

VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis

November 21, 2022

COPN Request No. VA-8655

MOHS Surgery Center of Richmond Dermatology, PLLC
Henrico, Virginia

Establish an outpatient surgical hospital with one operating room dedicated to Mohs surgery and post-Mohs reconstructive surgery procedures

Applicant

The MOHS Surgery Center of Richmond Dermatology, PLLC (MSC), is a professional limited liability company of Richmond Dermatology Specialist, P.C. MSC Surgery is located in Planning District (PD) 15, Health Planning Region (HPR) IV.

Background

Mohs surgery is recognized as the most precise method of removing skin cancer. The main difference between Mohs surgery and other methods of removing skin cancers is the ability to remove the entire cancer while maximizing the preservation of healthy tissue. In Mohs surgery, the margin of the excised tissue is immediately examined to determine if all the cancerous tissue has been removed. If not, additional tissue from only the margin with cancerous cells remaining is excised. This procedure is repeated until the entire margin is free of cancer cells, all during a single patient visit.

Mohs surgery is an outpatient surgery that is readily performed in a physician's office, (usually a dermatologist's or plastic surgeon's office), or in an outpatient surgical hospital (OSH). Performance in an OSH 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.

In PD 15 there are at least five centers with a focus on Mohs surgery (Table 1), in addition to other dermatologic, skin cancer and plastic procedures, readily identified. Only one is licensed as an OSH and one is licensed as a general hospital. Based on the number of physicians identified in an internet search as performing Mohs surgery in PD 15, there are may be many additional physician's offices, and perhaps hospitals where patients can access the surgery.

According to Division of Certificate of Public Need (DCOPN) records, there are 181 general purpose operating rooms (GPORs) located in PD 15. Of those 181 GPORs, 144 GPORs are within acute care hospitals, and 37 GPORs are in outpatient surgical hospitals (OSH) (Table 2). GPORs are operating rooms (ORs) available for general surgical use, not dedicated solely to cardiac surgery or limited in their use by restrictions on the certificate of public need.

Table 1 Mohs Surgery Centers

Facility	Practice	Address	Facility Type
Skin Surgery Center of Virginia	Skin Surgery Center of Virginia	2510 Gaskins Road, Henrico	OSH
Mohs Surgery Center	Dermatology Associates	10800 Midlothian Turnpike, Richmond	Physician's Office
Absolute Dermatology and Skin Cancer Center	Absolute Dermatology and Skin Cancer Center	5207 Hickory Park Drive, Glen Allen	Physician's Office
Absolute Dermatology and Skin Cancer Center	Absolute Dermatology and Skin Cancer Center	7300 Ashlake Parkway, Chesterfield	Physician's Office
VCU Medical Center	Dermatology Department	401 North 11 th Street, Richmond	General Hospital

Table 2: PD 15 Authorized OR Inventory

	Total Number of ORs	Dedicated Cardiac Surgery ORs	Restricted Use ORs	GPOR
Acute Care Hospitals				
Bon Secours Memorial Regional Medical Center	8	1		7
Bon Secours Richmond Community Hospital	3			3
Bon Secours St. Francis Medical Center	13			13
Bon Secours St. Mary's Hospital	23	2		21
Chippenham Hospital	14			14
Henrico Doctors' Hospital - Forest	21			21
Henrico Doctor's Hospital - Parham	11			11
Henrico Doctor's Hospital - Retreat	5			5
Johnston-Willis Hospital	16			16
VCU Health System	36	3		33
Total Number of Hospital ORs	150	6		144
Outpatient Surgical Hospitals				
American Access Care of Richmond ⁴	2		2	0
Bon Secours Memorial Ambulatory Surgical Center	5			5
Boulders Ambulatory Surgery Center	3			3
Cataract and Refractive Surgery Center	1			1
Colon & Rectal Endoscopy Specialists & Surgery Center, LLC	1			1
MEDARVA Stony Point Surgery Center	6			6
MEDARVA Surgery Center at West Creek	2			2
Skin Surgery Center of Virginia	2			2
St. Mary's Ambulatory Surgery Center	4			4
Urosurgical Center of Richmond ¹	3		3	0
VCU Health Courthouse Landing Pavilion	4			4
VCU NOW Center	6			6
Virginia Commonwealth University Medical Center-Pediatric Outpatient Surgery	2			2
Virginia ENT Surgery Center ²	1		1	0
Virginia Eye Institute ³	5		5	0
Virginia League for Planned Parenthood	1			1
VSA Vascular Center ⁴	2		2	0
Total Number of Outpatient Surgical Hospital ORs	50		11	37
Grand Total	200	6	11	181
1 Restricted to Urological Surgery	3 Restricted to Ophthalmic Surgery			
2 Restricted to ENT Surgery	4 Restricted to Vascular Surgery			

