs at Boulders operated at a utilization rate of 125% in 2021. As previously discussed, Surgicare of Richmond, LLC (an HCA affiliate) owns 51% of CASC and OrthoVirginia owns 49% of CASC (Boulders Partnership). The Boulders Partnership does not operate any underutilized GPORs. With regard to reallocating underutilized GPORs, the applicant asserts, "[h]ealthcare laws relating to relationships between hospitals and physicians prohibit HCA from transferring any of its wholly-owned operating rooms to the Boulders Partnership."

It is also notable that a need for expansion is also reflected in the Weldon Cooper population data with regard to PD 15 residents aged 65+, who are anticipated to see an increase of approximately 47.8% from the years 2010-2020 and approximately 30% from the years 2020-2030. In comparison, throughout Virginia, this population is expected to increase by approximately 38%

from 2010-2020 and 28% from 2020-2030. These trends are significant, as these individuals represent the segment of the population that are most in need of healthcare, including diagnostic imaging services.

In summary, for the reasons discussed above, CASC has demonstrated an institutional need to expand surgical services by adding one GPOR at Boulders. Moreover, for the reasons discussed, the status quo is not a preferable 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 IV designated by the Virginia Department of Health to serve as the Health Planning Agency for PD 15. Therefore, this consideration is not applicable to the review of the proposed project.

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

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority
As demonstrated by **Table 2**, the projected capital costs of the proposed project are \$18,397,053, approximately 60% of which represent direct construction costs. The entirety of the capital costs will be funded using the accumulated reserves of the applicant (**Table 2**). Accordingly, there are no financing costs associated with this project. DCOPN concludes that when compared to similar projects, these costs are reasonable. For example, COPN No. VA-04770 issued to Inova Oakville Ambulatory Surgery Center to establish an OSH with three general-purpose operating rooms is anticipated to cost approximately \$20,013,530.

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

- The Children's Tower will consolidate under one roof existing pediatric inpatient beds and services and existing pediatric emergency and trauma services currently operated at the VCU Medical Center under the VCUHS-CHoR umbrella, as well as CT and MRI services. In doing so, it will complete VCUHS-CHoR's centralization of integrated, comprehensive, highly specialized inpatient and outpatient pediatric services within two co-located and connected buildings that are designed for and dedicated exclusively to the needs of children.
- This consolidation will reduce fragmentation and enhance access to and continuity of care for pediatric patients in a dedicated environment while fostering collaboration among specialty and subspecialty providers.
- The proposal will address the need for sufficient on-site surgical capacity to meet the critical needs of a full-service academic pediatric hospital with a pediatric emergency department, Level 1 Pediatric Trauma.

- Adding dedicated pediatric GPORs in the Children's Tower and CHoR Pavilion will enable VCUHS to improve access and care delivery for pediatric surgical inpatients, outpatients, and emergency/trauma patients.
- The proposed GPORs will be located on the second floor that combines the Children's Tower and CHoR Pavilion, co-located with the pediatric emergency department one level above, and with direct access to the patient transport elevators that go directly to the pediatric helipad.
- The Children's Tower seeks to optimize care and its delivery, with features designed to reduce anxiety and stress, enhance the care experience, and create a fun and relaxing setting for children and their families that is conducive to healing.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

As demonstrated by **Table 3**, the projected capital costs of the proposed project are \$5,047,087, the entirety of which represent lease expenses, and will be funded using the operating revenue of the applicant (**Table 3**). Accordingly, there are no financing costs associated with this project.

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

- Licensure of VENTSC as an OSH would allow VA ENT physicians to provide the benefits of a specialized surgical setting to any VA ENT patient appropriate for outpatient surgery regardless of payment source.
- In recent years, as surgical techniques and equipment have continued to improve and develop, there has been a continual shift to performing more and more procedures in outpatient settings as, due to these same advancements, outpatient settings are able to provide a safe venue for more procedures. The proposed project is in line with that industry shift.
- The facility is located on or near several major thoroughfares that transverse the Richmond area.
- VENTSC is a physician-based operator that was built to meet the same design and construction standards as a freestanding OSH. As a result, VENTSC would incur no additional construction or operating costs in converting the existing physician-based operator to a licensed OSH.
- VENTSC is an essential community provider of specialized surgical services to Medicaid patients, particularly children, within PD 15 and beyond.
- The Commissioner has long recognized the benefits provided by specialty OSHs. Recognized benefits include increased efficiency, decreased case times, superior patient care, enhanced patient safety, an optimized surgical space, and the presence of an integrated and consistent surgical team specifically trained for the specialty procedure and the operating room.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

As demonstrated by **Table 4**, the projected capital costs of the proposed project are \$1,509,700 approximately 50% of which are attributed to direct construction costs (**Table 4**). The applicant anticipates using conventional mortgage loan financing for the proposed project. DCOPN concludes that when compared to similar projects, these costs are reasonable. For example, COPN No. VA-04727 issued to Virginia Commonwealth University Health System Authority to add two GPORs at VCU Medical Center is anticipated to cost approximately \$1,548,000. The applicant identified numerous benefits of the proposed project, including:

- CASC is continuing to strive to create other affordable options of care for its patients in the community.
- Boulders' current service will not change with the addition of a fourth operating room. However, it will accommodate Boulders' growth and allow it to support the local, increasing need for outpatient, orthopedic surgery.
- Boulders has operated at full capacity under the SMFP's 1600-hour-per OR standard in 2019 and 2020, and at 125% of the SMFP standard in 2021.

