

# VIRGINIA DEPARTMENT OF HEALTH

## Office of Licensure and Certification

### Division of Certificate of Public Need

#### Staff Analysis

January 19, 2023

#### **COPN Request No. VA-8675**

OrthoVirginia, Inc.

Midlothian, Virginia

Establish a specialized center for MRI imaging services via relocation of an existing MRI service and conversion to a Fixed MRI Service with One Fixed MRI

#### **Applicant**

OrthoVirginia, Inc. is a for-profit corporation and Central Virginia's largest private orthopedic specialty group. Within Planning District (PD) 15 OrthoVirginia operates eight physician offices, nine therapy locations and three after-hours orthopedic centers (a fourth to open March 2023). At those locations, OrthoVirginia employs 61 physicians, 65 midlevel practitioners, 69 therapists and 554 support staff. Across Virginia the applicant provides orthopedic specialty care at eleven sites: Chippenham, Hanover Memorial Regional, Henrico Parham, Johnston-Willis, Prince George, St. Frances, St. Mary's, Emporia, Farmville, Kilmarnock and New Kent. OrthoVirginia is developing an additional site in the Watkins Center area of Midlothian at the intersection of Routes 288 and 60. The proposed project would be located at this new OrthoVirginia site in PD 15.

#### **Background**

Magnetic Resonance Imaging (MRI) is a powerful and critical diagnostic tool in orthopedic care, used to examine bones, joints and soft tissues such as muscles, tendons and cartilage to identify structural damage, defects and other musculoskeletal conditions. OrthoVirginia operates two MRI sites in PD 15 scanning patients of its practices exclusively. They are not used for general purpose diagnostic imaging. OrthoVirginia's fixed site MRI is located at its Parham office at 7650 East Parham Road, Henrico (COPN No. VA-04478 issued 7/13/2015) and a mobile site at OrthoVirginia's Johnston Willis office at 1400 Johnston-Willis Drive on the Johnston-Willis Medical Center campus (COPN No. VA-04153 issued in 2008).

According to VHI data as reported in 2021, the latest year for which such data are available, there were 34 fixed MRI scanners and 3 mobile MRI scanners at 24 sites in PD 15. The fixed-site scanners had a utilization of 72.5% (**Table 1**).

