

VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis

December 20, 2023

COPN Request No. VA-8688

Dominion Plastic Surgery

Falls Church, Virginia

Establish an Outpatient Surgical Hospital with two ORs

Applicant

Dominion Plastic Surgery, LLC (“Dominion”) is a Virginia limited liability company formed in 2018 under the laws of the Commonwealth of Virginia. The sole member-manager is Vineet Mehan, M.D. Dominion is located in Falls Church, Virginia which is in Planning District (PD) 8, Health Planning Region (HPR) II.

Background

Table 1 displays data for operating rooms (ORs) in PD 8 as reported to Virginia Health Information (VHI) for 2021, the most recent year for which such data are available. Of the 185 General Purpose ORs (GPORs) authorized/operational in 2021, 132 are in acute care hospitals and the remaining 53 are in outpatient surgical hospitals (OSH). **Table 1** does not include open heart or trauma ORs, only general and ambulatory ORs. The overall utilization of PD 8 GPORs in 2021, based on hours of use, was 103.7% of the threshold of 1,600 hours per OR set forth in the State Medical Facilities Plan (SMFP). The hospital based ORs had an average utilization of 108.2% of the SMFP standard and the OSH sites averaged 92.5% utilization.

According to Division of Certificate of Public Need (DCOPN) records, there are currently 213 total authorized ORs in Planning District PD 8 (**Table 2**). This total includes eight open heart ORs (seven adult and one pediatric), two trauma ORs and 203 General and Ambulatory ORs. DCOPN notes that, of the 203 General and Ambulatory ORs in the current PD 8 inventory, two are restricted to ophthalmic procedures and two are restricted to vascular access. Since 2021, a net of 18 (203-185) additional GPORs have been added in PD 8.

Dominion Plastic Surgery, LLC currently provides post-operative care, follow-ups and simple surgical procedures such as application of small areas of artificial skin graft or removal of k-wires.

Table 1. Operating Rooms, VHI 2021, Planning District 8

Facility Name	Operating Rooms	Total Cases	Total Hours	Average Hours per OR	Percent of SMFP Threshold
Acute Hospital					
Inova Alexandria Hospital	11	7,677	18,842	1,713	107.1%
Inova Fair Oaks Hospital	12	10,558	23,838	1,987	124.2%
Inova Fairfax Hospital	4	2,459	7,726	1,932	120.7%
Inova Fairfax Hospital	43	30,306	80,145	1,864	116.5%
Inova Loudoun Hospital	8	6,652	15,926	1,991	124.4%
Inova Mount Vernon Hospital	7	4,328	10,898	1,557	97.3%
Prince William Hospital	1	1,256	3,128	3,128	195.5%
Reston Hospital Center	12	13,241	22,862	1,905	119.1%
Sentara Northern Virginia Medical Center	9	4,598	8,570	952	59.5%
Stone Springs Hospital Center	7	2,580	4,866	695	43.4%
UVA Haymarket Medical Center	1	1,350	4,803	4,803	300.2%
Virginia Hospital Center	17	12,624	26,836	1,579	98.7%
Actue Hospital	132	97,629	228,440	1,731	108.2%
Outpatient Surgical Hospital					
Fairfax Surgical Center	6	8,615	11,186	1,864	116.5%
Haymarket Surgery Center	2	3,255	4,705	2,353	147.0%
HealthQare Services ASC, LLC	2	2,341	2,340	1,170	73.1%
Inova Ambulatory Surgery Center at Lorton	2	26	56	28	1.8%
Inova Loudoun Ambulatory Surgery Center	5	5,183	8,020	1,604	100.3%
Inova Surgery Center @ Franconia-Springfield	5	4,440	7,191	1,438	89.9%
Kaiser Permanente Tysons Corner Surgery Center	10	6,556	10,477	1,048	65.5%
Lake Ridge Ambulatory Surgical Center	1	747	664	664	41.5%
McLean Ambulatory Surgery Center	2	1,560	4,208	2,104	131.5%
Northern Virginia Eye Surgery Center, LLC	2	4,915	2,570	1,285	80.3%
Northern Virginia Surgery Center	4	4,515	5,237	1,309	81.8%
Pediatric Specialists of Virginia Ambulatory Surgery Center	2	2,041	2,250	1,125	70.3%
Prince William Ambulatory Surgery Center	4	4,847	8,838	2,210	138.1%
Reston Surgery Center	6	7,199	10,683	1,781	111.3%
	53	56,240	78,425	1,480	92.5%
Totals and Average, PD 8	185	153,869	306,865	1,659	103.7%