Source: DCOPN Records

Proposed Project

MSC proposes to establish a single OR, 4,090 gross square foot, OSH within the 13,331 square foot building currently occupied by Richmond Dermatology’s (the same practice that will operate the MSC) Aesthetic Center, at 9816 Mayland Drive, Suite 100, Henrico, Virginia. Procedures at MSC will be limited to Mohs surgery and related post-Mohs reconstruction.

The projected capital costs of the proposed project total \$1,883,726, approximately 49% of which represent direct construction costs. The applicant will fund the capital costs associated with the proposed project as follows: (1) \$1,065,883 through commercial loans; (2) \$141,343 using accumulated reserves; and (3) \$676,500 through operations.

Table 3. MSC Projected Capital Costs

Direct Construction Costs	\$923,364
Equipment Not Included in Construction Contract	\$157,072
Site Acquisition Costs	\$676,500
Site Preparation Costs	\$30,000
Architectural and Engineering Fees	\$71,463
Conventional Loan Financing	\$25,237
Total Capital Costs	\$1,883,726

Source: COPN Request No. VA-8655

Construction on the proposed project is expected to begin in April 2023 and is expected to be completed by August 2023. The applicant anticipates an opening date in September 2023.

Project Definitions

The Code of Virginia, at Va Code §32.1-102.1 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.”

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;**

Geographically, MSC would be located at 9816 Mayland Drive, Suite 100, Henrico, Virginia. The proposed site is located less than one mile from Interstate I-64, and less than a half mile from West Broad Street. Both of these roadways are major east-west arteries serving western PD 15. MSC is a half mile from a GRTC Transit System bus stop, which serves Henrico County,

The City of Richmond, part of Chesterfield County and includes a route to the City of Petersburg.

Table 4 shows projected population growth in PD 15 through 2030. As depicted in Table 4, 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 4. 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%	-0.38%	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 5).

Table 5. 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)

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;

DCOPN received four letters of support for the proposed project from members of the Richmond medical community, including a letter from a member of the applicant’s practice, two OSHs (one restricted to vascular surgery and one restricted to gastrointestinal surgery) and a letter of support from a competitor Mohs surgery provider. Collectively, these letters articulated several benefits of the project, including:

- The wait time for patients to receive Mohs surgery is approximately three to four months and that the addition of another center would help reduce the wait time.
- The general advantages of surgery being performed in an outpatient environment instead of in an acute care hospital.

- The advantages of surgery being performed in an OSH instead of in an unregulated physician's office.

Support from Absolute Dermatology and Skin Cancer Center (Absolute) is notable because the two physician's offices operated by Absolute also perform Mohs surgery, one center within 5 miles of the applicant's proposed site. Absolute states that they currently receive referrals of the applicant's patients for Mohs surgery.

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-8655 is not competing with another project in this batch cycle and DCOPN did not receive a request to conduct a public hearing for the proposed project. Thus, no public hearing was held.