Table 1. VHI 2021 MRI Utilization, PD 15

| Facility Name  | Total Fixed Units | Total Mobile Units | Total MRI Procs | MRI Procs per Scanner | Utilization  |
|--|-------------------|--------------------|-----------------|-----------------------|--------------|
| <b>Acute Hospitals</b>                               |                   |                    |                 |                       |              |
| Bon Secours Memorial Regional Medical Center         | 2                 | 0                  | 9,917           | 4959                  | 99.2%        |
| Bon Secours Richmond Community Hospital              | 1                 | 0                  | 961             | 961                   | 19.2%        |
| Bon Secours St. Francis Medical Center               | 1                 | 1                  | 6,357           | 6357                  | 127.1%       |
| Bon Secours St. Mary's Hospital                      | 3                 | 0                  | 13,856          | 4619                  | 92.4%        |
| Chippenham Hospital                                  | 1                 | 0                  | 6,467           | 6467                  | 129.3%       |
| Henrico Doctors' Hospital - Forest                   | 2                 | 0                  | 5,189           | 2595                  | 51.9%        |
| Henrico Doctor's Hospital - Parham Doctors' Hospital | 1                 | 0                  | 2,419           | 2419                  | 48.4%        |
| Henrico Doctor's Hospital - Retreat                  | 1                 | 0                  | 1,095           | 1095                  | 21.9%        |
| Johnston-Willis Hospital                             | 3                 | 0                  | 13,679          | 4560                  | 91.2%        |
| VCU Medical Center                                   | 6                 | 0                  | 19,820          | 3303                  | 66.1%        |
| <b>PD 15 Acute Hospital Total and Average</b>        | <b>21</b>         | <b>1</b>           | <b>79,760</b>   | <b>3798</b>           | <b>76.0%</b> |
| <b>Freestanding</b>                                  |                   |                    |                 |                       |              |
| Bon Secours Imaging Center at Reynolds Crossing      | 2                 | 0                  | 4,029           | 2015                  | 40.3%        |
| Bon Secours Imaging Center Innsbrook                 | 1                 | 0                  | 1,251           | 1251                  | 25.0%        |
| Bon Secours Midlothian Imaging Center                | 1                 | 0                  | 1,362           | 1362                  | 27.2%        |
| Bon Secours Westchester Imaging Center               | 1                 | 0                  | 2,917           | 2917                  | 58.3%        |
| Chesterfield Imaging                                 | 1                 | 0                  | 3,390           | 3390                  | 67.8%        |
| Ellen Shaw De Paredes Institute for Women's Imaging  | 1                 | 0                  | 1,225           | 1225                  | 24.5%        |
| Independence Park Imaging                            | 1                 | 0                  | 3,484           | 3484                  | 69.7%        |
| MEDARVA Imaging                                      | 1                 | 0                  | 371             | 371                   | 7.4%         |
| NOW Neuroscience, Orthopaedic and Wellness Center    | 1                 | 0                  | 4,709           | 4709                  | 94.2%        |
| OrthoVirginia - Johnston-Willis                      | 0                 | 1                  | 4,616           | 4616                  | 92.3%        |
| OrthoVirginia MRI - Parham                           | 1                 | 0                  | 5,015           | 5015                  | 100.3%       |
| Tuckahoe Orthopaedics MRI                            | 1                 | 0                  | 3,950           | 3950                  | 79.0%        |
| VCU Medical Center at Stony Point Radiology          | 1                 | 0                  | 4,540           | 4540                  | 90.8%        |
| Virginia Urology                                     | 0                 | 1                  | 2,678           | 2678                  | 53.6%        |
| <b>PD 15 Freestanding Total and Average</b>          | <b>13</b>         | <b>2</b>           | <b>43,537</b>   | <b>3349</b>           | <b>67.0%</b> |
| <b>Total and Average PD 15</b>                       | <b>34</b>         | <b>3</b>           | <b>123,297</b>  | <b>3626</b>           | <b>72.5%</b> |

Source: VHI 2021

DCOPN records now indicate there are 38 authorized adult diagnostic MRI scanners at fixed sites and three mobile scanners in PD 15 (Table 2).

**Table 2. Diagnostic MRI Inventory PD 15**

| Facility Name  | Total<br>Stationary<br>Units | Total<br>Mobile<br>Units |
|--|------------------------------|--------------------------|
| Bon Secours Chester Imaging Center                   | 2                            |                          |
| Bon Secours Imaging Center at Reynolds Crossing      | 2                            |                          |
| Bon Secours Memorial Regional Medical Center         | 2                            |                          |
| Bon Secours Richmond Community Hospital              | 1                            |                          |
| Bon Secours St. Francis Medical Center               | 2                            | 1                        |
| Bon Secours St. Mary's Hospital                      | 2                            |                          |
| BS Short Pump was reported under St. Mary's          | 1                            |                          |
| Bon Secours Westchester Imaging Center               | 1                            |                          |
| Chesterfield Imaging                                 | 1                            |                          |
| Chippenham Hospital                                  | 2                            |                          |
| Henrico Doctor's Hospital - Parham Doctors' Hospital | 1                            |                          |
| Henrico Doctor's Hospital - Retreat                  | 1                            |                          |
| Henrico Doctors' Hospital - Forest                   | 2                            |                          |
| Independence Park Imaging                            | 1                            |                          |
| Johnston-Willis Hospital                             | 3                            |                          |
| MEDARVA Imaging                                      | 1                            |                          |
| NOW Neuroscience, Orthopaedic and Wellness Center    | 1                            |                          |
| OrthoVirginia MRI - Parham                           | 1                            |                          |
| Tuckahoe Orthopaedics MRI                            | 1                            |                          |
| VCU Medical Center*                                  | 6                            |                          |
| VCU Medical Center at Stony Point Radiology          | 1                            |                          |
| Virginia Urology                                     |                              | 1                        |
| West Creek, approved, not operational                | 1                            |                          |
| VDU Health Adult Outpatient Pavilion                 | 1                            |                          |
| Ellen Shaw de Paredes Institute for Women's Imaging  | 1                            |                          |
| OrthoVa Johnston-Willis                              |                              | 1                        |
| <b>Total MRI Inventory PD 15</b>                     | <b>38</b>                    | <b>3</b>                 |