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

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority

The Pro Forma Income Statement provided by the applicant includes the provision of charity care in the amount of 0.1% (**Table 7**). According to the applicant, “[d]ue to the broad coverage of pediatric patients under Medicaid and Medicaid Expansion, almost all pediatric patients are eligible for some sort of coverage. VCUHS-CHoR works closely with families to secure coverage for patients, resulting in limited charity and indigent care.” 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. Accordingly, should the Commissioner approve the proposed project, DCOPN recommends a charity care condition of 0.1% to be derived from gross patient services revenue derived from pediatric 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 Virginia⁴.

⁴ COPN No. VA-04737

Table 7. VCUHS Pro Forma Income Statement

	Year 1	Year 2
Total Gross Charges	\$291,884,141	\$306,779,871
Contractual Adjustments	(\$190,523,167)	(\$200,273,586)
Bad Debt	(\$12,257,454)	(\$12,884,755)
Charity Care	(\$425,128)	(\$446,885)
Net Revenue	\$88,638,392	\$93,174,645
Total Operating Expenses	\$71,846,984	\$75,452,215
Operating Income	\$16,791,408	\$17,722,430

Source: COPN Request No. VA-8615

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

As previously discussed, 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 IV facilities was 1.3% of all reported total gross patient revenues (**Table 6**). 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 no less than the 1.3% HPR IV average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia.

Table 8. VENTSC Pro Forma Income Statement

	Year 1	Year 2
Total Gross Revenue	\$12,300,000	\$13,750,000
Contractual Adjustments and Bad Debt	(\$5,658,000)	(\$6,325,000)
Charity Care	(\$332,100)	(\$371,250)
Net Operating Revenue	\$6,309,900	\$7,053,750
Total Operating Expenses	\$3,161,222	\$3,319,283
Depreciation Expense	\$694,000	\$694,000
Operating Income	\$2,454,678	\$3,040,467

Source: COPN Request No. VA-8616

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

The Pro Forma Income Statement provided by the applicant includes the provision of charity care in the amount of 1.3% (**Table 9**). 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 IV facilities was 1.3% of all reported total gross patient revenues (**Table 6**). 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 no less than the 1.3% HPR IV average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia.

Table 9. CASC Pro Forma Income Statement

	Year 1	Year 2
Total Gross Revenue	\$145,314,392	\$160,078,334
Charity Care	(\$1,889,087)	(\$2,081,018)
Bad Debt	(\$323,476)	(\$338,195)
Contractual Allowances	(\$122,038,769)	(\$135,637,692)
Net Operating Revenue	\$21,063,059	\$22,021,428
Total Operating Expenses	\$15,864,307	\$16,549,391
Net Income	\$5,198,752	\$5,472,037

Source: COPN Request No. VA-8622

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

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority CHoR is one of only three Level 1 Pediatric Trauma Center in the Commonwealth (in addition to Children’s Hospital of the King’s Daughters and Roanoke Memorial Hospital). Regarding this designation, the applicant explains:

VCUHS-CHoR’s VCU Medical Center location is Central Virginia’s first Level 1 Pediatric Trauma Center and one of only ten children’s hospitals on the East Coast verified as a Level I Children’s Surgery Center by the American College of Surgeons Children’s Surgery Verification....In connection with these designations, VCUHS must comply with operational and clinical requirements aimed at ensuring the best care possible for the region’s youngest patients.... In practice, this means that VCUHS must have the facilities, equipment, and resources necessary to provide the most complex care for any age patient who requires surgery. Such resources include immediate access to a NICU, PICU, a separate pediatric emergency department that operates 24/7/365, and specialized pediatric surgical teams and protocols. Most relevant to this application, it also means that VCUHS must keep one OR unscheduled and promptly available at all times, 24 hours per day, to address the surgical needs of pediatric trauma patients and thus rely on remaining ORs to address all other pediatric surgical needs.

The applicant asserts that pediatric patients have different and complex clinical needs that necessitate a different culture and environment than one focused on adult are. Among these needs are:

- Pediatric surgery patients have a narrower window in which they should receive surgical care than adult surgery patients, often necessitating early-in-the-day scheduling.
- Many pediatric surgical procedures require anesthesia or sedation, even for routine procedures that otherwise would not require anesthesia or sedation in an adult patient.
- Younger patients also require age-based and -sized supplies that are not readily available in the existing, constrained adult surgical suites but will be thoughtfully located in the proposed GPORs and recovery rooms.

- To meet [the] unique needs [of pediatric patients], a provider must have pediatric trained specialists and pediatric-focused resources. This includes dedicated, competent pediatric staff, including particularly pediatric anesthesiologists, dedicated pre- and post-op surgical space, standardization of techniques, child-appropriate dosages and protocols, and, as requested here, pediatric focused ORs.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

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

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

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

Part V of the SMFP contains criteria/standards for the addition of general-purpose operating rooms. They are as follows:

Part V General Surgical Services

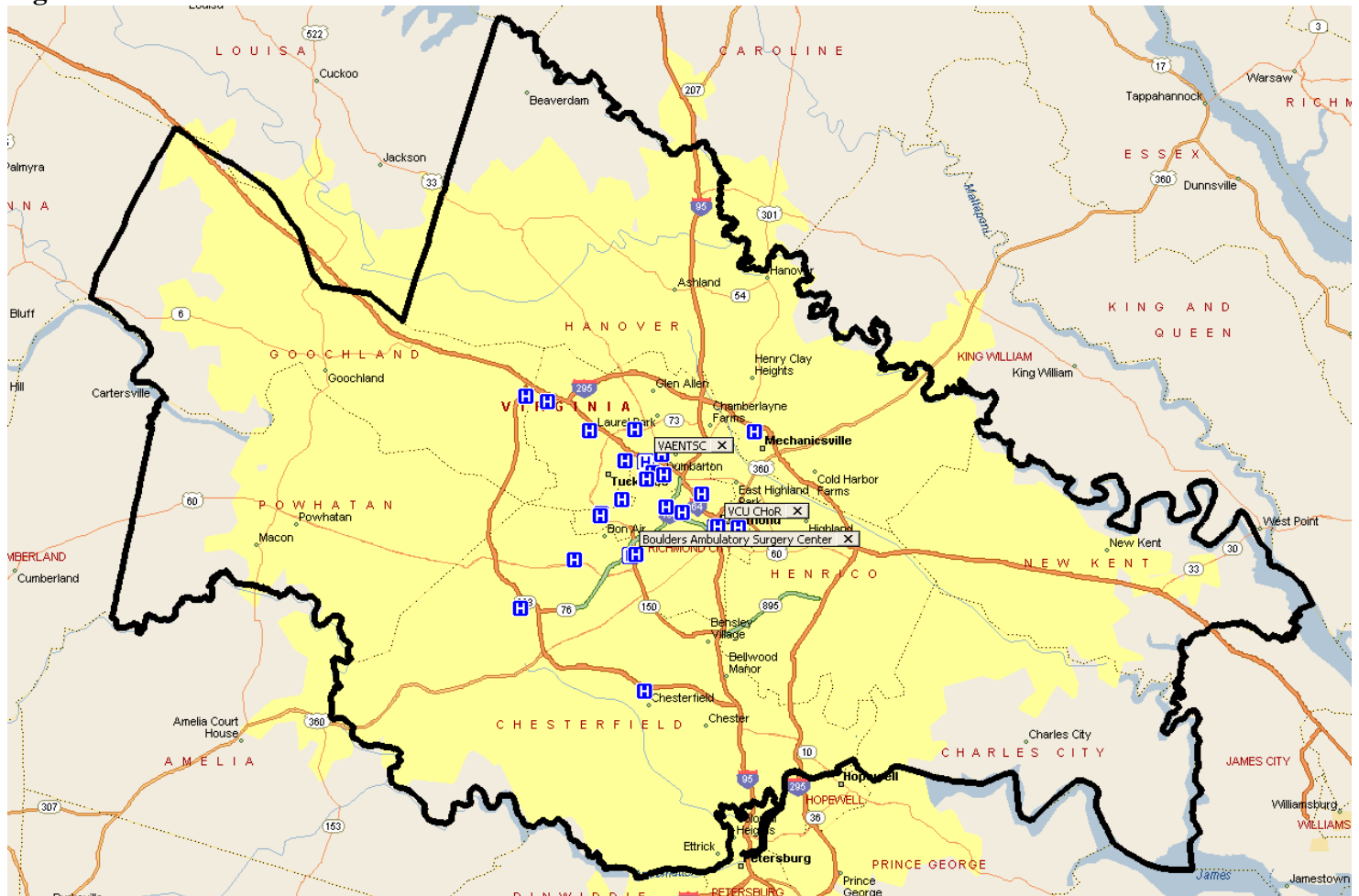
Criteria and Standards for General Surgical Services

12VAC5-230-490. Travel Time.

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

The heavy black line in **Figure 1** represents the boundary of PD 15. The white “H” symbols marks the locations of the proposed projects. The blue “H” symbols mark the locations of all other existing surgical services, both ambulatory and acute care facilities, within PD 15. The yellow shaded area represents the areas of PD 15 and surrounding areas that are within 30 minutes’ drive time of existing surgical services. Given the amount and location of shaded area, it is evident that surgical services currently exist within a 30-minute drive for at least 95% of the population of PD 15. Accordingly, DCOPN concludes that approval of the proposed projects would not improve geographical access to surgical services for persons of PD 15 in any meaningful way.

Figure 1



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

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

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

Where:

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

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

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

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

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

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

The preceding formula can be used to affirm whether there is currently an excess of GPORs in PD 15. The preceding formula can also determine the overall need for GPORs within PD 15 five years from the current year, i.e., in the year 2027.

Based on GPOR utilization data submitted to and compiled by VHI, for the five year period of 2016-2020, which is the most recent five-year period for which relevant data is available, the total and average number of reported inpatient and outpatient operating room visits is shown below in **Table 10**.

