

VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis

November 21, 2021

COPN Request No. VA-8617

Virginia Surgery Center, LLC

Norfolk, Virginia

Add one operating room.

COPN Request No. VA-8660

Center for Visual Surgical Excellence, LLC

Chesapeake, Virginia

Add one operating room for the purpose of ophthalmic related surgery.

Applicants

COPN Request No. VA-8617: Virginia Surgery Center, LLC

Virginia Surgery Center, LLC (VSC), formerly known as Ophthalmic Surgeons, LLC, is a

Virginia Limited Liability Company owned by CEI Vision Partners LLC (90.3%) and TEC Equities, LLC (9.7%) and located in Norfolk, Virginia, Health Planning Region (HPR) V, Planning District (PD) 20.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

Center for Visual Surgical Excellence, LLC (CVSE) is a manager-managed Virginia Limited

Liability Company 100% owned by U.S. Eye. CVSE is located in Chesapeake, Virginia, Health Planning Region (HPR) V, Planning District (PD) 20.

Background

Eye procedures may be performed in hospital-based operating rooms (ORs), outpatient surgical hospitals (OSH) or physician offices. Insurance carriers are beginning to shift reimbursement for some eye procedures away from the hospital setting and only reimbursing procedures performed in non-hospital-based sites. Performance of procedures in an OSH versus a physician office carries the advantage of being in a licensed, inspected, facility and can qualify for more expanded third-party reimbursement such as from Medicare and Medicaid.

Many eye surgeries are more common with age. For example, more than half of Americans have cataracts or have had a cataract surgery by age 80. In a hospital setting, cataract surgery may be considered less urgent than other specialties, but this sight-restoring procedure has been associated with reduced comorbidities, car accidents, and broken hips, for example. Other eye surgeries include glaucoma tube shunt placement, blepharoplasty to repair droopy eyelids, retinal repair, corneal transplants.

Table 1.PD 20 COPN Authorized Operating Room Inventory

Acute Care Hospital	Operating Rooms	Restricted Use Ophthalmic	All Other Restricted Use	GPOR
Bon Secours Harbor View Hospital	4			4
Bon Secours Maryview Medical Center	9		2	7
Bon Secours Southampton Memorial Hospital	3			3
Chesapeake Regional Medical Center	14			14
Children's Hospital of The King's Daughters	12		1	11
Riverside Smithfield Hospital	4			4
Sentara Leigh Hospital	17			17
Sentara Norfolk General Hospital	30		5	25
Sentara Obici Hospital	5			5
Sentara Princess Anne Hospital	9			9
Sentara Virginia Beach General Hospital	12		1	11
Acute Care Hospital Total	119	0	9	110
Outpatient Surgical Hospital	Operating Rooms	Restricted Use Ophthalmic	All Other Restricted Use	GPOR
Bayview Physicians	2			2
Bon Secours Surgery Center at Harbour View	6			6
Bon Secours Surgery Center at Virginia Beach	2			2
Center for Visual Surgical Excellence	1	1		0
Chesapeake Regional Surgery Center at Virginia Beach	2			2
CHKD Health & Surgery Center (Virginia Beach)	3			3
Excellence ASC ¹	2	2		0
Sentara BelleHarbour Ambulatory Surgical Center	2			2
Leigh Orthopedic Surgery Center	2			2
Sentara Obici Ambulatory Surgery LLC	2			2
Sentara Princess Anne Ambulatory Surgery Center	4			4
Surgery Center of Chesapeake	4	2		2
Virginia Beach Ambulatory Surgery Center	4			4
Virginia Beach Eye Center	1	1		0
Virginia Center for Eye Surgery	2	2		0
Virginia Surgery Center, LLC	4	4		0
Outpatient Surgical Hospital Total	43	12		31
GRAND TOTAL	162	12	9	141

Source: DCOPN Records

¹ Excellence ASC was authorized by COPN No. VA-04812 10/27/2022.

According to DCOPN records, there are 162 COPN authorized ORs in PD 20. Of these 162 ORs, 119 are located in acute care hospitals, with the remaining 43 located in OSHs. Six of the OSHs have restricted use ophthalmic operating rooms with 12 total restricted use ophthalmic ORs in PD 20. General purpose operating rooms (GPORs) are ORs available for general surgical use, not limited in their use to cardiac, vascular, ENT or ophthalmic use by restrictions on the certificate of public need. There are 141 GPORs in PD 20 (**Table 1**).

Proposed Projects

COPN Request No. VA-8617: Virginia Surgery Center, LLC

VSC, authorized by COPN No. VA-03823, proposes to relocate a COPN authorized restricted use ophthalmic OR from Virginia Beach Eye Center (VA-03893). VSC is located in a 21,077 square foot facility in Norfolk that opened in April of 2021. COPN No. VA-04708 authorized the new facility and the addition of two restricted use ophthalmic ORs. The applicant states the proposed project would occupy only 450 square feet and no construction is necessary at this site since the operating room is already built and currently utilized as a procedure room.

The projected capital costs of the proposed project total \$351,391, nearly all in lease expense, prorated for the square footage of the project, the entirety of which will be funded using the accumulated reserves of the applicant (**Table 2**). Accordingly, there are no financing costs associated with this project. The applicant anticipates an opening date immediately upon COPN approval.