\*VCU has one pediatric and one MRI-equipped linear accelerator, not counted here.

Source: DCOPN Records and Request No. VA-8675 Notes.

**Proposed Project**

OrthoVirginia proposes to relocate a “to be replaced” mobile MRI scanner from its Johnston Willis office and convert it to a fixed site service at its new office under development in the Watkins Center area of Midlothian. OrthoVirginia had registered to replace the 13-year-old mobile MRI and it was

planned to be operational in March of 2022; however, vendor delays changed the implementation date. The applicant determined that a fixed MRI would provide better quality, satisfaction and access for patients, but the Johnston Willis site does not have the space for a fixed-site MRI. The new office space under development 6.5 miles from Johnston Willis would have space for a fixed-site MRI.

The projected capital costs for the proposed project are \$1,888,178 (Table 3). Because the space will be leased, there are no direct construction costs to the applicant. All capital costs for the proposed project will be funded through accumulated reserves, so there are no financing costs association with this project. Construction for OrthoVirginia’s new site is scheduled to begin February 1, 2023, and should the proposed project be approved, the fixed MRI would become operational August 30, 2023.

**Table 3. Projected Capital Costs, OrthoVirginia**

|   |                    |
|---|--------------------|
| Direct Construction                             | \$0                |
| Equipment Not Included in Construction Contract | \$1,300,000        |
| Site Acquisition Costs                          | \$588,178          |
| <b>TOTAL Capital Cost</b>                       | <b>\$1,888,178</b> |

Source: COPN Request No. VA-8675

**Project Definition**

Section 32.1 of the Code of Virginia defines a project, in part as, “The establishment of a medical care facility”; A medical care facility includes “...Specialized centers or clinics or that portion of a physician's office developed for the provision of...magnetic resonance imaging (MRI)...”

**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;**

The current mobile MRI unit is at the end of its useful life. Its replacement is an opportunity to offer a service more accessible for patients in several ways. The proposed new MRI Midlothian site is near the intersection of Routes 60 and 288 providing better access to the applicant’s PD 15 patients, particularly those residing south of the James River. The proposed new MRI site would serve only patients of OrthoVirginia as does its existing mobile site and would not be utilized for general diagnostic imaging. Co-locating a fixed MRI with specialty orthopedic services provides convenient access for patients and, in comparison to a mobile site, avoids the issues associated with transporting patients outdoors for imaging. Especially patients in wheelchairs and on stretchers are impeded from accessing a mobile MRI in a trailer, and the trailer is space-constrained, creating challenges for these patients as well as obese and claustrophobic patients.

A fixed site within the new office under development would improve physical access to the MRI service.

Regarding socioeconomic barriers to access, the applicant states that, should the proposed project be approved, OrthoVirginia patients would continue to receive needed MRI services at the new fixed site location without regard to their ability to pay or payment source. The applicant states that, as the service is an independent, physician-owned diagnostic imaging facility, costs and charges would be lower than those of hospitals and most hospital departments. In addition, DCOPN received a letter of support from Richmond Academy of Medicine’s Access Now, Inc. stating that OrthoVirginia has been among participating specialty providers for years and in 2021 alone, OrthoVirginia provided tens of thousands of dollars in uncompensated care for uninsured patients through the program, including physician visits, diagnostic imaging and surgical care.