- (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;**

According to at least one current Mohs surgery provider in PD 15, who would be a competitor of MSC if approved, there is a need for additional Mohs surgery capacity in the PD. Absolute Dermatology and Skin Cancer Center (Absolute) noted that the wait time for patients to receive Mohs surgery is three to four months. In Absolute's letter of support for COPN Request number VA-8655 Dr. William Gillen was clear that the "limited choice is insufficient to meet the needs of patient in the area..." Clearly there appears to be a need for additional Mohs surgery capacity in PD 15.

Absolute Dermatology and Skin Cancer Center (two sites) and Dermatology Associates (one site) offer Mohs surgery as an office based procedure and are therefore not licensed as an OSH. In electing to provide Mohs surgery as an office based procedure instead of in an OSH they may not be eligible for facility reimbursement from some third party payors and they are not subject to the requirements of licensure, regulated only by their professional licenses and whatever accreditation they may have.

Richmond Dermatology Specialist, P.C. could, as an alternative to obtaining a certificate of public need (COPN) and licensure as an OSH, perform Mohs surgery as an office based procedure without need for a COPN or facility license. While a viable, and, clearly from the example of others who have followed that model, a reasonable alternative, the public may be better served by the licensure regulation of MSC as an OSH.

(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;

As demonstrated by **Table 3**, the projected capital costs of the proposed project are \$1,883,726, approximately 49% of which represent direct construction costs for the renovation of existing space. The capital costs will be funded using a five year bank loan at 4.97% interest. Accordingly, there are financing costs associated with this project totaling \$142,159 over the five year life of the loan. The direct construction cost for the renovation of the existing 4,090 gross square feet of the project is \$225.75 per gross square foot.

DCOPN concludes that when compared to similar projects, these costs are reasonable. For example, COPN No. VA-04763 issued to Colon and Rectal Endoscopy and Surgery Center, LLC, in Richmond, Virginia, in 2021 to establish an OSH with one OR reported a direct construction cost estimate of \$485.77 per gross square foot, for a new construction that included a 5,277 gross square foot OSH.

The applicant identified numerous benefits to providing Mohs surgery in an OSH including:

- Providing Mohs surgery in an OSH will improve the cost-effectiveness of the delivery of health care services. Mohs surgery is performed, and completed in a single patient visit, avoiding the need for additional visits, testing and copays from the patient, as well as reducing the patient's time devoted to obtaining the care.
- MCS intends to offer Mohs surgery for the treatment of melanoma, which reportedly is not otherwise offered in PD 15.
- The proposed MCS will be limited to Mohs surgery and post-Mohs reconstructive procedures and therefore will not adversely impact the patient volume at existing OSHs. [Note: with the possible exception of at the Skin Surgery Center of Virginia, located less than two miles from MSC's proposed site].

The applicant identified numerous benefits of Mohs surgery, including maximizing the preservation of healthy tissue and having a 98% to 99% cure rate for the cancers treated.

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

The Pro Forma Income Statement provided by the applicant does not include the provision of charity care (**Table 6**). However, the applicant stated, "[t]he proposed Mohs surgery ASC will

be accessible to Richmond Dermatology patients and others within the primary service area without regard to payment source or ability to pay. MSC will meet its charity care condition upon COPN approval.”

Recent changes to § 32.1-102.4B of the Code of Virginia now require the State Health Commissioner to place a charity care condition on every COPN. Accordingly, should the Commissioner approve the proposed project, DCOPN recommends a charity care condition of 1.3% to be derived from gross patient services revenue derived from surgical services. This condition is set at the HPR IV median for 2020 (the last year for which data is available from VHI (see Table 5). The statutorily required conditions of agreement of the applicant to provide 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. will also be recommended. Additionally it will be recommended the Commissioner condition any COPN on the agreement of the applicant to facilitate the development and operation of primary and specialty medical care services in designated medically underserved areas of the applicant's service area,.