Table 2. VSC Projected Capital Costs

Direct Construction	\$0
Equipment Not Included in Construction Contract	\$0
Site Acquisition Costs	\$336,3191
Other Consultant Fees	\$15,000
Total Capital Costs	\$351,391

Source: COPN Request No. VA-8617

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

CVSE, authorized by COPN No. VA-04576, proposes to add a second restricted use ophthalmic OR to its existing OSH by converting a procedure room to a licensed OR. CSVE is located in the Edinburgh region of Chesapeake in a 6500 square foot facility that opened in 2019.

The projected capital costs of the proposed project total \$2,511,226, including some construction and equipment costs and lease expense for the entire facility, which will be funded in its entirety using the accumulated reserves of the applicant (**Table 3**). Accordingly, there are no financing costs associated with this project.

Table 3. CVSE Projected Capital Costs

Direct Construction	\$350,000
Equipment Not Included in Construction Contract	\$918,200
Site Acquisition Costs	\$1,193,026
Other Consultant Fees	\$50,000
Total Capital Costs	\$2,511,226

Source: COPN Request No. VA-8660

Construction for the proposed project is expected to begin six months after COPN approval and to be completed 12 months after COPN approval. The applicant anticipates an opening date 12 months after COPN approval.

Project Definitions

COPN Request No. VA-8617: Virginia Surgery Center, LLC

§32.1-102.1:3 of the Code of Virginia defines a project, in part, as “An increase in the total number ...operating rooms in an existing medical care facility described in subsection A.” §32.1-123 defines a medical care facility as “Any facility licensed as a hospital...including outpatient surgical.”

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

§32.1-102.1:3 of the Code of Virginia defines a project, in part, as “An increase in the total number of beds...in an existing medical care facility described in subsection A.” §32.1-123 defines a medical care facility as “Any facility licensed as a hospital.”

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

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

- 1. The extent to which the proposed project will provide or increase access to 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;**

As depicted in **Table 4** at an average annual growth rate of 0.52% from 2010-2020 and 3.95% from 2020-2030, PD 20’s population growth rate is below the state’s average annual growth rate of 0.77% for 2010-2020 and 7.82% from 2020-2030. Overall, the planning district is projected to add an estimated 62,104 people in the 10-year period ending in 2020 – an average increase of 6,210 people annually and 47,742 in the 10-year period ending 2030 – an average increase of 4,774 people annually.

Regarding the 65+ age group for PD 20, Weldon-Cooper projects a more rapid increase in population growth (an approximate 35% increase from 2010 to 2020 and approximately 33% from 2020 to 2030). This is significant, as this population group typically uses health care resources at a

rate much higher than those individuals under the age of 65. 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 4. Population Projections for PD 20, 2010-2030

Locality	2010	2020	% Change 2010-2020	Avg Ann % Change 2010-2020	2030	% Change 2020-2030	Avg Ann % Change 2020-2030
Isle of Wight	35,270	38,060	7.91%	0.75%	41,823	9.89%	0.95%
Southampton	18,570	17,739	-4.47%	-0.45%	17,711	-0.16%	-0.02%
Chesapeake	222,209	249,244	12.17%	1.13%	270,506	8.53%	0.82%
Franklin	8,582	8,268	-3.66%	-0.36%	8,140	-1.55%	-0.16%
Norfolk	242,803	246,881	1.68%	0.16%	249,889	1.22%	0.12%
Portsmouth	95,535	95,027	-0.53%	-0.05%	90,715	-4.54%	-0.46%
Suffolk	84,585	94,733	12.00%	1.11%	109,424	15.51%	1.45%
Virginia Beach	437,994	457,699	4.50%	0.43%	467,187	2.07%	0.21%
Total PD 20	1,145,548	1,207,652	5.42%	0.52%	1,255,394	3.95%	0.39%
PD 20 65+	124,196	167,891	35.18%	2.98%	222,845	32.73%	2.87%
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 V facilities was 2.5% of all reported total gross patient revenues (Table 5).

Table 5. HPR V Charity Care Contributions: 2020

2020 Charity Care Contributions at or below 200% of Federal Poverty Level			
Hospital	Gross Patient Revenues	Adjusted Charity Care Contribution	Percent of Gross Patient Revenue:
Riverside Tappahannock Hospital	\$165,747,566	\$8,843,478	5.34%
Riverside Shore Memorial Hospital	\$247,007,286	\$10,695,992	4.33%
Riverside Doctors' Hospital Williamsburg	\$149,491,510	\$6,064,567	4.06%
Riverside Walter Reed Hospital	\$252,482,633	\$9,401,927	3.72%
Bon Secours DePaul Medical Center	\$363,165,760	\$12,756,832	3.51%
Sentara Careplex Hospital	\$909,090,883	\$31,651,344	3.48%
Sentara Obici Hospital	\$914,294,131	\$26,301,718	2.88%
Sentara Virginia Beach General Hospital	\$1,265,310,067	\$36,146,887	2.86%
Sentara Norfolk General Hospital	\$3,753,299,758	\$106,756,170	2.84%
Sentara Leigh Hospital	\$1,330,835,003	\$34,335,012	2.58%
Riverside Regional Medical Center	\$2,191,107,102	\$53,859,556	2.46%
Chesapeake Regional Medical Center	\$986,713,280	\$21,292,946	2.16%
Hampton Roads Specialty Hospital	\$46,913,449	\$1,010,073	2.15%
Sentara Princess Anne Hospital	\$1,032,703,976	\$21,443,232	2.08%
Bon Secours Maryview Medical Center	\$1,148,940,309	\$22,068,850	1.92%
Bon Secours Mary Immaculate Hospital	\$620,268,395	\$11,887,663	1.92%
Sentara Williamsburg Regional Medical Center	\$655,360,428	\$11,516,832	1.76%
Bon Secours Rappahannock General Hospital	\$70,546,600	\$1,148,522	1.63%
Children's Hospital of the King's Daughters	\$1,120,616,182	\$4,135,241	0.37%
Bon Secours Southampton Memorial Hospital	\$211,414,625	\$460,731	0.22%
Lake Taylor Transitional Care Hospital	\$44,295,918	\$0	0.00%
Hospital For Extended Recovery	\$30,370,572	\$0	0.00%
Total Facilities Reporting			22
Median			2.35%
Total \$ & Mean %	\$17,509,975,433	\$431,777,573	2.5%