Source: VHI 2021, filtered on General and Ambulatory Surgical Class

Table 2: PD 8 COPN Authorized Operating Room Inventory

Facility	Total	Unrestricted	Ophthalmic	Vascular	Trauma	Cardiac	
						Adult	Ped
Inpatient Hospital							
Inova Alexandria Hospital	11	11	--	--	--	--	--
Inova Fair Oaks Hospital	12	12	--	--	--	--	--
Inova Fairfax Medical Campus	53	47	--	--	--	5	1
Inova Loudoun Hospital ¹	10	10	--	--	--	--	--
Inova Mount Vernon Hospital	7	7	--	--	--	--	--
UVA Prince William Medical Center d/b/a UVA Health Haymarket Medical Center	4	4	--	--	--	--	--
UVA Prince William Medical Center d/b/a UVA Health Prince William Medical Center	4	4	--	--	--	--	--
Reston Hospital Center	17	16	--	--	1	--	--
Sentara Northern Virginia Medical Center	9	9	--	--	--	--	--
Stone Springs Hospital Center	6	6	--	--	--	--	--
Virginia Hospital Center	16	13	--	--	1	2	--
Total Inpatient Hospital	149	139	0	0	2	7	1
Outpatient Surgical Hospital							
Fairfax Surgical Center	6	6	--	--	--	--	--
Haymarket Surgery Center	2	2	--	--	--	--	--
Healthqare Associates	2	0	--	2	--	--	--
Inova Ambulatory Surgery Center at Lorton	2	2	--	--	--	--	--
Inova Loudoun Ambulatory Surgery Center	5	5	--	--	--	--	--
Inova McLean Ambulatory Surgery Center ²	3	3	--	--	--	--	--
Inova Oakville Ambulatory Surgery Center ³	3	3	--	--	--	--	--
Inova Surgery Center at Franconia-Springfield	5	5	--	--	--	--	--
Kaiser Permanente Tysons Corner Surgery Center ⁴	7	7	--	--	--	--	--
Kaiser Permanente Woodbridge Surgery Center	4	4	--	--	--	--	--
Lake Ridge Ambulatory Surgical Center	1	1	--	--	--	--	--
Northern Virginia Eye Surgery Center, LLC	2	0	2	--	--	--	--
Northern Virginia Surgery Center	4	4	--	--	--	--	--
Pediatric Specialists of Virginia	2	2	--	--	--	--	--
Prince William Ambulatory Surgery Center	4	4	--	--	--	--	--
Reston Surgery Center	6	6	--	--	--	--	--
Stone Springs Surgery Center	2	2	--	--	--	--	--
VHC Ambulatory Surgery Center	4	4	--	--	--	--	--
Outpatient Surgical Hospital Total	64	60	2	2	0	0	0
Total Authorized Operating Rooms	213	199	2	2	2	7	1

Source: DCOPN Records

¹ COPN No. VA-04771 authorized Inova Loudoun Hospital's 9th and 10th ORs, expected to be operational 09/01/23.

² COPN No. VA-04845 authorized McLean Ambulatory Surgery's 3rd OR, expected to be operational 02/15/25.

³ COPN No. VA-04770 authorized the establishment of Inova Oakville Ambulatory Surgery Center with three ORs, expected to be operational by 4/30/2024.

⁴ Kaiser Permanente Tyson's Corner reported 10 ORs to VHI, 2021.

Proposed Project

The proposed project is the establishment of a two-operating room outpatient surgical hospital. The facility for the proposed project is already built, and the rooms proposed to become operating rooms are being used for simple procedures. The applicant proposes to provide reconstructive surgical care including debridement of open wounds, skin grafts of wounds, repair and manipulation of broken bones including installation of k-wires, and repair of damaged tendons in upper and lower extremities. These procedures would be performed primarily on patients under worker’s compensation and commercial insurance, veterans and the uninsured. A second category of patients, primarily soft-tissue reconstructions and sternal reconstructions that don’t require cardiac back-up, is anticipated to be self-pay patients from outside of the planning district.