Table 10. Inpatient and Outpatient GPOR Visits in PD15: 2016-2020

Year	Total Inpatient & Outpatient GPOR Visits
2016	134,916
2017	137,943
2018	135,993
2019	143,270
2020	121,429
Total	673,551
Average	134,710

Source: VHI (2016-2020)

Based on actual population counts derived as a result of the 2010 U.S. Census, and population projections as compiled by Weldon Cooper, **Table 11** presents the U.S. Census' baseline population estimates for PD 15 for the five years 2016-2020 as follows:

Table 11. PD 15 Population: 2016-2020 and 2027

Year	Population
2016	1,061,347
2017	1,072,468
2018	1,084,014
2019	1,096,002
2020	1,108,448
Total	5,422,279
2027	1,183,923

Source: U.S. Census, Weldon Cooper Center Projections (August 2019))

Based on the above population estimates from the 2010 U.S. Census and population projections as compiled by Weldon Cooper, the cumulative total population of PD 15 for the five-year period 2016-2020, was 5,422,279, while the population of PD 15 in the year 2027 (PROPOP –

five years from the current year) is projected to be 1,183,923. These figures are necessary for the application of the preceding formula, as follows:

ORV	÷	POP	=	CSUR
Total PD 15 GPOR Visits 2016 to 2020		PD 15 Historical Population 2016 to 2020		Calculated GPOR Use Rate 2016 to 2020
673,551		5,422,279		0.1242

CSUR	X	PROPOP	=	PORV
Calculated GPOR Use Rate 2016 to 2020		PD 15 Projected Population 2027		Projected GPOR Visits 2027
0.1242		1,183,923		147,043

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 visits has been calculated using information collected by the Virginia Department of Health.

AHORV = 244,472 total inpatient and outpatient operating room hours (**Table 12**) reported to VHI in 2020, divided by 121,429 total inpatient and outpatient operating room visits reported to VHI for that same year (**Table 10**).

AHORV = 2.0133

Table 12. 2020 PD 15 General Purpose Operating Room Utilization

Facility	Operating Rooms	Total Hours	Use Per OR	Utilization Rate
Bon Secours Memorial Regional Medical Center	12	15,953	1,329.4	83.1%
Bon Secours Richmond Community Hospital	3	173	57.7	3.6%
Bon Secours St. Francis Medical Center	11	15,723	1,429.4	89.3%
Bon Secours St. Mary's Hospital	21	30,603	1,457.3	91.1%
Boulders Ambulatory Surgery Center	3	4,808	1,602.7	100.2%
Cataract and Refractive Surgery Center	1	2,221	2,221.0	138.8%
Chippenham Hospital	10	11,323	1,132.3	70.8%
Henrico Doctors' Hospital - Forest	21	16,340	778.1	48.6%
Henrico Doctor's Hospital - Parham Doctors' Hospital	11	8,108	737.1	46.1%
Henrico Doctor's Hospital - Retreat	5	3,917	783.4	49.0%
Johnston-Willis Hospital	16	19,760	1,235.0	77.2%
MEDARVA Stony Point Surgery Center	6	8,536	1,422.7	88.9%
MEDARVA Surgery Center @ West Creek	2	3,227	1,613.5	100.8%
Skin Surgery Center of Virginia	2 ⁵	2,150	1,075.0	67.2%
St. Mary's Ambulatory Surgery Center	4	4,462	1,115.5	69.7%
Urosurgical Center of Richmond	3 ⁶	4,859	1,619.7	101.2%
VCU Medical Center	33	72,734	2,204.1	137.8%
Virginia Eye Institute, Inc.	5	19,575	3,915.0	244.7%
Total and Average	169	244,472	1,446.6	90.4%

Source: VHI (2020) and DCOPN records

$$\text{FOR} = \left(\frac{\text{ORV}}{\text{POP}} \right) \times (\text{PROPOP}) \times \text{AHORV}$$

$$1600$$

$$\text{FOR} = \left(\frac{673,551}{5,422,279} \right) \times (1,183,923) \times 2.0133$$

$$1600$$

$$\text{FOR} = 296,042.15 / 1600$$

FOR = 185.03 (186) General Purpose Operating Rooms Needed in PD 15 in 2027
Current PD 15 GPOR Inventory: 188 (Table 1)

Net Surplus: 2 GPORs for 2027 Planning Year

As shown above, DCOPN has calculated a surplus of two GPORs in PD 15 for the 2027 planning year. If all three proposed projects that are the subject of this staff analysis report are approved, that surplus of two GPORs will be increased to eight.

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority VCUHS is not proposing to establish a new service, but rather, proposes to increase its current GPOR complement by four GPORs. Accordingly, DCOPN concludes that this provision is not

⁵ Second operating room limited to the surgical treatment of skin cancers added pursuant to COPN No. VA-04301. VHI data lists as procedure rooms – corrected for utilization calculations in Table 12.

⁶ DCOPN records indicate the Urosurgical Center of Richmond operates three GPORs. VHI data lists two as cystopic – corrected for utilization calculations in Table 12.

applicable to the proposed project. However, DCOPN notes, as will be discussed later in this staff analysis report, that VCUHS' current capacity demonstrates an institutional need for expansion.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

As shown above, DCOPN has calculated a surplus of two GPORs in PD 15 for the 2027 planning year. If the Commissioner approves the proposed project, that surplus of two GPORs will be increased by one. As previously discussed, the Commissioner has repeatedly acknowledged the benefits and clinical appropriateness of single-purpose OSHs; there are no restricted-use ENT GPORs in PD 15; and that VENTSC would be the first ENT-specific OSH in PD 15. Therefore, DCOPN recommends that in this particular case, the surplus not preclude approval.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

CASC is not proposing to establish a new service, but rather, proposes to increase its current GPOR complement at Boulders by one GPOR. Accordingly, DCOPN concludes that this provision is not applicable to the proposed project. However, DCOPN notes, as will be discussed later in this staff analysis report, that CASC's current capacity demonstrates an institutional need for expansion.

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.