Source: VHI (2020)

COPN Request No. VA-8617: Virginia Surgery Center, LLC

VSC's new facility is located at 200 Corporate Boulevard, Norfolk, VA, centrally located within a heavily populated community. It is near and has easy access to major highways, I-64, I-264 and Military Highway. There is a public bus stop next to the property and The Tide public transportation has stops a short walk to the property. The applicant states that this location is more accessible than the site from which the OR will relocate. VSC plans to add surgeons annually which will be accommodated additional OR, expanding access to the growing and aging population.

The applicant describes a barrier for patient seeking ophthalmic procedures in acute care settings as hospitals fail to prioritize eye surgeries or the investment in high quality equipment. VSC has purchased state-of-the art equipment and relocating an OR from an older facility without such equipment will open up access to eye patients to highly specialized care in the efficient outpatient setting.

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 are available, the average amount of charity care provided by HPR V facilities was 2.5% of all reported total gross patient revenues (**Table 5**). Pursuant to Section 32.1 – 102.4 of the Code of Virginia, should the Commissioner approve the proposed project, VSC should be subject to a charity care condition no less than the 2.5% HPR V average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

CSVE is located at 208 Carmichael Way, Chesapeake, VA in the Edinburgh development at the intersection of Route 168 (the Chesapeake Expressway) and Hillcrest Parkway. This is one of the fastest-growing areas of PD 20 and easily accessible to major thoroughfares. Traffic congestion in PD 20 is well documented, and bridges and tunnels between the southern portion of PD 20 and areas to the north are transportation barriers that limit access, particularly for the older population. CSVE is one of two OSH's that serve Chesapeake, and the only one that provides ophthalmic care exclusively.

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 are available, the average amount of charity care provided by HPR V facilities was 2.5% of all reported total gross patient revenues (**Table 9**). CSVE states that it provides ophthalmic surgical services for all of PD 20's patients regardless of their ability to pay. The applicant describes US Eye's Mission Cataract, in which CSVE will participate. Mission Cataract is an annual two-week event in which surgeons and staff provide free sight-saving cataract surgeries for people unable to pay for services. The applicant states that it will accept an appropriate charity care condition. Pursuant to Section 32.1 – 102.4 of the Code of Virginia, should the Commissioner approve the proposed project, CVSE should be subject to a charity care condition no less than the 2.5% HPR V average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia.

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-8617: Virginia Surgery Center, LLC

DCOPN received four letters of support in support of the proposed project from surgeons of Virginia Eye Consultants and Tidewater Eye Center and Virginia Beach Eye Center, a referring provider and the Lions Medical Eye Bank. Collectively, these letters articulate numerous benefits of the project, including:

- The new facility is state-of-the art, optimized for patient flow and safety; consolidation of ORs will increase efficiency.
- The four existing ORs are filled and the relocated OR will help accommodate current and growing demand.
- Recruitment is underway and additional OR capacity is needed to support new physicians.

- The OR relocation will provide access for patients to caring, high-quality physicians in a setting consistently found to be “a more cost-efficient manner than any other comparable hospital-based facility or free-standing ASC in the Hampton Roads area.
- VSC is located close to the Norfolk International Airport for timely transport of donor tissues.
- Once the OR is relocated from Virginia Beach Eye Center, the vacated space can be used to expand to a larger and more efficient space to better serve patients in Norfolk and the Greater Hampton Roads area.

DCOPN received no letters in opposition to the proposed project.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

DCOPN received letters of support for the project from five patients of CVSE. Collectively, these letters articulate numerous benefits of the project, including:

- The second OR will improve timely access to the facility for surgical needs.
- The additional OR will improve access in the Chesapeake community, minimizing travel for its Chesapeake-based patients.
- CVSE provides quality care in a more cost-effective setting than hospital-based eye surgery.

DCOPN received no letters in opposition to the proposed project.

Public Hearing

COPN Request No. VA-8617: Virginia Surgery Center, LLC

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-8617 is competing with COPN Request No. VA-8660 in this batch cycle. DCOPN conducted a public hearing on October 18, 2022, by telephone conference. A total of 15 individuals participated in the public hearing, with seven individuals presenting or speaking in favor of the proposed project. The project was presented by representatives of VSC and a patient spoke in support of the project, discussing:

- The proposed project represents a relocation without adding an OR to the inventory in PD 20
- VSC is a lower cost, newer, more efficient site and better staffed than the current location of the OR to be relocated.
- The added OR capacity will allow VSC to add physicians.
- Hospital-based sites don't have adequate block time.
- The aging and growing population in PD 20.
- New site has greater access to public transit.
- VSC volumes grew at 10%-20% annually, 72% in 2021 with COVID “catch-up” and mergers.
- VSC is 14 minutes from the Virginia Beach Eye Center from where the OR would relocate so closure of that OR would represent little inconvenience to patients traveling to VSC.

