



## COMMONWEALTH of VIRGINIA

Colin M. Greene, MD, MPH  
State Health Commissioner

Department of Health  
P O BOX 2448  
RICHMOND, VA 23218

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

January 9, 2023

### By Email

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

**RE: Certificate of Public Need (COPN)  
No. VA-04823  
(COPN Request Number VA-8637)  
Short Pump Imaging, LLC  
Henrico, Virginia  
Planning District (PD) 15  
Health Planning Region IV  
Establish a specialized center for computed tomography (CT)  
imaging and magnetic resonance imaging (MRI)  
using relocated scanners**

Dear Mr. Stallings:

In accordance with Article 1.1 of Chapter 4 of Title 32.1 (§ 32.1-102.1 *et seq.*) of the Code of Virginia (the "COPN Law"), I have reviewed the application captioned above. As required by Subsection B of Virginia Code § 32.1-102.3, I have considered all matters, listed therein, in making this determination of public need under the COPN law.

I have reviewed and adopted the enclosed findings, conclusions and recommended decision of the adjudication officer that convened the informal fact-finding conference on this application in accordance with the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*

**Based on my review of this application (the "Short Pump Imaging project") and on the recommended decision of the adjudication officer, I am approving the application. The project proposed in the application will meet a public need.**

Thomas Stallings, Esquire

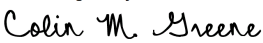
January 9, 2023

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The reasons for my decision include the following:

- (i) The Short Pump Imaging project is consistent with the State Medical Facilities Plan (SMFP), is in harmony or in general agreement with the SMFP or with the public policies, interests and purposes to which the SMFP and the COPN Law are dedicated;
- (ii) No known opposition to the project exists;
- (iii) Harm to the utilization of any existing provider of diagnostic imaging services is unlikely;
- (iv) The project would address and eliminate certain problems currently existing and routinely encountered where the resources are currently housed; and
- (v) The project constitutes an appropriate and reasonable relocation and improvement, within a planning district, of existing, approved resources and easier accessibility for residents of PD 15 seeking low-cost CT and MRI scanning services.

Sincerely,

DocuSigned by:  
  
80186E196D924B6...  
Colin M. Greene, MD, MPH  
State Health Commissioner

Encl.: 2

cc (via email):

Elaine Perry, MD, MS

Director, Henrico Health District

Deborah K. Waite

Virginia Health Information, Inc.

Allyson Tysinger, Esq.

Senior Assistant Attorney General

Douglas R. Harris, JD

Adjudication Officer

Erik O. Bodin, III

Division of Certificate of Public Need

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

**THIS CERTIFIES THAT Short Pump Imaging, LLC, is authorized to initiate the proposal described herein.**

**NAME OF FACILITY: Short Pump Imaging**

**LOCATION: 12401 West Broad Street, Richmond, Virginia 23233**

**OWNERSHIP AND CONTROL: Short Pump Imaging, LLC, will maintain ownership of and control over the approved resources.**

**SCOPE OF PROJECT: Establishment of a specialized center for computed tomography (CT) scanning and magnetic resonance imaging (MRI) scanning through relocation of a specialized diagnostic center, and relocation of one CT scanner (replaced) and one MRI scanner (replaced), in accordance with specifications and representations made during the course of review and adjudication. The total authorized capital cost of the project is \$16,855,536, to be funded from accumulated internal resources available to the applicant. The project is scheduled to be completed by February 15, 2025. This Certificate is issued with the CONDITION that appears on its Reverse.**



Pursuant to Chapter 4, Article 1:1 of Title 32.1, Sections 32.1-102.1 through 32.1-102.11, Code of Virginia (1950), as amended and the policies and procedures promulgated thereunder, this Medical Care Facilities Certificate of Public Need is issued contingent upon substantial and continuing progress towards implementation of the proposal within twelve (12) months from the date of issuance. A progress report shall be submitted to the State Health Commissioner within twelve (12) months from the date of issuance along with adequate assurance of completion within a reasonable time period. The Commissioner reserves the right to renew this Certificate in the event the applicant fails to fulfill these conditions. This Certificate is non-transferable and is limited to the location, ownership, control and scope of the project shown herein.