The capital costs of the proposed project are \$926,000 (**Table 3**), funded entirely with accumulated reserves, such that there are no financing costs associated with the proposed project. In fact, the facility is already built out with all necessary utilities, parking and support services. No additional expenses are required to utilize the space as a two-OR outpatient surgical hospital. Should the proposed project be approved, Dominion expects to begin providing services within days of receiving a certificate.

Table 3. Capital and Financing Costs: Dominion Plastic Surgery

Direct Construction Costs	\$285,000
Site Acquisition Costs	\$540,000
Equipment Not Included in Construction Contract	\$101,000
TOTAL CAPITAL AND FINANCING COSTS	\$926,000

Source: COPN Request No. VA-8688

Project Definition

§32.1-102.1:3 of the Code of Virginia (the Code) defines a project, in part, as “Establishment of a medical care facility described in subsection A.” Medical care facilities are further defined, in part, as “Any facility licensed as a hospital, as defined in § 32.1-123.” The definition of “Hospital” in § 32.1-123 includes “hospitals known by varying nomenclature or designation such as...outpatient surgical...hospitals.”

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 healthcare 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 proposed project is at an existing site accessible to public and private transportation, near several Washington Metropolitan Area Transit Authority (“WMATA” or “Metro”) public transportation lines and less than one mile from the Mero Orange Line Station Dunn Loring/Merrifield. It is less than a quarter mile from four bus stops on various routes. The facility is approximately one mile from the U.S. Route 50 exit from Interstate 495. The location, near other PD 8 surgical facilities, does not expand geographic access to general surgical care; however, the applicant offers general plastic surgery and claims national recognition in the far more specialized areas of limb and sternal reconstruction. A data report from VHI’s All Payor Claims Database confirms that only three physicians in Virginia had insurance claims for sternal reconstruction, none in PD 8. The proposed project would improve access both locally and to patients outside of PD 8 to specialized services with limited availability.

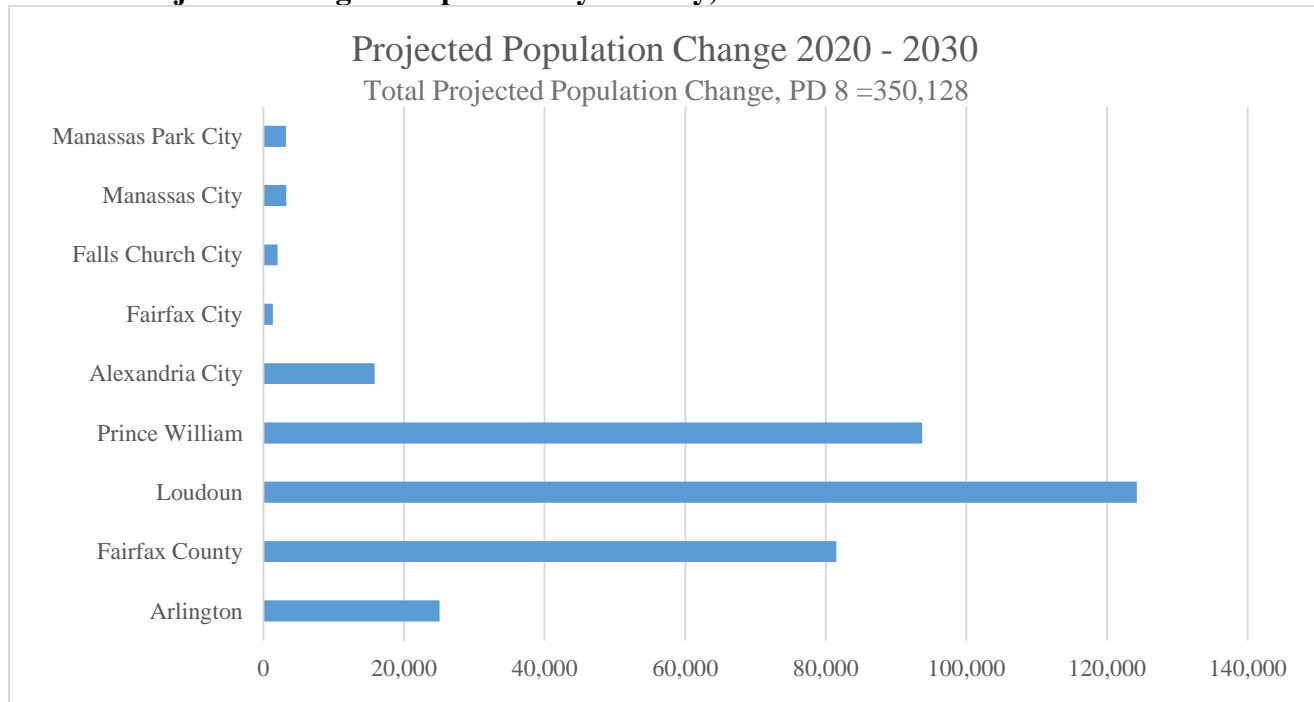
The population in PD 8 is projected to grow 1.28% on average annually between 2020 and 2030 adding 350,128 people to the PD over the decade. This is a substantially faster rate of growth than that of Virginia overall at 0.76% annually. Falls Church, in which Dominion is located, is projected to grow 1.29% annually, a rate higher than Virginia or PD 8. Its population and area are relatively small but combining Falls Church growth with the adjacent areas of Fairfax and Arlington Counties, over 100,000 additional people are projected to live in Dominion’s immediate area in 2030 as compared to 2020 (**Table 4/Chart 1**). The population over age 65 utilizes surgical services at a higher rate than the overall population and is projected to grow faster, an average of 3.24% annually in PD 8 during the same decade, compared with a 2.45% average annual growth across Virginia (**Table 4**).