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 IV facilities was 1.3% of all reported total gross patient service revenues (**Table 4**). The pro forma budget for the proposed project anticipates that 1.3% of gross revenue will be provided as charity care. Should the Commissioner approve the proposed project, DCOPN recommends a charity care condition consistent with the 2020 HPR IV average hospital charity care rate and equal to at least 1.3% of gross patient services revenue derived from MRI services.

**Table 4. HPR IV 2020 Charity Care Contributions**

| <b>2020 Charity Care Contributions at or below 200% of Federal Poverty Level</b> |                               |   |   |
|--|-------------------------------|---|---|
| <b>Hospital</b>  | <b>Gross Patient Revenues</b> | <b>Adjusted Charity Care Contribution</b> | <b>Percent of Gross Patient Revenue</b> |
| 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%                                    |
| <b>Total \$ &amp; Mean %</b>   | <b>\$28,085,022,444</b>       | <b>\$373,973,444</b>                      | <b>1.3%</b>                             |

Source: VHI

The most recent Weldon-Cooper data projects a total PD 15 population of 1,219,936 persons by 2030 (**Table 5**). This represents an approximate 21.7% increase in total population from 2010 to

2030. Comparatively, Weldon-Cooper projects the total population of Virginia to increase by approximately 16.63% for the same period. (Table 5). It is of note that the projected population change 2020 to 2030 for Chesterfield County, where the proposed project would be located (396,647) is the highest of the municipalities in PD 15.

**Table 5. Statewide and PD 15 Total Population Projections, 2010-2030**

| Locality           | 2010             | 2020             | % Change     | 2030             | % Change    | 2010-2030 % Change |
|--------------------|------------------|------------------|--------------|------------------|-------------|--------------------|
| Virginia           | 8,001,024        | 8,655,021        | 8.17%        | 9,331,666        | 7.82%       | 16.63%             |
| Charles City       | 7,256            | 6,982            | (3.8%)       | 6,941            | (0.6%)      | (4.3%)             |
| Chesterfield       | 316,236          | 353,841          | 11.9%        | 396,647          | 12.1%       | 25.4%              |
| Goochland          | 21,717           | 23,547           | 8.4%         | 26,702           | 13.4%       | 23.0%              |
| Hanover            | 99,863           | 109,244          | 9.4%         | 119,360          | 9.3%        | 19.5%              |
| Henrico            | 306,935          | 332,103          | 8.2%         | 363,259          | 9.4%        | 18.4%              |
| New Kent           | 18,429           | 23,474           | 27.4%        | 28,104           | 19.7%       | 52.5%              |
| Powhatan           | 28,046           | 29,909           | 6.6%         | 33,440           | 11.8%       | 19.2%              |
| Richmond City      | 204,214          | 232,533          | 13.9%        | 245,483          | 5.6%        | 20.2%              |
| <b>TOTAL PD 15</b> | <b>1,002,696</b> | <b>1,111,633</b> | <b>10.9%</b> | <b>1,219,936</b> | <b>9.7%</b> | <b>21.7%</b>       |

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

**2. The extent to which the 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 letters of commitment from OrthoVirginia, Inc. and Radiology Associates of Richmond, Inc. as well as letters of support from Richmond Academy of Medicine’s Access Now, Inc., Radiology Associates of Richmond, Inc. and Anthem. Collectively, they articulated the following:

The proposed project will provide more convenient and accessible care for patients; OrthoVirginia has a commitment to high-quality imaging and excellent service; the current mobile MRI reduces efficiency, compromises patient flow and decreases patient comfort; OrthoVirginia’s service provides lower costs and more affordable MRI services than the region’s hospital-based MRI services; it is important that OrthoVirginia have the technology to offer efficient and timely care.

DCOPN knows of no opposition to the proposed project.