Table 6. MCS Pro Forma Income Statement

	Year 1	Year 2
Total Gross Charges	\$2,635,200	\$3,294,000
Net Revenue	\$2,635,200	\$3,294,000
Total Operating Expenses	\$2,338,632	\$2,359,313
Operating Income	\$296,568	\$934,687

Source: COPN Request No. VA-8655

- (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).

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**

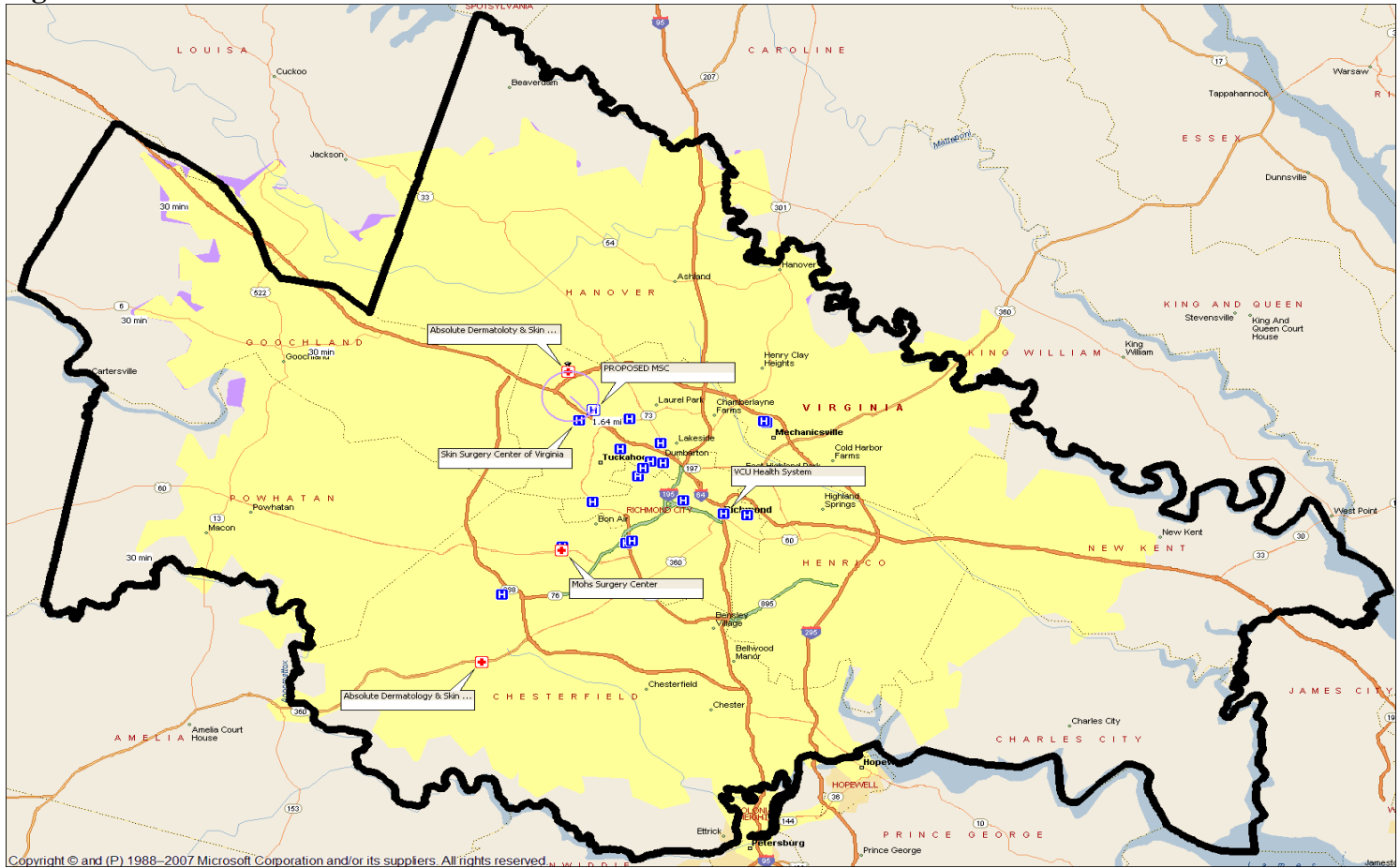
12VAC5-230-490. Travel Time.