Table 4. Population Projections for PD 8, 2010-2030

Locality	2010	2020	% Change 2010-2020	Avg Ann % Change 2010-2020	2030	% Change 2020-2030	Avg Ann % Change 2020-2030
Arlington	207,627	249,298	20.07%	1.80%	274,339	10.04%	0.96%
Fairfax County	1,081,726	1,162,504	7.47%	0.71%	1,244,025	7.01%	0.68%
Loudoun	312,311	430,584	37.87%	3.18%	554,808	28.85%	2.57%
Prince William	402,002	478,134	18.94%	1.71%	571,844	19.60%	1.81%
Alexandria City	139,966	166,261	18.79%	1.69%	182,067	9.51%	0.91%
Fairfax City	22,565	25,047	11.00%	1.02%	26,397	5.39%	0.53%
Falls Church City	12,332	14,988	21.54%	1.92%	17,032	13.64%	1.29%
Manassas City	37,821	43,099	13.96%	1.28%	46,332	7.50%	0.73%
Manassas Park City	14,273	17,086	19.71%	1.77%	20,284	18.72%	1.73%
Total PD 8	2,230,623	2,587,000	15.98%	1.46%	2,937,128	13.53%	1.28%
PD 8 65+	192,589	300,491	56.03%	4.44%	413,269	37.53%	3.24%
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 (August 2019) and DCOPN (interpolations)

Chart 1. Projected Change in Population by Locality, PD 8



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 a letter of commitment from Dr. Mehan to staff the proposed OSH, but no letters of community support were received.

Public Comment

DCOPN provided notice to the public regarding this project on October 9, 2023. The public comment period closed on November 16, 2023, with no public comment submitted. DCOPN is not aware of any opposition to the proposed project.

On November 2, DCOPN received a letter from the applicant requesting an additional thirty days to allow consideration by the Health Systems Agency of Northern Virginia (HSANV) of the proposed project. The Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations at 12VAC5-220-230. C. states, in part, “The applicants, and only the applicants, shall have the authority to extend any of the time periods for review of the application, which are specified in 12VAC5-220-230. If all applicants consent to extending any time period in this section, the commissioner, with the concurrence of the applicants, shall establish a new schedule for the remaining time periods.” A new schedule was established with all deadlines occurring 30 days after the original batch cycle deadlines.

Public Hearing

§ 32.1-102.6 B of the Code of Virginia directs that, for projects proposed in health planning regions with regional planning agencies, the appropriate regional health planning agency shall 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. The HSANV Board considered COPN Request No. VA-8688 on December 11, 2023. Neither the applicant nor members of the public attended.