- (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;**

The current mobile MRI is 13 years old and at the end of its useful life. It could be replaced as a mobile MRI, but there are numerous benefits of a fixed site MRI for orthopedic patients related to accessibility, patient satisfaction, comfort, patient flow and additional space for functions of the service. A fixed MRI offers added efficiency. The current Johnston-Willis location does not have space to accommodate a fixed unit. Although OrthoVirginia refers the majority of its MRI

scans to other area providers, for appropriate patients, an on-site MRI offers more timely and efficient care that equates to better quality and patient experience. The proposed project would meet the needs of OrthoVirginia patients better than the status quo. No other reasonable alternatives are identified.

- (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 illustrated in **Table 3**, the projected total capital cost of the proposed project is **\$1,888,178**, the entirety of which will be funded with accumulated reserves, so there are no financing costs associated with this project. DCOPN notes that the costs for the proposed project compare favorably to recent replacements and relocations of MRIs in PD 15. For example, COPN No. VA-04673 had a projected capital cost of \$2,719,388 and VA-04744 had a projected capital cost of \$3,272,544.

With regard to benefits of the proposed project, the intended new location provides better access for OrthoVirginia's patients south of the James River and the benefits of a fixed site in comparison to a mobile site for orthopedic patients have been described: physical access, lower cost, better patient flow and efficiency, higher patient satisfaction and better functionality in a larger space.

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

The applicant has provided assurances that MRI services at OrthoVirginia's proposed site will be accessible to all patients, regardless of financial considerations. The pro forma provided by the applicant anticipates a charity care contribution equal to 1.3% of gross patient services revenue derived from MRI services. This is consistent with the 2020 HPR IV mean (**Table 5**). Additionally, a letter of support from Access Now, Inc. describes OrthoVirginia's long-time participation in the program which provides uncompensated care to the uninsured in the form of physician visits, diagnostic imaging and surgical services.

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

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

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

**Part II.  
Diagnostic Imaging Services**

**Article 2.  
Criteria and Standards for Magnetic Resonance Imaging**

**12VAC5-230-140. Travel time.**

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

The heavy black line in **Figure 1** identifies the boundary of PD 15. The “H” symbol with the blue background marks the location of the proposed project. The “H” symbols with the white backgrounds mark the locations of all other existing MRI services located in PD 15. The light blue shaded area illustrates the area of PD 15 and the surrounding area that is currently within a 30-minute drive of existing MRI services. Referencing **Table 6** and **Figure 2**, the most densely-populated municipalities in PD 15 are completely accessible within 30 minutes to MRI services within the planning district. The municipalities of Chesterfield, Henrico and Richmond City account for 82.6% of the PD 15 population. There is a large portion of Charles City County outside of the 30-minute drive from a PD15 provider of MRI services, but its total population represents only 0.6% of the population of PD 15. Other small areas on the edges of PD 15 are outside of the blue 30-minute drive time area for a PD15 provider, but it is reasonable to assert that MRI services are available within a 30-minute drive for at least 95% of the population of PD 15.