**Certificate Number: VA-04823**

**Date of Issuance: January 9, 2023**

**Expiration Date: January 8, 2024**

DocuSigned by:  
*Colin M. Greene*  
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**Colin M. Greene, MD, MPH**

**CONDITION Placed on the Issuance of this Certificate:**

Short Pump Imaging, LLC, shall provide CT and MRI imaging services to all persons in need of these services, regardless of their ability to pay, and shall facilitate the development and operation of primary medical care services to medically underserved persons in Planning District (PD) 15 in an aggregate amount equal to at least **1.3% of its gross patient revenue derived from CT and MRI diagnostic imaging services.**

Compliance with this condition shall be documented to the Division of Certificate of Public Need (DCOPN) annually by providing audited or otherwise appropriately certified financial statements documenting compliance with the preceding requirement. Short Pump Imaging, LLC, shall accept a revised percentage based on the regional average after such time regional charity care data valued under the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*, is available from Virginia Health Information, Inc. The value of charity care provided to individuals pursuant to this condition shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*

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

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**Recommended Case Decision  
Certificate of Public Need (COPN)  
Request Number VA-8637<sup>1</sup>  
(proposed Certificate No. VA-04823)**

**Short Pump Imaging, LLC  
Henrico, Virginia  
Planning District (PD) 15  
Health Planning Region IV  
Establish a specialized center for computed tomography (CT)  
imaging and magnetic resonance imaging (MRI) imaging  
through relocation of a CT scanner and an MRI scanner<sup>2</sup>**

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**Introduction**

This document is a recommended case decision submitted to the State Health Commissioner (“Commissioner”) for his consideration and adoption. It follows review of the application captioned above that included the convening of an informal fact-finding conference (IFFC),<sup>3</sup> conducted in accordance with the Virginia Administrative Process Act (VAPA)<sup>4</sup> and Title 32.1 of the Code of Virginia, followed by preparation of this recommended decision.

**Authority**

Article 1 of Chapter 4 of Title 32.1 (§ 32.1-102.1 *et seq.*) of the Code of Virginia (the “COPN Law”) addresses medical care services and provides that “[n]o person shall undertake a project described in [this Article] or regulations of the [State] Board [of Health] at or on behalf of a medical care facility . . . without first obtaining a certificate [of public need] from the Commissioner.”<sup>5</sup> The endeavor proposed in this application falls within the statutory definition

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<sup>1</sup> The review cycle governing the review of this application began with review of a separate and competing application, **Request No. VA-8644 (“Scott’s Addition ER”)**, which was reviewed by agency staff as a competing application, with the herein-addressed application, and has since been sent (by the Division of Certificate of Public Need, or DCOPN) to the Commissioner, pending approval. (The DCOPN staff report recommending that action also included review of the herein-addressed project, for which an IFFC has been held and which the present document addresses. A particular Certificate, a numbered **approval**, in a separate act of making a case decision by the State Health Commissioner, is presumed to have been issued for the competing application sometime after the DCOPN staff report date of September 19, 2022.)

<sup>2</sup> The relocated scanners will also be replaced before installation in conformity with Title 32.1 of the Va. Code, which discusses replacement in particular.

<sup>3</sup> The IFFC was held on October 3, 2022. A certified transcript of the IFFC was made by reporter and is in the administrative record.

<sup>4</sup> Va. Code § 2.2-4000 *et seq.*

<sup>5</sup> Va. Code § 32.1-102.1:2 (A).

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of “project” contained in the COPN Law, and, thereby, requires a certificate of public need (COPN, or “Certificate”) to be issued before the project may be undertaken.<sup>6</sup>

### **Factual Background**

1. Short Pump Imaging, LLC (“Short Pump Imaging”), is owned by Chippenham & Johnston-Willis Hospitals, Inc., and Richmond Outpatient Imaging, LLC.<sup>7</sup> HCA Healthcare, Inc. is the ultimate corporate parent of Chippenham & Johnston-Willis Hospitals, Inc., which operates an acute-care hospital, *i.e.*, one of two campuses doing business as CJW Medical Center, in Chesterfield County, PD 15.