- (ii) The availability of reasonable alternatives to the proposed project that would meet the needs of people in the area to be served in a less costly, more effective manner;**

The applicant offers general plastic surgery and claims national recognition in the far more specialized areas of limb and sternal reconstruction. A data report from VHI's All Payor Claims Database confirms that only three physicians in Virginia had insurance claims for sternal reconstruction over the last two years available (2021 and 2022), none in PD 8. Given the scarcity of physicians available to perform the specialized services proposed, there appears to be no alternative to the proposed project.

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

HSANV voted 11 in favor of recommending denial of the proposed project and none opposed based on the HSANV staff report on the proposal, on the information discussed at the December 11, 2023, meeting on the proposal, and on several basic findings and conclusions, including:

1. There is no public need for additional surgery services or operating rooms in the planning district (PD 8). The operating room public need determination methodology specified in the Virginia SMFP (Section 12VAC5-230-500) shows a likely surplus of between nine and fourteen operating rooms in 2028.
2. Dominion's focus is on attracting and serving patients from outside northern Virginia. The objective "is to drive revenue with patients located outside of this [PD 8] planning district."
3. Dominion has no history of providing charity care. The pro forma budget contemplates a charity care caseload of less than one percent. Projected Medicare, Medicaid, and charity care caseloads are respectively 1.25%, 0.50%, and 0.25%, of its expected caseload. The project would not facilitate or ensure access for large segments of the population.
4. Dominion's claim that "there will be no pass-throughs to the patient for the costs of the facility as the project has already been completed with cash already on hand" is not credible. It is contradicted by the applicant's statement the surgery center would "set fees as dictated by the market." Market fees typically include rapid recovery of capital and a

substantial return on the investment.

5. The pro forma budget is problematic. The applicant acknowledges that projected revenue and expenses are “not based on a specific number of surgeries that we expect to complete.” Dominion proposes no material change in services offered or in access to care. The project does not respond to an identified public need or to an identified system deficiency. Rather, it is indicative of an institutional desire to rebrand to permit more effective marketing to private pay clientele, locally and elsewhere. The applicant shows no interest in serving the medically indigent or in improving economic access to the services it offers.
6. Authorization of specialty medical facilities in the absence of a clear, compelling need or other justification, essentially to permit a service provider to enhance its revenue stream, conflicts with the principles that underlie Virginia COPN regulation.
7. The potential service improvements cited by the applicant as benefits of the project are coincidental, not derivative of, or dependent on, the conversion proposed. They can be undertaken with the existing facility and service outside the COPN process.
8. The proposal is not consistent generally with the applicable provisions, and foundational principles, of the Virginia State Medical Facilities Plan.

Note: The Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations at 12VAC5-220-230. B states “If the regional health planning agency has not completed its review by the sixtieth day of the review cycle, or such other period in accordance with the applicant's request for extension, and submitted its recommendation within 10 calendar days after the completion of its review, the department shall, on the eleventh day after expiration of the regional health planning agency's review period, proceed as if the regional health planning agency has recommended approval of the proposed project.” At 12VAC5-220-230. C it states, “For purposes of project review, any scheduled deadlines that fall on a weekend or state holiday shall be advanced to the next work day.” The sixtieth day of the review cycle, plus the 30 days requested by the applicant, fell on Saturday, December 9. The HSANV review on Monday, December 11, 2023 falls within the guidance of these rules and regulations and DCOPN recognizes its recommendation of denial of the proposed project.

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

Table 3 shows the capital costs of the proposed project, \$926,000 funded entirely from accumulated reserves and already incurred for the existing facility and equipment such that no financing costs were necessary and no additional capital costs are required for the proposed project going forward. Capital costs are very low in comparison to recently approved OR projects. COPN No. VA-04772 authorized the additional of two operating rooms at Reston Hospital Center in PD 8 at a cost of \$4,507,000, or \$2,253,500 per OR. Last year, COPN No. VA-04770 authorized the establishment of Inova Oakville Ambulatory Surgical Center with three GPORs at a capital cost of \$20,013,530 at just under \$7 million per OR in a new facility.