**Table 6. Population by Municipality in PD 15**

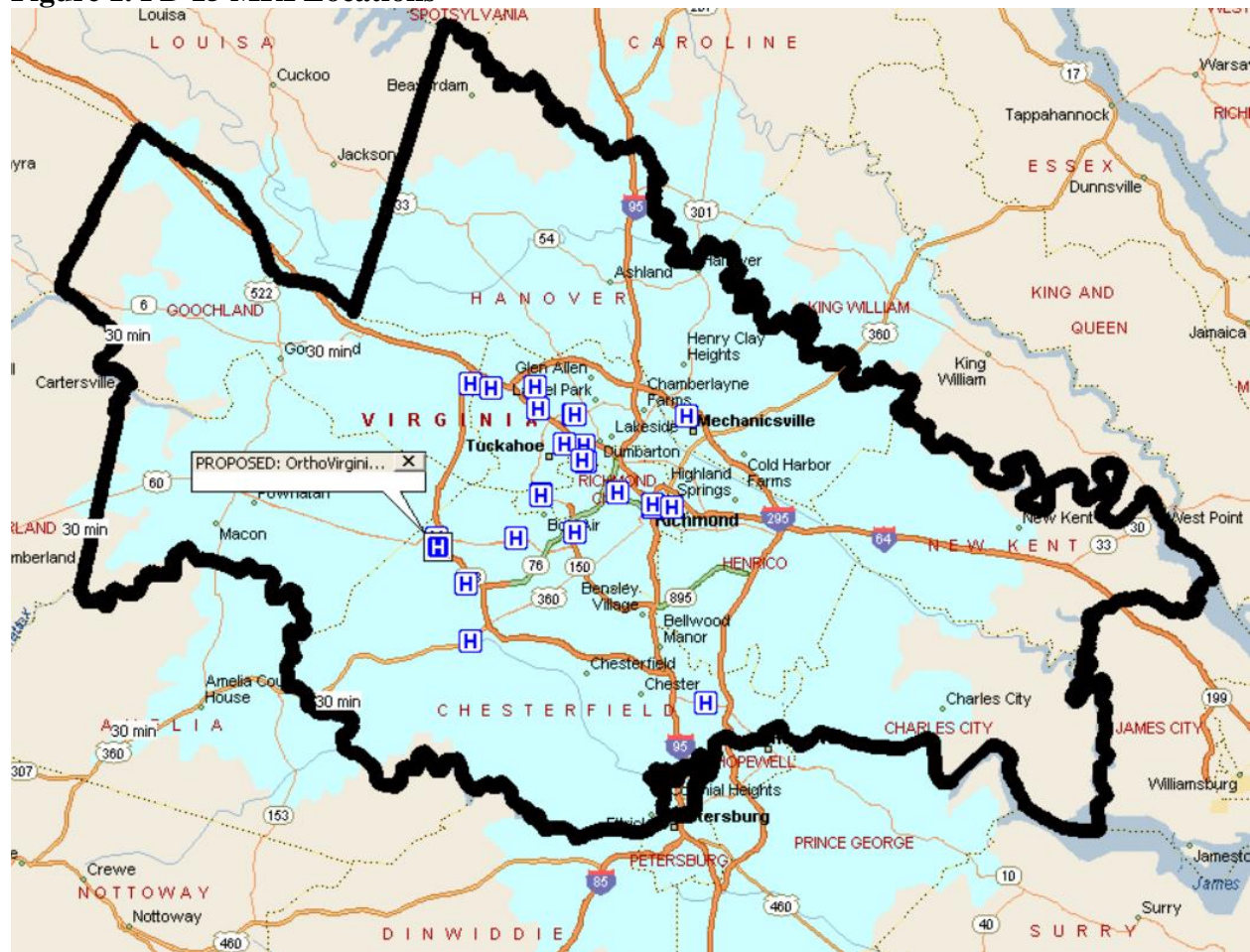
| Locality           | 2020             | Percent of Total PD 15 Population |
|--------------------|------------------|-----------------------------------|
| Charles City       | 6,982            | 0.6%                              |
| Chesterfield       | 353,841          | 31.8%                             |
| Goochland          | 23,547           | 2.1%                              |
| Hanover            | 109,244          | 9.8%                              |
| Henrico            | 332,103          | 29.9%                             |
| New Kent           | 23,474           | 2.1%                              |
| Powhatan           | 29,909           | 2.7%                              |
| Richmond City      | 232,533          | 20.9%                             |
| <b>Total PD 15</b> | <b>1,111,633</b> | <b>100.0%</b>                     |

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

DCOPN also notes that the proposed location is very near an existing provider such that the proposed project would not improve geographic access to this service for residents of PD 15 in any meaningful way.



Figure 1. PD 15 MRI Locations



**12VAC5-230-150. Need for new fixed site service.**

No new fixed site MRI service should be approved unless fixed site MRI services in the health planning district performed an average of 5,000 procedures per existing and approved fixed site MRI scanner during the relevant reporting period and the proposed new service would not significantly reduce the utilization of existing fixed site MRI providers in the health planning district. The utilization of existing scanners operated by a hospital and serving an area distinct from the proposed new service site may be disregarded in computing the average utilization of MRI scanners in such health planning district.