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

Not applicable. None of the applicants are seeking to relocate existing operating rooms.

12VAC5-230-510. Staffing.

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

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority,

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc., and COPN Request No. VA-

8622: Chippenham Ambulatory Surgery Center, LLC

All applicants have provided assurances that the proposed surgical services will be under the direction of appropriately qualified physicians.

The SMFP also contains criteria/standards for when competing applications are received and when institutional expansion is needed. They are as follows:

Part 1
Definitions and General Information

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

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

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

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority
Based on an analysis of previous COPN projects, VCUHS has a consistent history of completing projects on time and within the authorized capital costs. With respect to the proposed project, the projected capital cost is \$18,397,053. The applicant has an established history of meeting state licensure and federal certification regulations. Finally, in 2020, VCUHS provided 1.13% of its gross patient revenue in the form of charity care.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

As a new applicant, VENTSC does not have a history of previous projects or charity care for DCOPN to review. With respect to the proposed project, the projected capital cost is \$5,047,087, the entirety of which represent lease expenses, and the Pro Forma Income Statement provided by the applicant includes the provision of charity care in the amount of 2.7%.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

Based on an analysis of previous COPN projects, CASC has a consistent history of completing projects on time and within the authorized capital costs. With respect to the proposed project, the projected capital cost is \$1,509,700. Finally, in 2020, Boulders provided 2.4% of its gross patient revenue in the form of charity care.

Conclusion

As all applicants have similar histories of on time, on budget delivery, DCOPN concludes that no applicant warrants preference regarding completing projects on time and within the approved capital expenditure or for having lower capital costs. For the same reason, DCOPN does not believe that any applicant warrants preference with respect to meeting state licensure and federal certification regulations or displaying a commitment to charity care.

The SMFP also contains criteria/standards for when institutional expansion is needed. They are as follows:

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

- 1. Notwithstanding any other provisions of this chapter, the commissioner may grant approval for the expansion of services at an existing medical facility in a health planning district with an excess supply of such services when the proposed expansion can be justified on the basis of a facility's need having exceeded its current service capacity to provide such service or on the geographic remoteness of the facility.**
- 2. If a facility with an institutional need to expand is part of a health system, the underutilized services at other facilities within the health system should be reallocated, when appropriate, to the facility with the institutional need to expand before additional services are approved for the applicant. However, underutilized services located at a health system's geographically remote facility may be disregarded when determining institutional need for the proposed project.**
- 3. This section is not applicable to nursing facilities pursuant to §32.1-102.3:2 of the Code of Virginia.**
- 4. Applicants shall not use this section to justify a need to establish new services.**

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority

As previously discussed, for 2020, the most recent year for which VHI data is available, the existing 33 GPORs at VCU displayed 72,734 surgical hours and operated at a utilization rate of 137.8%, well above the SMFP threshold for expansion (**Table 12**).

DCOPN notes that in its applications for COPN No. VA-04686 and COPN No. VA-04757, VCUHS cited an institutional need to expand its surgical services and decompress the surgical capacity on the hospital campus. In analyzing the potential need for the requested four GPORs at CHoR, DCOPN calculated that, even when adding the requested four GPORs, the six GPORs approved in COPN No. VA-04686 and the four GPORs approved in COPN No. VA-04757, the total hours for VCUHS in 2019 would still result in it operating at 96.7% of the SMFP threshold. As such, DCOPN concludes that VCUHS has established an institutional need to expand and that the requested number of GPORs are reasonable based on the level of utilization. Furthermore, VCUHS does not have any underutilized capacity that would be appropriate for reallocation.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

Not applicable. The applicant is not asserting an institutional need to expand.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

As previously discussed, for 2020, the most recent year for which VHI data is available, Boulders' three GPORs operated at a utilization rate of 100.2%. Additionally, the applicant reports that the three GPORs at Boulders operated at a utilization rate of 125% in 2021. Consequently, it can be inferred that approval of one additional GPOR at Boulders can be justified based on the facility's need having exceeded its current service capacity. Furthermore, Surgicare of Richmond, LLC (an HCA affiliate) owns 51% of CASC and OrthoVirginia owns 49% of CASC (Boulders Partnership). The Boulders Partnership does not operate any underutilized GPORs. With regard to reallocating underutilized GPORs, the applicant asserts, "[h]ealthcare laws relating to

relationships between hospitals and physicians prohibit HCA from transferring any of its wholly-owned operating rooms to the Boulders Partnership.”

Required Considerations Continued

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

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority

As previously discussed, the applicant is a current provider of surgical services, and the proposed project is based on VCUHS’ institutional need to expand surgical services at the Children’s Tower. As such, the proposed project is unlikely to foster institutional competition that benefits the area to be served.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

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

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

As previously discussed, the applicant is a current provider of surgical services, and the proposed project is based on CASC’s institutional need to expand surgical services at Boulders. As such, the proposed project is unlikely to foster institutional competition that benefits the area to be served. However, as an alternative to hospital based services, the proposed project would offer lower cost of health care for patients who do not require surgical services in a hospital setting, thereby providing beneficial market competition and offering services to patients of PD 15 at a lower price point.

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

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority

As already discussed, DCOPN maintains that the applicant has adequately demonstrated an institutional need for the additional GPORs. Furthermore, as already discussed, DCOPN further concludes that transferring the requested GPORs within the VCUHS is not a reasonable alternative to the proposed project. Therefore, DCOPN contends that although the proposed project would add to the existing PD 15 surplus, the project warrants approval.