The benefits to the project are more timely convenient access and the new availability of procedures to patients from PD 8 and beyond for services that are not easily accessible across Virginia, especially sternal reconstruction. The applicant asserts that its procedures performed in the hospital

setting are delayed due to OR availability such that patients have excessive wait times and procedures must be performed at suboptimal times of the day. The proposed project will allow procedures to proceed without the bottleneck of highly utilized hospital ORs. In addition, VHI's All Payor Claims Database shows that the majority of physicians from whom Virginia residents have this procedure are outside of Virginia, primarily in North Carolina and Maryland. This information supports the applicants' assertion that a portion of patients will seek services at the proposed ORs from outside of PD 8 as well as within the PD.

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

VHI does not have historical charity data from Dominion. The HPR II average for 2021, the latest year for which such data are available, was 2.5% (**Table 5**). The payor mix projected in the proforma (**Table 6**) includes a charity care percentage of 0.5%, far lower than the latest HPR II average. Recent changes to §32.16-102.4B of the Code of Virginia now require DCOPN to place a charity care condition on all applicants seeking a COPN. If approved, the proposed project will be subject to a 2.5% charity care condition, to be derived from total gross patient services revenues. DCOPN notes that its recommendation includes a provision allowing for the reassessment of the charity care rate at such time as more reliable data becomes available regarding the full impact of Medicaid expansion in the Commonwealth.

Table 5. HPR II Charity Care Contributions 2021

Health Planning Region II			
2021 Charity Care Contributions at or below 200% of Federal Poverty Level			
HPR II	2021 at 200%		
	Gross Pt Rev	Adjusted Charity Care	%
Inova Alexandria Hospital	\$ 1,099,098,713	\$ 48,200,302	4.4%
Inova Mount Vernon Hospital	\$ 586,328,215	\$ 23,515,873	4.0%
Encompass Health Rehab Hosp of Northern Virginia	\$ 44,352,947	\$ 1,727,170	3.9%
Inova Loudoun Hospital	\$ 1,063,559,182	\$ 34,808,182	3.3%
Inova Fairfax Hospital	\$ 4,579,299,978	\$ 143,761,495	3.1%
UVA Health Prince William Medical Center	\$ 620,916,889	\$ 19,226,771	3.1%
Inova Fair Oaks Hospital	\$ 756,218,384	\$ 23,149,143	3.1%
Sentara Northern Virginia Medical Center	\$ 943,730,551	\$ 25,008,347	2.6%
Virginia Hospital Center	\$ 1,828,402,362	\$ 35,153,100	1.9%
UVA Health Haymarket Medical Center	\$ 334,178,317	\$ 3,397,874	1.0%
Dominion Hospital	\$ 173,930,124	\$ 1,370,987	0.8%
Reston Hospital Center	\$ 1,743,343,281	\$ 11,983,844	0.7%
StoneSprings Hospital Center	\$ 352,270,979	\$ 1,575,166	0.4%
North Spring Behavioral Healthcare	\$ 65,581,626	\$ 215,233	0.3%
Northern Virginia Community Hospital			
Pentagon City Hospital			
Total Inpatient Hospitals:			14
HPR II Inpatient Hospital Median			2.9%
HPR II Total Inpatient \$ & Mean %	\$ 14,191,211,548	\$ 373,093,487	2.6%
Lake Ridge Ambulatory Surgical Center	\$ 13,128,927	\$ 257,842	2.0%
Northern Virginia Eye Surgery Center, LLC	\$ 8,869,166	\$ 73,895	0.8%
Haymarket Surgery Center	\$ 32,610,240	\$ 51,783	0.2%
Northern Virginia Surgery Center	\$ 58,280,162	\$ 23,121	0.0%
Reston Surgery Center	\$ 125,105,239	\$ 33,617	0.0%
Prince William Ambulatory Surgery Center	\$ 37,529,639	\$ 7,220	0.0%
Fairfax Surgical Center	\$ 126,571,991	\$ 5,279	0.0%
McLean Ambulatory Surgery Center	\$ 30,974,017	\$ 695	0.0%
HealthQare Services ASC, LLC	\$ 5,579,633	\$ -	0.0%
Inova Ambulatory Surgery Center at Lorton	\$ 1,221,694	\$ -	0.0%
Inova Loudoun Ambulatory Surgery Center	\$ 79,947,875	\$ -	0.0%
Inova Surgery Center @ Franconia-Springfield	\$ 88,333,327	\$ -	0.0%
Kaiser Permanente Tysons Corner Surgery Center	\$ 54,725,912	\$ -	0.0%
Pediatric Specialists of Virginia Ambulatory Surgery Center	\$ 8,545,763	\$ -	0.0%
Kaiser Permanente Caton Hill Ambulatory Surgery Center	Not Open until 2022		
VHC Ambulatory Surgery Center	Not Open until 2022		
Total Outpatient Hospitals:			14
HPR II Total Outpatient Hospital \$ & Mean %	\$ 671,423,585	\$ 453,452	0.1%
Total Hospitals:			28
HPR II Total Hospital \$ & Mean %	\$ 14,862,635,133	\$ 373,546,939	2.5%