- Patient perspective of high-quality, caring, efficient, responsive team that performed her procedure in a timely way after being told there were not time slots available.
- High utilization at VSC (140% of SMFP threshold in 2020).
- Some of the physicians are on the Eastern Virginia Medical School (EVMS) faculty.
- VSC has a new building, modern microscopes, latest cleaning abilities
- Cataract surgeries decrease morbidity, car accidents, broken hips, yet are not a priority for hospitals.
- Hospitals aren't set up for latest glaucoma shunts and latest equipment for other procedures.
- VSC has a fraction of the wait times of hospital-based eye procedures.
- Performing eye surgeries outside the hospital frees up hospital OR time for other urgent procedures.

No one spoke in opposition.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

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-8660 is competing with COPN Request No. VA-8617 in this batch cycle. DCOPN conducted a public hearing on October 18, 2022, by telephone conference. A total of 15 individuals participated in the public hearing, with eight individuals presenting or speaking in support of the proposed project. The project was presented by representatives of CVSE of the public and the medical community spoke in support of the project, discussing:

- Proposed project is the addition of one operating room, which would be converted from an existing procedure room.
- The proposed project will increase access in the Chesapeake area of PD 20 which experiences access barriers due to traffic congestion traveling to Norfolk or Virginia Beach.
- CVSE is a lower cost option than a hospital setting.
- Hospitals do not prioritize ophthalmic surgeries and they have to compete with other specialties in a hospital setting.
- Early morning block time is important for the older eye care patients and those with diabetes. An additional OR will allow more morning surgeries.
- CVSE has dedicated, high-quality staff focused only on eye surgery.
- CVSE will accept all PD 20 patients regardless of ability to pay and has charity programs offering free cataract surgeries nationwide.
- An additional OR will allow the provision of more free surgeries.
- CVSE has a glaucoma specialist.
- CVSE wishes to expand to retinal surgeries and needs a second OR to do this.
- Some CVSE physicians are on the faculty of EVMS.
- Insurance is forcing some eye surgeries into outpatient surgical centers from the hospital setting. More retinal surgeries are moving from the hospital based setting and CVSE is the only non-hospital-based site in Chesapeake that will do retinal surgeries.

- CVSE offers high-quality patient care.
- Population growth and aging of community in Chesapeake is increasing demand.

(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-8617: Virginia Surgery Center, LLC

VSC has demonstrated high utilization, reporting 140% of the SMFP threshold to VHI in 2020, as well as growth, and has articulated plans to expand and recruit additional surgeons that would require more OR space. The proposed project would relocate a restricted use OR and not add to the OR inventory in PD 20. There is existing space in the new facility for an additional OR so no construction and little capital expense is required. DCOPN concludes that a viable alternative to the proposed project does not exist.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

CVSE opened in 2019 and states that it has experienced high growth after COVID restriction lifted. The proposed project would add a restricted use OR to the PD 20 inventory. If the project is approved, CVSE would convert an existing procedure room to a second OR, so the project is cost-efficient. CVSE has expressed plans to add subspecialty services, such as retinal surgeries, and requires a second OR to offer these services. CVSE is located in Chesapeake and serves the southern portion of PD 20, one of the fastest growing areas of PD 20, especially in the 65+ age group which utilizes ophthalmic procedures at a higher rate. Patients from northeastern North Carolina also come to the area for care, adding to demand at the CVSE site. The southern portion of PD 20 has transportation barriers to accessing care in Norfolk and Virginia Beach, and the applicant and patients have articulated the need for access in their community. DCOPN concludes that a viable alternative to the proposed project does not exist.

(iii) any recommendation or report of the regional health planning agency regarding an application for a certificate that is required to be submitted to the Commissioner pursuant to subsection B of § 32.1-102.6;

Currently there is no organization in HPR V designated by the Virginia Department of Health to serve as the Health Planning Agency for PD 20. Therefore, this consideration is not applicable to the review of the proposed project.

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

COPN Request No. VA-8617: Virginia Surgery Center, LLC

As demonstrated by **Table 2**, the projected capital costs of the proposed project are \$351,391, the entirety of which will be funded using the accumulated reserves of the applicant. Accordingly, there are no financing costs associated with this project. The costs for the project are significantly less than other similar projects due to the construction of a new facility with OR space already included and consists almost entirely of lease expense. As such, DCOPN finds the costs associated with the proposed project cannot be accurately compared to other projects where OR space is added to or renovated in the facility.