As previously discussed, the Bon Secours Opposition Letter indicates that pediatric surgeons employed by MCVP performed 252 pediatric surgeries at SMH in 2020 and 250 pediatric surgeries at SMH in 2021. Bon Secours asserts that losing these surgeries will cause a severe financial impact and will jeopardize SMH’s comprehensive pediatric program. Bon Secours did not provide pediatric specific surgical data in its Opposition Letter to support its assertion that losing the pediatric surgeries performed by MCV Physicians at SMH will jeopardize its pediatric

program. Using 2020 VHI data, DCOPN notes that 11,361 surgical cases were performed at St. Mary’s in that year, and that the 252 pediatric surgeries performed by MCV Physicians represents only 2.2% of the surgical volume for that year.

Additionally, in its response to the Bon Secours Opposition Letter, VCUHS asserts, “[p]ediatric payor mix is another key difference between the pediatric programs at VCUHS and SMH, indicating that any adverse impact to SMH will be greatly outweighed by financial access benefits (among many others) to the pediatric community. In support of this assertion, VCUHS provided the data outline in **Table 13** below, which shows VCUHS’s pediatric payor mix reflects a much higher percentage of Medicaid patients than SMH for 2021.

Table 13. 2021 SMH & VCUHS Pediatric Payor Mix

	SMH	VUCHS
Neonatology		
Commercial	56.8%	39.4%
Medicaid	26.8%	47.8%
Normal Newborn		
Commercial	64.3%	39.7%
Medicaid	22.0%	44.3%
Other		
Commercial	45.6%	37.4%
Medicaid	43.1%	54.3%

Source: COPN Request No. VA-8615 VCUHS Response to Bon Secours’ Opposition

For these reasons, DCOPN concludes that while approval of the proposed project is likely to have some effect on existing providers, the benefits of the proposed project outweigh this risk.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

As discussed above, there are no ENT-specific OSHs in PD 15. If the proposed project is approved, it will meet a unique need in PD 15. As such, DCOPN concludes that, between VENTSC’s unique role within the planning district and the specialized nature of the proposed OSH, approval of the project is highly unlikely to have a material impact on the utilization of providers of surgical services within the planning district.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

As previously discussed, CASC has cited an institutional specific need to expand its surgical services at Boulders. As a result, the primary patient population the proposed project is intended to serve is patients who have already chosen CASC as their care provider. As such, the proposed project is highly unlikely to affect the utilization and efficiency of existing providers.

Furthermore, as demonstrated by **Figure 1**, the current inventory of operating rooms in PD 15 is sufficient and adequately distributed geographically. Additionally, as previously discussed, DCOPN has calculated a surplus of two GPORs within PD 15. If approved, the proposed project would meet a demonstrated institutional need and add to this surplus. However, DCOPN contends that the proposed project still warrants approval for the other reasons discussed in this staff analysis report.

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

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority

As already discussed, DCOPN contends that the projected costs of \$18,397,053 are reasonable when compared to previously authorized projects similar in scope. For example, COPN No. VA-04770 issued to Inova Oakville Ambulatory Surgery Center to establish an OSH with three GPORs is anticipated to cost approximately \$20,013,530. The entirety of the capital costs will be funded using the accumulated reserves of the applicant. Accordingly, there are no financing costs associated with this project. The Pro Forma Income Statement provided by the applicant projects excess revenue of \$16,791,408 from in the first year of operation, and excess revenue of \$17,722,430 in the second year of operation.

With regard to staffing, the applicant states that 11.3 additional full time equivalent employees (FTE) are required to staff the proposed project, including four administrative FTEs, 3.3 registered nurses, 0.8 surgical technicians, 0.3 anesthesia technicians, 0.3 operating room support assistants, one child life specialists, and 1.7 other support personnel. Regarding this standard, the applicant explains:

VCUHS already has pediatric personnel who will continue to provide care in the surgical suite in the Children's Tower and CHoR Pavilion. Thus, its additional staffing needs are minimal. VCUHS will utilize existing recruitment and training processes to fill needed positions. Due to the various initiatives and unique training programs developed by VCUHS as part of being an academic medical center in partnership with VCU and area schools of nursing, VCUHS does not anticipate having issues filling these positions.

VCUHS does not anticipate any challenges recruiting or retaining additional staff – the operational and clinical benefits of offering comprehensive pediatric surgical services in a single, pediatric-focused academic medical center setting are very attractive for pediatric-focused personnel who seek an environment in which they can optimize proficiencies.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

As already discussed, DCOPN is unable to compare the capital costs to similar projects, as there are no construction or operational costs for the proposed project. The entirety of the capital costs for the proposed project represent lease expenses, which will be funded using the operating revenue of the applicant. Accordingly, there are no financing costs associated with this project. The Pro Forma Income Statement provided by the applicant projects a net profit of \$2,454,678 from in the first year of operation, and a net profit of \$3,040,467 in the second year of operation.