2. Short Pump Imaging proposes to establish a specialized center for the provision of outpatient CT and MRI scanning services by relocating and replacing outdated, approved scanners 7.6 miles away from their current location. The proposed relocation (the “Short Pump Imaging project,” or “project”), a project under the COPN Law, would involve siting a new, replacement facility within the same postal ZIP code. The total capital costs of the project are \$16,855,536. The project would be self-funded by owning corporate interests.

3. The Short Pump Imaging project, without effecting a change to the PD 15 inventories of CT and MRI scanners, offers the most economical alternative for keeping the scanners (to be replaced and relocated) in continuing, uninterrupted use for a standing segment of the health diagnostic scanning-consuming public served in PD 15. The project offers an improvement in siting availability, while allowing continuation of diagnostic imaging for patients daily. Practical and logistical difficulties have been encountered at the facility housing the scanners currently, and the scanners themselves are aging.

### **Summary of the DCOPN Staff Report**

In a staff report dated September 19, 2022, prepared by the Department of Health’s Division of Certificate of Public Need (DCOPN) on the Short Pump Imaging project (the “DCOPN staff report”), that division recommended that the Commissioner deny the project, citing the project’s inability to comply with the State Medical Facilities Plan (SMFP), its capital costs, and the existence of alternatives to the Short Pump Imaging project, the project’s cost, and harm to existing competing services, none of whom oppose the project.

### **Factual Analysis**

Salient analysis and conclusions regarding the Short Pump Imaging project and relating directly to the eight considerations of public need contained in the COPN law, appearing in bold type below,<sup>8</sup> are set forth in relation to each consideration.

**1. The extent to which the proposed project will provide or increase access to health care services for people in the area to be served and the effects that the proposed project**

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<sup>6</sup> Va. Code § 32.1-102.1.

<sup>7</sup> A separate hospital with HCA state-wide corporatization, Henrico Doctor’s Hospital, is directly involved in proposing the competing application known as and referenced above in FN 1 as the **Scott’s Addition ER** project.

<sup>8</sup> See Subsection B of Virginia Code § 32.1-102.3.

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**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.**

In direct effect, approval of the Short Pump Imaging project would improve and promote practical accessibility for a substantial number of patients served at the existing facility.<sup>9</sup> As Short Pump Imaging explains, the present facility is “difficult for patients to find and access because it is located in the back of an office park in a building that is not visible from any of the major roads in the area.”<sup>10</sup> Simply, the replacement site chosen by Short Pump Imaging would be easier for patients to find.

**2. The extent to which the proposed project will meet the needs of people in the area to be served, as demonstrated by each of the following: (i) the level of community support for the proposed project demonstrated by people, businesses, and governmental leaders representing the area to be served; (ii) the availability of reasonable alternatives to the proposed project that would meet the needs of people in the area to be served in a less costly, more efficient, or more effective manner; (iii) any recommendation or report of the regional health planning agency regarding an application for a certificate [*i.e.*, Certificate] that is required to be submitted to the Commissioner pursuant to subsection B of § 32.1-102.6<sup>11</sup>; (iv) any costs and benefits of the proposed project; (v) the financial accessibility of the proposed project to people in the area to be served, including indigent people; and (vi) at the discretion of the Commissioner, any other factors as may be relevant to the determination of public need for a proposed project.**

DCOPN has received no letters of opposition to the Short Pump Imaging project. There are no reasonable alternatives to the project that would address clear and imposing practical challenges associated with the current facility. The building in which the facility is currently located suffers from problems with the heating ventilation air conditioning (HVAC) system inadequately maintaining cool temperatures for patients and for promoting equipment operation and longevity, and problems with the floor and foundation.<sup>12</sup>

The benefits of the project include continued operational viability of an existing, approved CT and MRI service that offers low-cost diagnostic scanning, replacement of aging scanners without incurring a three-to-four month hiatus during on-site construction, and direct improvement in patients' practical access to the services. The costs of the project are reasonable.

Short Pump Imaging states that its service, if replaced, would remain accessible to all patients, regardless of financial considerations. The applicant agrees to the imposition of a routinely-devised charity care condition should the project be approved.

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<sup>9</sup> Combined, the existing CT scanner and MRI scanner provide approximately 6000 diagnostic scans to patients annually.

<sup>10</sup> Short Pump Imaging Proposed Findings and Conclusions at 8.

<sup>11</sup> No such agency currently exists in relation to PD 15 or HPR IV.