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

- The proposed project represents a relocation without adding an OR to the inventory in PD 20
- VSC is a lower cost, newer, more efficient site and better staffed than the current location of the OR to be relocated.
- The added OR capacity will allow VSC to add physicians.
- Hospital-based sites don't have adequate block time, so the proposed project will provide access to ophthalmic procedures.
- The proposed project allows for growth to provide access to the aging and growing population in PD 20.
- The VSC site has greater access to public transit than the Virginia Beach Eye Center.
- The relocated OR will address high utilization at VSC (140% of SMFP threshold in 2020).
- VSC has a new building, modern microscopes, latest cleaning abilities, high-quality staffing and is dedicated to eye surgeries, not competing with other procedures for hospital block time or other resources.
- VSCE has better equipment and supplies for specialize procedures like glaucoma shunts and laser procedures.
- VSC has a fraction of the wait times of hospital-based eye procedures.
- Performing eye surgeries outside the hospital frees up hospital OR time for other urgent procedures.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

As demonstrated by **Table 3**, the projected capital costs of the proposed project are \$2,511,226, the entirety of which will be funded using the accumulated reserves of the applicant. Accordingly, there are no financing costs associated with this project. Approximately 48% of estimated expense is attributable to CVSE's lease expense. The cost of the project is high, particularly on a per-OR basis, compared to the costs of VSC's previous project to relocate two ORs (COPN No. VA-04708 approved in June 2020) at \$2,298,725; however, CVSE's lease expense provided was for the entire facility and not prorated for the additional square footage associated with the new OR and may be difficult to compare to other projects.

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

- The proposed project is cost-efficient in that it proposes to convert an existing procedure room to an OR.
- The proposed project will increase access in the Chesapeake area of PD 20 which experiences access barriers due to traffic congestion traveling to Norfolk or Virginia Beach.
- CVSE is a lower cost option than a hospital setting.
- Hospitals do not prioritize ophthalmic surgeries and they compete with other specialties in a hospital setting.
- Early morning block time is important for the older eye care patients and those with diabetes. An additional OR will allow more morning surgeries and a better experience for patients.

- CVSE will accept all PD 20 patients regardless of ability to pay and has charity programs offering free cataract surgeries nationwide.
- An additional OR will allow the provision of more free surgeries.
- A second OR will allow CVSE to expand into retinal surgeries.
- The proposed project will provide access to a high-growth population, and an even faster-growing 65+ population in southern PD 20.

(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-8617: Virginia Surgery Center, LLC

The Pro Forma Income Statement provided by the applicant (summary, **Table 6**) did not include a breakout of charity care. DCOPN notes that, according to regional and statewide data regularly collected by VHI, for 2020, the most recent year for which such data are available, the average amount of charity care provided by HPR V facilities was 2.5% of all reported total gross patient revenues (**Table 5**). Recent changes to § 32.1-102.4B of the Code of Virginia 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 2.5% HPR V average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia.

Table 6. Virginia Surgery Center Pro Forma

	Year 1	Year 2
Total Gross Charges	\$ 2,176,623	\$4,186,438
Net Revenue	\$ 1,146,721	\$2,418,485
Total Operating Expenses	\$ 319,434	\$ 726,234
Operating Income	\$ 827,287	\$1,692,251

Source: COPN Request No. VA-8617

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

The Pro Forma Income Statement provided by the applicant (summary, **Table 7**) did not include a breakout of charity care. DCOPN notes that, according to regional and statewide data regularly collected by VHI, for 2020, the most recent year for which such data are available, the average amount of charity care provided by HPR V facilities was 2.5% of all reported total gross patient revenues (**Table 5**). Recent changes to § 32.1-102.4B of the Code of Virginia 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 2.5% HPR V average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia.

Table 7. Center for Visual Surgical Excellence Pro Forma

	Year 1	Year 2
Net Revenue	\$ 6,917,955	\$7,568,426
Total Operating Expenses	\$ 7,250,598	\$7,664,077
Operating Income	\$ (332,643)	\$ (95,651)

Source: COPN Request No. VA-8660

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

DCOPN did not identify any other 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).

The State Medical Facilities Plan (SMFP) contains criteria/standards for the addition of general-purpose operating rooms. They are as follows:

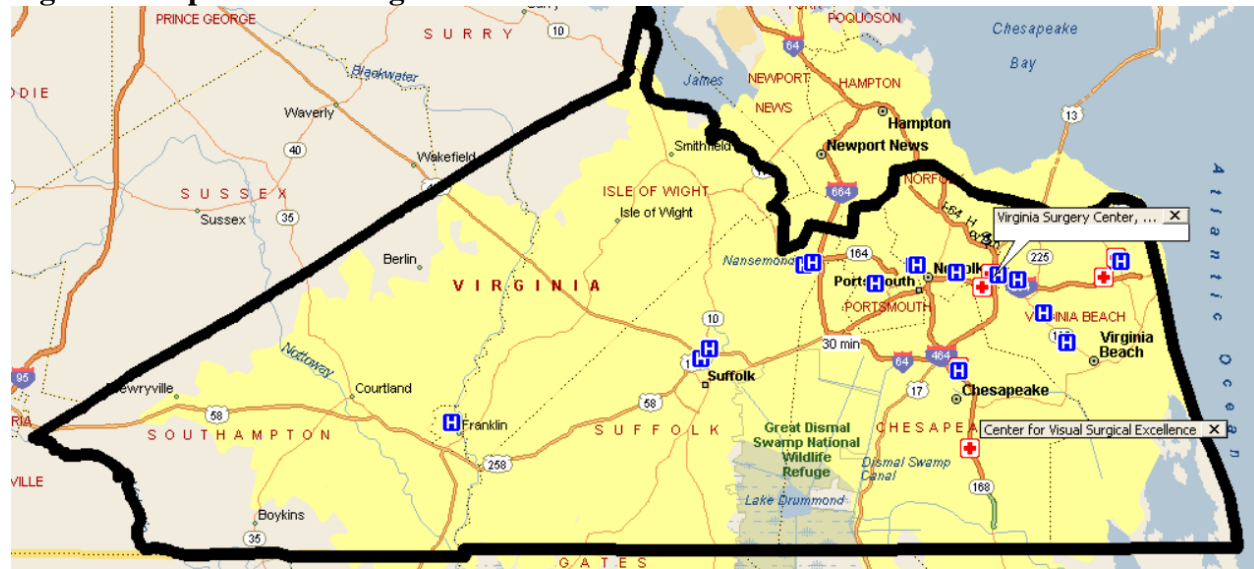
**Part V
 General Surgical Services
 Criteria and Standards for General Surgical Services**