With regard to staffing, the applicant explains that as an existing physician-based operator, VENTSC would require few additional staff if approved and licensed. As such, the applicant anticipates the need to hire two additional registered nurses to staff the proposed project. The applicant further explains that VENTSC used a two-pronged approach for recruiting for new positions: (1) all open positions are posted on the intranet to keep existing staff informed of internal positions, and (2) open positions are posted on recruitment websites such as Indeed and/or Zip

Recruiter. Because if the low number of required staff, DCOPN does not anticipate that the applicant will have difficulty staffing the proposed project or that doing so will have a significant negative impact on other PD 15 providers.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

As already discussed, DCOPN contends that the projected costs of \$1,509,700 are reasonable when compared to previously authorized projects similar in scope. For example, COPN No. VA-04727 issued to VCUHS to add two GPORs at VCU Medical Center is anticipated to cost approximately \$1,548,000. The applicant anticipates using conventional mortgage loan financing for the proposed project. The Pro Forma Income Statement provided by the applicant projects a net profit of \$5,198,752 from in the first year of operation, and a net profit of \$5,472,037 in the second year of operation.

With regard to staffing, the applicant anticipates the need to hire three FTEs to staff the proposed project, two of which are for registered nurse positions, and one of which is for a surgical technician. DCOPN notes that the HCA Health System has a robust employee recruitment and retention program and accordingly, 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 may be appropriate; and**

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority

The proposed project would not introduce new technology that would promote quality or cost effectiveness in the delivery of inpatient acute care, nor will it increase the potential for provision of services on an outpatient basis.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

The proposed project would not introduce new technology that would promote quality or cost effectiveness in the delivery of inpatient acute care. However, the proposed project will increase the potential for provision of services on an outpatient basis, and will introduce an ENT-specific OSH in PD 15.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

The proposed project would not introduce new technology that would promote quality or cost effectiveness in the delivery of inpatient acute care, nor will it increase the potential for provision of services on an outpatient basis, as the provider is already providing the services on an outpatient basis.

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

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority
Regarding this consideration, the applicant explains:

VCUHS offers a broad range of pediatric- and adolescent-focused services across Central Virginia under the umbrella of VCUHS-CHoR. VCUHS-CHoR is committed to training future pediatric caregivers and conducting research that improves the understanding and treatment of childhood diseases. VCUHS-CHoR offers numerous unique multi-disciplinary clinical programs and has established various new fellowship training programs for the next generation of clinicians to ensure that the needs of the community's children and their families are met. Housing pediatric-focused GPORs in pediatric-focused buildings will enable VCUHS to better educate learners and serve as a resource for pediatric clinical research in furtherance of its mission to the community. With more concentrated pediatric surgery volumes in a pediatric setting, there will be more opportunities for meaningful pediatric-focused education and research. In FY 2021, VCUHS' Department of Pediatrics had 85 active clinical research studies, 41 of which were clinical trials. This proposal will enable VCUHS to increase enrollment on research studies and trials and to provide patients with more treatment options

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

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

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

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

DCOPN Findings and Conclusions

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority
DCOPN finds that Virginia Commonwealth University Health System Authority's proposed project to expand surgical services with four pediatric-focused operating rooms is generally consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. As previously discussed, the applicant's 33 COPN approved GPORs operated at 137.8% utilization in 2020, well above the SMFP threshold for expansion. Additionally, DCOPN concludes that the VCUHS does not have any underutilized

capacity that would be appropriate for reallocation, and that the applicant has demonstrated an institutional need to expand. Moreover, for the reasons discussed, the status quo is not a preferable alternative to the proposed project.

DCOPN finds that the total capital costs of the proposed project are reasonable and consistent with previously approved projects similar in scope. Furthermore, DCOPN finds that the project appears to be economically feasible both in the immediate and long-term. Finally, DCOPN recommends that such approval be limited to the provision of pediatric surgical services.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

DCOPN finds that Virginia ENT Surgery Center, Inc.'s proposal to establish an OSH with one operating room, limited to ENT procedures within PD 15 is generally consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. As previously discussed, the Commissioner has repeatedly acknowledged the benefits and clinical appropriateness of single-purpose OSHs. Currently, there are no restricted-use ENT GPORs in PD 15, and that VENTSC would be the first ENT-specific OSH in PD 15. Finally, the applicant will incur no additional construction or operating costs by converting the existing physician based operatory into a licensed OSH, as the existing operatory was built to the same design and construction standards as an OSH. For these reasons, DCOPN concludes that the proposed project is more favorable than maintaining the status quo.

DCOPN finds that the project appears to be economically feasible both in the immediate and long-term. Additionally, there is no known opposition to the proposed project. Finally, DCOPN recommends that such approval be limited to the provision of ENT surgical services.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

DCOPN finds that Chippenham Ambulatory Surgery Center, LLC's proposed project to expand surgical services by adding one GPOR at Boulders Ambulatory Surgery Center is generally consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. As previously discussed, for 2020, the most recent year for which VHI data is available, Boulders' three GPORs operated at a utilization rate of 100.2%. Additionally, Surgicare of Richmond, LLC (an HCA affiliate) owns 51% of CASC and OrthoVirginia owns 49% of CASC (Boulders Partnership). The Boulders Partnership does not operate any underutilized GPORs. Moreover, for the reasons discussed, the status quo is not a preferable alternative to the proposed project.

It is also notable that a need for expansion is also reflected in the Weldon Cooper population data with regard to PD 15 residents aged 65+, who are anticipated to see an increase of approximately 47.8% from the years 2010-2020 and approximately 30% from the years 2020-2030. In comparison, throughout Virginia, this population is expected to increase by approximately 38% from 2010-2020 and 28% from 2020-2030. These trends are significant, as these individuals represent the segment of the population that are most in need of healthcare, including diagnostic imaging services.