The applicant argues that this section is not applicable because it is a relocation of an existing service. The proposed project increased the number of fixed sites within PD 15 and its approval would allow MRI services at a location where MRI has not previously been offered. DCOPN disagrees with the assertion that this section of the SMFP does not apply. Additionally, no exception is made in the language of the SMFP to differentiate between the addition of a fixed site service through the relocation of previously approved MRI units and the addition of a fixed site service through the addition of a new MRI unit.

VHI data reports that the then authorized MRI services in PD 15 performed a collective MRI volume of 123,297 MRI procedures (3,626 procedures per scanner) in 2021. Based on these data,

and considering subsequent additions to the PD 15 fixed MRI inventory, DCOPN has calculated a current surplus of 13 MRI scanners in PD 15 as follows:

Needed MRI units =  $123,297 \div 5,000 = 24.6$  (25)  
Utilization Percentage in 2021: 72.5%  
Current number of PD 15 authorized diagnostic MRI units: 38  
**Fixed MRI unit surplus = 13**

In 2021, the last year for which DCOPN has data available from VHI, the MRI fixed site scanners in PD 15 performed at 72.5% of the 5,000 per scanner threshold, falling far short of this threshold; however, the applicant utilizes its two current MRI scanners exclusively for its own patients and the proposed MRI site would also not be for general use. Because the proposed project would not be part of the general use inventory and it would not decrease volumes of existing providers, the proposed project is generally consistent with this standard.

**12VAC5-230-160. Expansion of fixed site service.**

**Proposals to expand an existing medical care facility's MRI services through the addition of an MRI scanner may be approved when the existing service performed an average of 5,000 MRI procedures per scanner during the relevant reporting period. The commissioner may authorize placement of the new unit at the applicant's existing medical care facility, or at a separate location within the applicant's primary service area for MRI services, provided the proposed expansion is not likely to significantly reduce the utilization of existing providers in the health planning district.**

This standard is not applicable since the proposed project will not add an MRI scanner at an existing fixed site service.

**12VAC-230-170. Adding or expanding mobile MRI services.**

- A. Proposals for mobile MRI scanners shall demonstrate that, for the relevant reporting period, at least 2,400 procedures were performed and that the proposed mobile unit will not significantly reduce the utilization of existing MRI providers in the health planning district.**
- B. Proposals to convert authorized mobile MRI scanners to fixed site scanners shall demonstrate that, for the relevant reporting period, 3,000 procedures were performed by the mobile scanner and that the proposed conversion will not significantly reduce the utilization of existing MRI providers in the health planning district.**

OrthoVirginia's current mobile MRI scanner has performed over 4,000 procedures per year for at least the last five years, surpassing the threshold for converting to a fixed site MRI. The proposed project would continue to service patients of OrthoVirginia exclusively, and the majority of MRI scans would continue to be referred to other providers in PD 15. In 2021, for example, approximately 64% of OrthoVirginia's patients requiring an MRI were referred to other providers in PD 15. The proposed project is consistent with this standard.

**12VAC5-230-180. Staffing.**

**MRI services should be under the direct supervision of one or more qualified physicians.**

The applicant provided assurances that the proposed project would be under the direction or supervision of one or more qualified positions.

**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.**
- 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.**
- C. This section is not applicable to nursing facilities pursuant to § 32.1-102.3:2 of the Code of Virginia.**
- D. Applicants shall not use this section to justify a need to establish new services.**

This standard is not applicable to the proposed project. There is no institutional expansion proposed.

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

The proposed project would not foster institutional competition. If approved the MRI service would be used exclusively for OrthoVirginia's patients and not compete with existing providers in PD15 for general MRI use.