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 3** is the boundary of PD 20. The white and red circles mark the COPN approved OSHs with ORs restricted for ophthalmic use; the blue “H” signs mark the locations of the other COPN approved surgical services. The sites of the proposed projects are labeled. The shaded area includes all locations that are within 30 minutes driving time one way under normal conditions of existing surgical services in PD 20. Based on the shading in **Figure 3**, it appears that surgical services are available within 30 minutes driving time one-way under normal traffic conditions of 95% of the population of PD 20; however, restricted use ophthalmic ORs are only available in PD 20 in Norfolk, Virginia Beach and Chesapeake. Given the locations of the proposed projects in Norfolk and Chesapeake where services are already located, approval of the proposed projects will not significantly improve the geographic access to surgical services for the residents of PD 20.

Figure 3. Map of PD 20 Surgical Sites



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 ORs in PD 20. The preceding formula can also determine the overall need for operating rooms within PD

20 five years from the current year, i.e., in the year 2027. The current OR inventory for PD 20 is shown in **Table 1** above.

Based on operating room utilization submitted to and compiled by VHI, for the five year period 2016 through 2020 which is the most recent five-year time span for which relevant data are available, the total numbers of reported inpatient and outpatient operating room visits to hospital-based and freestanding (i.e., to outpatient surgical hospitals/ambulatory surgical centers) are shown in **Table 8**.

Table 8: Inpatient & Outpatient GPOR Utilization in PD 20: 2016-2020

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

Source: VHI (2016-2020) and COPN Records

Based on actual population counts derived as a result of the U.S. Census and population projections as compiled by Weldon Cooper, **Table 9** presents the population estimates for PD 20 for the five years from 2016 to 2020 and the projected population estimate for 2027.

Table 9: PD 20 Population: 2016-2020 & 2027

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

Source: Weldon Cooper

Based on the above population estimates from Weldon Cooper and using the average annual increase of 6,210 from 2010 to 2020, and 4,190 from 2020 to 2030, the cumulative total population of PD 20 for the same historical five-year period as referenced above, i.e., 2016-2020, was **5,955,245**, while Weldon Cooper projects the population of PD 20 in the year 2027 (PROPOP-five years from the current year) to be **1,237,962**. These figures are necessary for the application of the preceding formula, as follows:

ORV	÷	POP	=	CSUR
Total PD 20 GPOR Visits 2016 to 2020		PD 20 Historical Population 2016 to 2020:		Calculated GPOR Use Rate 2016 to 2020:
555,584		5,955,245		0.0933

CSUR	X	PROPOP	=	PORV
Calculated GPOR Use Rate 2065 to 2020:		PD 20 Projected Population 2027		Projected GPOR Visits 2027:
0.0933		1,237,962		115,502

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

According to VHI data from 2020, the most recent year for which such data are available, there were 190,653 inpatient and outpatient operating room hours for that year (**Table 10**). AHORV = 190,653 total inpatient and outpatient operating room hours reported to VHI for 2020, divided by 103,330 total inpatient and outpatient operating room visits reported to VHI for that same year.

AHORV = 1.8451

Table 10: PD 20 Total OR Room Hours: 2020

Acute Care Hospital	Operating Rooms	Total Hours	Use Per OR	Utilization Rate
Bon Secours DePaul Medical Center	10	3,709	370.9	23.2%
Bon Secours Maryview Medical Center	9	6,860	762.2	47.6%
Bon Secours Southampton Memorial Hospital	5	1,921	384.2	24.0%
Chesapeake Regional Medical Center	15	18,219	1,214.6	75.9%
Children's Hospital of The King's Daughters	10	12,610	1,261.0	78.8%
Sentara Leigh Hospital	17	23,159	1,362.3	85.1%
Sentara Norfolk General Hospital	25	38,314	1,532.6	95.8%
Sentara Obici Hospital	5	10,055	2,011.0	125.7%
Sentara Princess Anne Hospital	10	15,013	1,501.3	93.8%
Sentara Virginia Beach General Hospital	10	18,420	1,842.0	115.1%
Total	116	148,280	1,278	79.9%
Outpatient Surgical Hospital				
Bayview Medical Center, Inc	2	928	464.0	29.0%
Bon Secours Surgery Center at Harbour View	6	3,693	615.5	38.5%
Bon Secours Surgery Center at Virginia Beach	2	3,120	1,560.0	97.5%
CHKD Health & Surgery Center (Virginia Beach)	3	3,093	1,031.0	64.4%
Sentara BelleHarbour Ambulatory Surgery Center	2	266	133.0	8.3%
Sentara Leigh - Ambulatory Surgery	6	6,963	1,160.5	72.5%
Sentara Obici Ambulatory Surgery LLC	2	3,757	1,878.5	117.4%
Sentara Princess Anne ASC	2	3,690	1,845.0	115.3%
Surgery Center of Chesapeake	4	4,301	1,075.3	67.2%
Virginia Beach Ambulatory Surgery Center	4	4,836	1,209.0	75.6%
Virginia Beach Eye Center	1	732	732	45.8%
Virginia Center for Eye Surgery	2	2,496	1,248.0	78.0%
Virginia Surgery Center, LLC	2	4,498	2,249.0	140.6%
Total	39	42,373	1,086	67.91%
Combined Total	155	190,653	1,230.02	76.88%