DCOPN finds that the total capital costs of the proposed project are reasonable and consistent with previously approved projects similar in scope. Furthermore, DCOPN finds that the project appears

to be economically feasible both in the immediate and long-term. Finally, there is no known opposition to the proposed project.

DCOPN Staff Recommendation

COPN Request No. VA-8615: Virginia Commonwealth University Health System Authority

The Division of Certificate of Public Need recommends **conditional approval** of Virginia Commonwealth University Health System Authority's COPN request to add four operating rooms dedicated to pediatric care at VCU Medical Center for the following reasons:

1. The proposed project is generally consistent with the applicable criteria and standards of the State Medical Facilities Plan and the Eight Required Considerations of the Code of Virginia.
2. The applicant has demonstrated an institutional need to expand its surgical services.
3. The additional operating rooms will be limited to pediatric cases.
4. The capital costs are reasonable.
5. The proposed project appears economically viable in the long-term.
6. The project is more favorable than maintaining the status quo.

Recommended Condition

Virginia Commonwealth University Health System Authority will provide pediatric surgical services to all persons in need of these services, regardless of their ability to pay, and will provide as charity care to all indigent persons free services or rate reductions in services and will facilitate the development and operation of primary medical care services to medically underserved persons in PD 15 in an aggregate amount equal to at least 0.1% of Virginia Commonwealth University Health System Authority's gross patient revenue derived from pediatric surgical services. Compliance with this condition will be documented to the Division of Certificate of Public Need annually by providing audited or otherwise appropriately certified financial statements documenting compliance with the preceding requirement. Virginia Commonwealth University Health System Authority will accept a revised percentage based on the regional average after such time regional charity care data valued under the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. is available from Virginia Health Information. The value of charity care provided individuals pursuant to this condition shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.

Virginia Commonwealth University Health System Authority will provide pediatric surgical 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. Virginia Commonwealth University Health System Authority will facilitate

the development and operation of primary and specialty medical care services in designated medically underserved areas of the applicant's service area.

COPN Request No. VA-8616: Virginia ENT Surgery Center, Inc.

The Division of Certificate of Public Need recommends **conditional approval** of Virginia ENT Surgery Center, Inc. COPN request to establish an OSH with one operating room limited to ENT surgical procedures for the following reasons:

1. The proposed project is generally consistent with the applicable criteria and standards of the State Medical Facilities Plan and the Eight Required Considerations of the Code of Virginia.
2. The applicant has demonstrated a public need to provide dedicated ENT surgical services to ensure continuity of care and timely patient access.
3. The proposed project appears economically viable in the long-term.
4. There is no known opposition to the proposed project.
5. The project is more favorable than maintaining the status quo.

Recommended Condition

Virginia ENT Surgery Center, Inc. will provide surgical services to all persons in need of these services, regardless of their ability to pay, and will provide as charity care to all indigent persons free services or rate reductions in services and will facilitate the development and operation of primary medical care services to medically underserved persons in PD 15 in an aggregate amount equal to at least 1.3% of Virginia ENT Surgery Center, Inc.'s gross patient revenue derived from surgical services. Compliance with this condition will be documented to the Division of Certificate of Public Need annually by providing audited or otherwise appropriately certified financial statements documenting compliance with the preceding requirement. Virginia ENT Surgery Center, Inc. will accept a revised percentage based on the regional average after such time regional charity care data valued under the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. is available from Virginia Health Information. The value of charity care provided individuals pursuant to this condition shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.

Virginia ENT Surgery Center, Inc. will provide surgical 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. Virginia ENT Surgery Center, Inc. will facilitate the development and operation of primary and specialty medical care services in designated medically underserved areas of the applicant's service area.

COPN Request No. VA-8622: Chippenham Ambulatory Surgery Center, LLC

The Division of Certificate of Public Need recommends **conditional approval** of Chippenham Ambulatory Surgery Center, LLC's COPN request to add a fourth GPOR at Boulders Ambulatory Surgery Center for the following reasons:

1. The proposed project is generally consistent with the applicable criteria and standards of the State Medical Facilities Plan and the Eight Required Considerations of the Code of Virginia.
2. The applicant has demonstrated an institutional need to expand its surgical services.
3. The capital costs are reasonable.
4. The proposed project appears economically viable in the long-term.
5. There is no known opposition to the proposed project.
6. The project is more favorable than maintaining the status quo.

Recommended Condition

Chippenham Ambulatory Surgery Center, LLC will provide surgical services to all persons in need of these services, regardless of their ability to pay, and will provide as charity care to all indigent persons free services or rate reductions in services and will facilitate the development and operation of primary medical care services to medically underserved persons in PD 15 in an aggregate amount equal to at least 1.3% of Chippenham Ambulatory Surgery Center, LLC's gross patient revenue derived from surgical services. Compliance with this condition will be documented to the Division of Certificate of Public Need annually by providing audited or otherwise appropriately certified financial statements documenting compliance with the preceding requirement. Chippenham Ambulatory Surgery Center, LLC will accept a revised percentage based on the regional average after such time regional charity care data valued under the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. is available from Virginia Health Information. The value of charity care provided individuals pursuant to this condition shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.

Chippenham Ambulatory Surgery Center, LLC will provide surgical 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 Chippenham Ambulatory Surgery Center, LLC will facilitate the development and operation of primary and specialty medical care services in designated medically underserved areas of the applicant's service area.