- 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;**

MRI services are an integral component of OrthoVirginia's orthopedic specialty practice. The applicant currently operates one fixed site MRI and one mobile MRI, performing scans on-site for appropriate patients. The mobile MRI has performed over 4,000 scans per year for at least the last five years, surpassing the threshold for conversion to a fixed site. There are inefficiencies in patient flow of orthopedic patients due to transportation outside to the MRI trailer, access for patients in wheelchairs and stretchers and space constraints.

- 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 illustrated in **Table 3**, the projected total capital cost of the proposed project is **\$1,888,178**, the entirety of which will be funded with accumulated reserves, so there are no financing costs

associated with this project. DCOPN notes that the costs for the proposed project compare favorably to recent replacements and relocations of MRIs in PD 15. For example, COPN No. VA-04673 had a projected capital cost of \$2,719,388 and VA-04744 had a projected capital cost of \$3,272,544. The pro forma provided shows a positive net income in year one. With regard to staffing, the applicant does not anticipate any additional staffing for implementation of the proposed project. The proposed project is feasible in all regards.

- 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 does not offer the introduction of new technology, though a fixed MRI has quality and efficiency advantages over the current mobile MRI service, as discussed. The non-hospital, outpatient setting has generally lower charges to patients.

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

OrthoVirginia has a growing portfolio of clinical trials and research providing opportunities in training newer physicians in cutting-edge treatment options.

### **DCOPN Staff Findings and Conclusions**

The applicant proposes to replace and relocate a mobile MRI scanner from its Johnston Willis office to a new site and convert it to a fixed site MRI in the Watkins Center area of Midlothian. OrthoVirginia states it is willing to accept a condition limiting the use of the proposed MRI to musculoskeletal imaging only. The proposed MRI service would serve only OrthoVirginia patients and not be used for general-purposed diagnostic imaging; as such, it will not decrease utilization of other existing providers of MRI services in PD 15.

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 with regard to the relocation of a mobile MRI and conversion to a new fixed site MRI service.

The projected total capital cost of the proposed project is \$1,888,178, the entirety of which will be funded with accumulated reserves, so there are no financing costs associated with this project. DCOPN notes that the costs for the proposed project compare favorably to recent replacements and relocations of MRIs in PD 15. The proposed project is wholly feasible, requires no additional staffing and has several benefits over the status quo with regard to accessibility, patient satisfaction,

patient flow and efficiency. Construction on the new practice site will start February 1, 2023 and, should the proposed project be approved to be included in the practice site under development, OrthoVirginia has a target opening date of August 30, 2024. DCOPN knows of no opposition to the project.

Should the Commissioner approve all or part of the proposed project, DCOPN recommends a charity care condition equal to the 1.3% contribution anticipated by the applicant, to be derived from MRI gross patient services revenue at the OrthoVirginia Midlothian site.

### **DCOPN Staff Recommendations**

The Division of Certificate of Public Need recommends **conditional approval** of the proposed project to relocate and replace a mobile MRI and convert it to a fixed site service 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 with regard to the relocation of a mobile MRI and conversion to a new fixed site MRI service.
2. The proposed new fixed MRI site would serve only OrthoVirginia patients and not be used for general purpose diagnostics.
3. The capital costs are reasonable and compare favorably to similar approved projects in PD 15.
4. The proposed project is wholly feasible and has multiple advantages over the status quo. No other reasonable alternatives were identified.
5. There is no known opposition to the project.

DCOPN's recommendation is contingent upon ~~Henrico Doctor's Hospital's~~ [OrthoVirginia, Inc.'s] agreement to the following charity care conditions:

OrthoVirginia, Inc. will provide MRI services to all persons in need of this service, regardless of their ability to pay, and will facilitate the development and operation of primary medical care services to medically underserved persons in PD 15 in an aggregate amount equal to at least 1.3% of OrthoVirginia, Inc.'s gross patient revenue derived from MRI 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. OrthoVirginia, Inc. will accept a revised percentage based on the regional average after such time regional charity care data valued under the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. is available from Virginia Health Information. The value of charity care provided individuals pursuant to this condition shall be based on the provider reimbursement methodology

utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.

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