Source: VHI (2020)

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

$$\frac{\text{FOR } 0.0933 \times 1,237,962 \times 1.8451}{1600}$$

$$\text{FOR} = 213,112.47 \div 1,600$$

FOR = 133.2 (134) Operating Rooms Needed in PD 20 in 2027
Current PD 20 OR inventory: 162

Calculated Net Surplus: 28 ORs for 2027 planning year (162 current inventory – 134 calculated need)

This calculation is for all ORs in PD 20, including GPORs as well as those dedicated to cardiac surgery and restricted use ORs. The three OSHs with only restricted use ophthalmic ORs that reported to VHI in 2020 are shown in **Table 11**. Their collective last-published utilization rate was 96.6%.

Table 11. PD 20 Restricted Use Ophthalmic ORs, 2020

Facility Name	Restricted Use Ophthalmic ORs	Total Hours	Use Per OR	Utilization Rate
Virginia Beach Eye Center	1	732	732	45.8%
Virginia Center for Eye Surgery	2	2496	1248	78.0%
Virginia Surgery Center, LLC	2	4498	2249	140.6%
TOTAL	5	7726	1545.2	96.6%

Source: VHI

COPN Request No. VA-8617: Virginia Surgery Center, LLC

VSC opened a new facility and added two ORs in 2021. The applicant reports that total surgical, preparation and clean-up hours in 2021 was 6,229, an average utilization of 1,557 hours in its four current ORs, or 97.3% of the SMFP standard. The proposed project does not add any ORs to the existing inventory in PD 20, as it entails the transfer of an underutilized OR at another site.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

CVSE has not yet reported utilization to VHI but states that its most recent utilization was 51%. Though CVSE proposes the addition of one OR to the PD 20 inventory, existing restricted use ophthalmic OSHs in PD 20 have high utilization, 96.6% (**Table 11**) and the applicants for both COPN Request Nos. VA-8617 and VA-8660 note high projected growth in demand from population growth, especially in the 65+ age group, and expansion of subspecialty services.

- 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-8617: Virginia Surgery Center, LLC

The applicant states that VSC is more accessible than the current location of the OR at Virginia Beach Eye Center and the OR at Virginia Beach Eye Center is far less utilized than those at VSC. The proposed project will consolidate ORs from two sites to one and save staff and other resource costs associated with multiple sites. Since VSC and the Virginia Beach Eye Center are both outpatient facilities, the proposed project will have no impact on the number of procedures performed on an outpatient basis.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

Not applicable. This project does not propose relocation of an existing OR.

12VAC5-230-510. Staffing.

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

The applicant has provided assurances that all surgical services will be under the direction and supervision of qualified physicians on the medical staff.

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-8617: Virginia Surgery Center, LLC

VSC has completed projects on time and within the authorized capital costs. With respect to the proposed project, the projected capital cost is \$351,391. The applicant has an established history of meeting state licensure and federal certification regulations.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

CVSE has completed projects on time and within the authorized capital costs. With respect to the proposed project, the projected capital cost is \$2,511,226. CVSE has a strong history of charity care, in fact it has an annual program to provide free surgeries for those unable to pay.

Conclusion

DCOPN does not believe that any applicant warrants preference with respect to its performance record on projects, meeting state licensure and federal certification regulations or displaying a commitment to charity care.

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

A. Notwithstanding any other provisions of this chapter, the commissioner may grant approval for the expansion of services at an existing medical care 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.

COPN Request No. VA-8617: Virginia Surgery Center, LLC

Not applicable. The applicant is not asserting an institutional need to expand. Though VSC surpassed the SMFP threshold in its reported hours to VHI in 2020, it added two restricted use ORs in 2021. The utilization that VSC reported in its application does not surpass the SMFP threshold in its four existing ORs.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

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

B. 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.

COPN Request No. VA-8617: Virginia Surgery Center, LLC

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

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

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

C. This section is not applicable to nursing facilities pursuant to § 32.1-102.3:2 of the Code of Virginia.

Not applicable. The applicants are not using institutional need to add nursing beds.

D. Applicants shall not use this section to justify a need to establish new services.

Not applicable. The applicants are not using this section to justify a need to establish a new service.

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-8617: Virginia Surgery Center, LLC

The proposed project would relocate the only OR at Virginia Beach Eye Center and eliminate one surgical competitor from PD 20; however, the OR is willingly contributed by an affiliated practice that will be willing to expand its non-surgical practice. DCOPN concludes that approval of the project will not foster institutional competition that benefits the area to be served.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

CVSE's proposed project fosters competition with hospital based providers of ophthalmic surgery and the Surgery Center of Chesapeake, which has two restricted use ophthalmic ORs as well as two GPORs. The applicant asserts that eye surgery can be provided more cost-efficiently on an outpatient basis and expanded outpatient access will be of benefit to the community.