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” symbol marks the location of the proposed project. The blue “H” symbols mark the locations of all other existing general hospital and OSH surgical services within PD 15. The red cross symbols are the location of known physician’s offices that perform Mohs surgery. The yellow shaded area represents the areas of PD 15 and surrounding areas that are within 30 minutes’ drive time of existing known Mohs surgical services. The lavender areas, (small spaces on the periphery of the yellow shading), represents the new area that will be within a 30 minute drive of a known Mohs surgery provider that would result from approval of the MSC. Given the amount and location of shaded area and that the population of PD 15 is concentrated in the center of the PD, it is evident that Mohs 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 Mohs surgical services for persons of PD 15 in any meaningful way.

If MSC is approved three of the resulting six known Mohs surgery providers, and both of the licensed OSHs providing Mohs surgery in PD 15, would be within a mile and a half radius of each other.

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 7. It is recognized that the 2020 patient volume is substantially lower than in previous years and is the result of the suspension of elective surgeries in response to the COVID-19 pandemic.

Table 7. 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 8** presents the U.S. Census' baseline population estimates for PD 15 for the five years 2016-2020 as follows:

Table 8. 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 9**) reported to VHI in 2020, divided by 121,429 total inpatient and outpatient operating room visits reported to VHI for that same year (**Table 7**).

AHORV = 2.0133

Table 9. 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 ¹	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 ²	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%
Facilities Not Reporting to VHI for 2020				
American Access Care of Richmond	2			
Bon Secours Memorial Ambulatory surgical Center	5			
Colon & Rectal Endoscopy Specialists & Surgery Center	1			
VCU Health Courthouse Landing Pavilion	4			
VCU NOW Center	6			
VCU Pediatric Surgery	2			
Virginia ENT Surgery Center	1			
Virginia League for Planned Parenthood	1			
VSA Vascular Center	2			
Total Not Reporting	24			

Source: VHI (2020) and DCOPN records

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

$$\text{FOR} = \frac{((673,551 / 5,422,279) \times (1,183,923)) \times 2.0133}{1600}$$

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

¹ 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.

² DCOPN records indicate the Urosurgical Center of Richmond operates three GPORs. VHI data lists two as cystopic – corrected for utilization calculations in Table 12.

**FOR = 185.03 (186) General Purpose Operating Rooms Needed in PD 15 in 2027
Current PD 15 GPOR Inventory: 181 (Table 1)**

Net shortage: 5 GPORs for 2027 Planning Year

GPORs are operating rooms (ORs) available for general surgical use, not dedicated solely to cardiac surgery or limited in their use by restrictions on the certificate of public need. While there are 200 ORs available in PD 15, only 181 are GPORs under this treatment. Approval of the project will not impact the inventory of GPORs.

As shown above, DCOPN has calculated a shortage of five GPORs in PD 15 for the 2027 planning year. If the proposed project that is the subject of this staff analysis report is approved, that shortage of five GPORs will be decreased to four. As previously discussed, the Commissioner has repeatedly acknowledged the benefits and clinical appropriateness of single-purpose OSHs. There is currently one restricted-use Mohs OSH, with two ORs, in PD 15. It is 1.5 miles from the proposed MSC site.

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

Not applicable. The applicant is not seeking to relocate existing operating rooms.

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 the proposed surgical service will be under the direction of appropriately qualified physicians.