<sup>12</sup> IFFC Transcript at 11-12.

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**3. The extent to which the proposed project is consistent with the State Health Services Plan [i.e., *de facto*, the SMFP].<sup>13</sup>**

The COPN law requires that “[a]ny decision to issue . . . a [COPN] shall be consistent with the most recent applicable provisions of the [SMFP]”<sup>14</sup> The SMFP, contained in the Virginia Administrative Code (VAC), includes provisions applicable to projects involving CT and MRI scanning services.

DCOPN has historically stated that a proposed relocation of CT, MRI (or both) services does not constitute a proposal for a “new fixed site service,” *i.e.*, a proposal that needs to demonstrate consistency with the availability provisions of the SMFP that address projects for CT and MRI services. These provisions are clearly designed and intended to maintain an approved inventory of diagnostic scanners to satisfy public need, and are not applicable to relocations of existing iterations of these regulated technologies.

A relocation of scanners would not increase any area-wide inventory of those scanners; therefore, a computational methodology for determining overall, PD-wide need would not apply. This long-standing policy is consistent with numerous adjudicated case decisions across several regulated services and many years.<sup>15</sup> Additionally, no provision of the SMFP addresses, in particular, a proposed relocation of CT or MRI services.

The Short Pump Imaging project is consistent with the SMFP, is in harmony or in general agreement with the SMFP or with the public policies, interests and purposes to which the SMFP and the COPN Law are dedicated.<sup>16</sup>

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

The Short Pump Imaging project would not add a CT or MRI scanner to the PD 15 inventories. It would serve, if not foster, institutional competition by continuing and improving the viability of an existing, low-cost diagnostic imaging provider.

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<sup>13</sup> 12 Virginia Administrative Code (VAC) 5-230-10 *et seq.* While Senate Bill 764 (Acts of Assembly, c. 1271, 2020) calls for promulgation and adoption of a State Health Services Plan (SHSP) to replace the SMFP, the process for developing the SHSP has not been completed. The SMFP remains in effect as regulation in reviewing applications for a COPN.

<sup>14</sup> Va. Code § 32.1-102.3 (B).

<sup>15</sup> Including instances where the SMFP has addressed replacement of services, technology and iterations thereof, as a category and as has been particularly necessary. I note that I recommend that development of future COPN planning documents and regulations address replacement, as needed, in order to clarify recognized issues of interpretation.

<sup>16</sup> See *Roanoke Mem. Hosp. v. Kenley*, 3 Va.App. 599, 352 S.E.2d 525 (1987).



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

The Short Pump Imaging project is inventory-neutral. It offers means to economically replace and relocate resources with minimal disruption to patients' diagnostic care, and presents an appropriate relationship to the existing health care system of the area.

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

The Short Pump Imaging project is feasible in relation to all particulars specified. The benefits to Short Pump Imaging, the holder of two Certificates authorizing provision of CT and MRI services, is continued operation with minimal disruption and improvement in patients' convenient access to services. In 2020, Short Pump Imaging provided nearly 3000 CT scans to patients, and 3040 MRI scans.<sup>17</sup>

**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.**

Not applicable, without prejudice to the applicant.

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

Not applicable, without prejudice to the applicant.

**Conclusion and Recommendation**

As demonstrated by the evidence and analysis, the Short Pump Imaging project would meet a public need under the COPN Law. I recommend that the project be approved.

Specific reasons supporting this recommended decision include:

- (i) The Short Pump Imaging project is consistent with the SMFP, is in harmony or in general agreement with the SMFP or with the public policies, interests and purposes to which the SMFP and the COPN Law are dedicated;
- (ii) No known opposition to the project exists;

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<sup>17</sup> See DCOPN Staff Report at 12, 20.

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- (iii) Harm to the utilization of any existing provider of diagnostic imaging services is unlikely;
- (iv) The project would address and eliminate certain problems currently existing and routinely encountered where the resources are currently housed; and
- (v) The project constitutes an appropriate and reasonable relocation and improvement, within a planning district, of existing, approved resources and easier accessibility for residents of PD 15 seeking low-cost CT and MRI scanning services.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "D. Harris", with a horizontal line extending to the right.

December 30, 2022

Douglas R. Harris, JD