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-8617: Virginia Surgery Center, LLC

VSC has a transfer agreement with Sentara Leigh Hospital.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

CVSE is not affiliated with a health care system in 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;

COPN Request No. VA-8617: Virginia Surgery Center, LLC

DCOPN notes that the projected capital cost of \$351,391, mostly the prorated leasing expense in an existing facility, is low. The pro forma provided by the applicant (Table 3) projects a positive net income starting in year one. Furthermore, the project will relocate an existing OR in PD 20, consolidating the single OR at Virginia Beach Eye Center to VSC and improving operational and staffing costs.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

Though CVSE's reported estimated costs are comparatively high, \$2,511,226, they are the expenses of the entire existing facility and not prorated for just the additional proposed OR. Likewise, the pro forma is for CSVE as a whole. The pro forma provided by the applicant

continues to show a loss in Year 2, but substantially less than Year 1. Furthermore, the proposed OR would be added with little additional human resources or operational costs after the initial investment.

- 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-8617: Virginia Surgery Center, LLC

VSC contends that its new facility offers state-of-the-art equipment. Relocating an OR from an older, less utilized facility is a cooperative effort that not only meets eye surgery needs in the area but allows for the non-surgical expansion of the practice contributing the OR. Additional capacity will enable the recruitment of subspecialties and enhance access to these for the population in the region.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

CVSE asserts that the additional OR would allow recruitment of subspecialties and enhance access to ophthalmic surgery in an outpatient setting.

- 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.**

Both applicants have affiliated EVMS faculty members, but neither applicant is a teaching hospital or affiliated with a public institution of higher education or medical school in the area to be served. Approval of the proposed projects 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-8617: Virginia Surgery Center, LLC

VSC proposes to add one OR to its new facility through the relocation of a restricted use ophthalmic OR from Virginia Beach Eye Center. VSC has expanded its complement of ORs by two since the latest published VHI data when its utilization was 140.6%, but the hours reported in its application demonstrate a high utilization even with the additional OR capacity. The projected capital costs of the proposed project are low, totaling \$351,391, the entirety of which will be funded using the accumulated reserves of the applicant (**Table 2**). Accordingly, there are no financing costs associated with this project. The applicant maintains that no additional construction is necessary to implement the proposed project, as the OR space was constructed with the new facility that opened

in 2021. DCOPN finds that the proposed project will prove financially feasible both in the immediate and in the long-term.

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 2.5% HPR V average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

CVSE proposes the addition of one restricted use ophthalmic OR to expand its ability to provide ophthalmic surgery in the southern portion of PD 20, the fastest-growing portion of the planning district, and one with access limited by traffic congestion and the bottlenecks of bridges and tunnels to travel to Norfolk or Virginia Beach. The applicant's projected capital costs of \$2,298,725 appear high but include the entire existing facility rather than just the added OR. DCOPN finds the proposed project will prove financially viable. Though PD 20 has a surplus of total ORs, the restricted use ophthalmic ORs demonstrate high utilization, 96.6% (**Table 11**) and the demand for eye surgery is increasing. The proposed project enhances access to outpatient services in Chesapeake and the southern portion of PD 20 and the applicant contends that an additional OR at CSVE will enable the addition of subspecialists like retinal surgeons. The applicant also asserts that the additional OR proposed will improve quality by adding block time for morning surgeries for diabetic and other patients, and potentially lower the cost of eye surgery for the area by expanding the option of outpatient eye surgery.

Although approval of the proposed project would ultimately add a restricted use ophthalmic OR to PD 20, DCOPN concludes that the applicant has adequately demonstrated need to expand its existing capacity and the benefits to PD 20 of doing so.

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 2.5% HPR V average, in addition to any new requirements as found in the revised § 32.1-102.4B of the Code of Virginia.

DCOPN Staff Recommendation

COPN Request No. VA-8617: Virginia Surgery Center, LLC

The Division of Certificate of Public Need recommends **conditional approval** of the proposed project to add one restricted use ophthalmic OR through the relocation of an existing OR for the following reasons:

1. The 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 project will not add to the OR inventory in PD 20.
3. The project will add subspecialty access to PD 20.
4. The project is more favorable than the alternative of the status quo.
5. The project is financially feasible.
6. Approval of the proposed project is not likely to have a significant negative impact on existing providers of ophthalmic surgical services.

Recommended Condition

Virginia Surgery Center, LLC will provide ophthalmic 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 and specialty medical care services to medically underserved persons in PD 20 in an aggregate amount equal to at least 2.5% of Virginia Surgery Center, LLC's gross patient revenue derived from its surgery 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 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.

Virginia Surgery Center, LLC will provide ophthalmic surgery 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.

COPN Request No. VA-8660: Center for Visual Surgical Excellence, LLC

The Division of Certificate of Public Need recommends **conditional approval** of the proposed project to add one restricted use OR for the following reasons:

1. The 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 project will provide outpatient access to an area of PD 20 with high population growth and growth in high-demand age groups with barriers to access.
3. The project will add subspecialty access to PD 20.
4. The project is more favorable than the alternative of the status quo.
5. The project is financially feasible.
6. Approval of the proposed project is not likely to have a significant negative impact on existing providers of ophthalmic surgical services.

Recommended Condition

Center for Visual Surgical Excellence, LLC will provide ophthalmic 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 and specialty medical care services to medically underserved persons in PD 20 in an aggregate amount equal to at least 2.5% of Center for Visual Surgical Excellence, LLC's gross patient revenue derived from its surgery 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. Center for Visual Surgical Excellence, 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.

Center for Visual Surgical Excellence, LLC will provide ophthalmic surgery 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.