Source: VHI

Table 6. Proforma-Dominion Proposed Project

	Year 1	Year 2
Surgical Fees		
Commercially Insured Patients	\$ 300,000	\$ 750,000
Workers' Comp Patients	\$ 150,000	\$ 200,000
Medicaid (DMAS)	\$ 10,000	\$ 10,000
Medicare	\$ 25,000	\$ 25,000
Self-Pay	\$ 510,000	\$ 1,000,000
Uninsured (charity cases)	\$ 5,000	\$ 5,000
Total Income	\$ 1,000,000	\$ 1,990,000
Total Expenses	\$ 506,400	\$ 676,650
Income from Operations	\$ 493,600	\$ 1,313,350

Source: COPN Request No. VA-8688 Application

- (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 factors, not previously discussed in this staff report, to bring to the Commissioner's attention with respect to determining a public need for the proposed project.

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

§ 32.1-102:1 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 SMFP.

Part V of the SMFP contains criteria and standards for the addition of operating rooms. They are as follows:

**Part V
General Surgical Services**

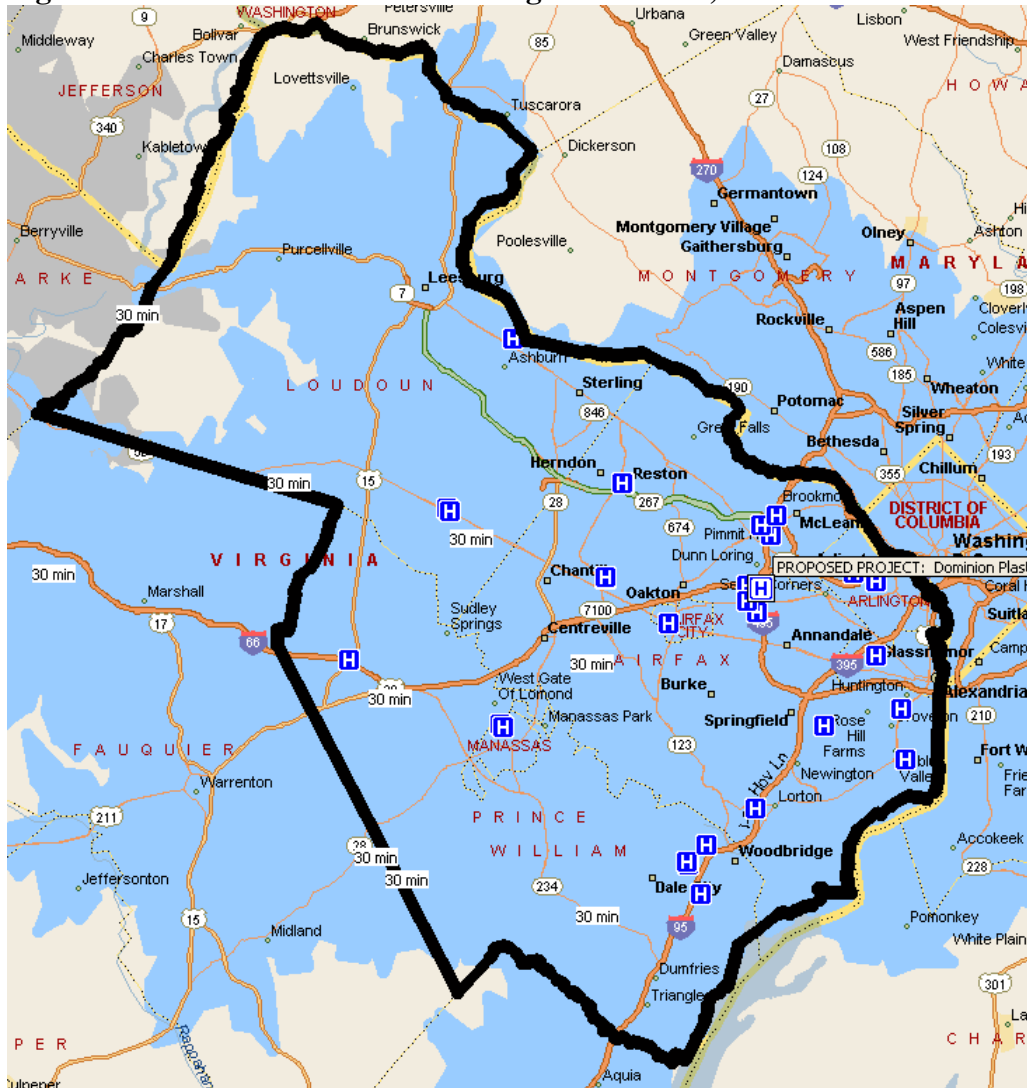
12VAC5-230-490. Travel time.