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;

There are two hospitals in PD 15 known to be sites for the performance of Mohs surgery, one of which is within 1.5 miles of the applicant's proposed facility. Another competitor of the applicant's, who operates two office based Mohs surgery sites in PD 15, one of which is within 1.5 miles of the applicant's proposed facility, wrote a letter of support for the applicant's project arguing that the patient demand for Mohs surgery far exceeds the service capacity in PD 15.

The proposed project is likely to foster institutional competition that benefits the area to be served by introducing a fifth provider in the PD. But equally important is the addition of capacity, in an inspected and licensed hospital, to meet patient need for this specialty surgery. No provider of Mohs surgery voiced opposition to the project.

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;

As discussed above, there is only one Mohs-specific OSH in PD 15. If the proposed project is approved, it will meet a unique need in PD 15. The utilization of the existing Mohs specific OR is 67.2%. Mohs surgery requires a brief OR visit followed by an extended wait while the excised tissue is prepared and examined by the surgeon in the on-site laboratory. Depending on the laboratory findings, a repeat, brief trip to the OR may be required for further tissue excision or post-Mohs reconstruction. As such, DCOPN concludes that, given the specialized nature of the proposed OSH and the reported wait time for Mohs surgery, approval of the project is highly unlikely to have a material impact on the utilization of providers of surgical services within the planning district.

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;

As already discussed, DCOPN contends that the projected costs of \$1,883,726 are reasonable when compared to previously authorized projects similar in scope. The capital costs will be funded using a short term bank loan. Accordingly, there are financing costs associated with this project.

With regard to staffing, the applicant states that 12 additional full time equivalent employees (FTE) are required to staff the proposed project, including two administrative FTEs, 4 registered nurses, 3 support assistants, two laboratory staff and one surgeon.

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

The proposed project would not introduce new technology that would promote quality or cost effectiveness in the delivery of inpatient acute care. The applicant does intend to hire a surgeon trained to perform Mohs surgery for the treatment of melanomas, which is reported to be clinically different from Mohs surgery for basal cell and other carcinomas. The project will increase the availability of sites for the provision of Mohs surgery services, which is typically an outpatient surgery.

- 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.**

The applicant is not 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 project would not contribute to the unique research, training or clinical mission of a teaching hospital or medical school.

DCOPN Findings and Conclusions

DCOPN finds that MSC's proposed project to establish an outpatient surgical hospital with one limited use operating room is generally consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. The applicant requested limiting of the OR to Mohs and post-Mohs reconstruction surgery will not negatively impact the utilization of existing general purpose ORs in any appreciable manner.

While there are 200 ORs in PD 15, only 181 are general purpose ORs, leaving a shortage of five GPORs. Moreover, for the reasons discussed, the status quo is not a preferable alternative to the proposed project, nor is the performance of Mohs surgery in an office based environment.

DCOPN finds that the total capital costs of the proposed project are reasonable and consistent with, actually lower than, 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 Mohs and post-Mohs reconstruction surgery services as presented by the applicant.

DCOPN Staff Recommendation

The Division of Certificate of Public Need recommends **conditional approval** of MOHS Surgery Center of Richmond Dermatology, PLLC's COPN request number VA-8655 to establish an outpatient surgical hospital with one operating room dedicated to Mohs and post-Mohs reconstruction surgery 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 additional operating room will be limited to Mohs and post-Mohs reconstruction surgery.
3. The capital costs are reasonable.
4. The proposed project appears economically viable in the long-term.
5. The project is more favorable than maintaining the status quo or the alternative of office based surgery.

Recommended Condition

MOHS Surgery Center of Richmond Dermatology, PLLC's will provide Mohs and post-Mohs reconstruction surgery 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 15 in an aggregate amount equal to at least 1.3% of MOHS Surgery Center of Richmond Dermatology, PLLC's gross patient revenue derived from Mohs and post-Mohs reconstruction 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. MOHS Surgery Center of Richmond Dermatology, PLLC 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.

MOHS Surgery Center of Richmond Dermatology, PLLC will provide Mohs and post-Mohs reconstruction 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.