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

The light blue shaded area in **Figure 2** shows the area that is within 30 minutes driving time from an existing provider of surgical services in PD 8. Parts of Purcellville and Lovettsville are not within this driving time nor are they within 30 minutes from Virginia surgical providers outside of PD 8. The total population of both of these cities is 11,600, only 0.45% of the total population of PD 8, indicating that certainly less than 1% of the PD 8 population is outside of the 30-minute

driving time criteria. The proposed project will not expand geographical access to surgical services.

Figure 2. Authorized Providers of Surgical Services, PD 8



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 the 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.

- 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.**

Based on GPOR utilization data submitted to and compiled by VHI for the five-year period 2017-2021, which is the most recent five-year period for which relevant data are available, the number of inpatient and outpatient OR visits (ORV) was **703,141** (an average of **140,628** cases each year). This excludes visits in open heart and trauma ORs.

Based on population counts derived as a result of the 2010 U.S. Census, the population projections as compiled by Weldon Cooper, the U.S. population estimates for PD 8 for the five years 2017-2021 (POP) are **12,699,646** (2,539,929 average population each year). The projected population in five years, 2028 (PROPOP) is **2,861,022**.

The average hours per GPOR visit in PD 8 for 2021, the most recent year for which average hours per GPOR visit (AHORV) has been calculated using information collected by VHI is **1.99**

Using these figures in the GPOR need calculation indicates the number of GPORs needed in PD 8 in five years:

$$\frac{((703,141 / 12,699,646) \times 2,861,022)}{1600} \times 1.99 = 197.02 \text{ (198) ORs needed in PD 8}$$

Number of licensed GPORs in PD 8, excluding C-section, Open Heart (8) and Trauma ORs (2)
=203

There is a surplus of 5 GPORs in PD 8.

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 surgical services will be under the direction or supervision of one or more qualified physicians.

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 a new service.**

Not applicable. The applicant is seeking to establish a new service, so the project is not based upon an institutional need.

Eight 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;**

DCOPN notes that Dominion is an established plastic surgery practice performing specialty-specific procedures in its current office operatories as well as at Inova Fairfax Hospital. Though the proposed project would expand Dominion's access to certain payment sources and the types of procedures performed at its facility, it appears to have little potential to reduce volumes of existing providers significantly. Dominion's providers would continue to perform procedures at Inova Fairfax Hospital that require hospital services. The proposed project is limited to plastic surgery procedures, including limb reconstruction as well as sternal reconstruction, which there are no other providers in PD 8 to perform. The proposed project would not foster institutional competition. In PD 8.

- 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;**

Dominion is a limited liability company with a sole member, independent of a health system. It provides plastic surgery and expects to provide the specialized limb reconstruction and sternal reconstructions that don't require hospital support in its proposed ORs. Historically, Dominion has performed its hospital-based procedures at the highly utilized Inova Fairfax Hospital (last reported at over 100% utilization, **Table 1**) and has experienced bottlenecks from limited block time causing delays and inconvenient procedure times for its patients. As Dominion has two physicians that provide plastic surgery only and plans to continue performing procedures at the hospital that require support services, the proposed project would have little negative impact on Inova Fairfax. In fact, there is potential to free OR time for other services there.

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

The proposed project appears to be wholly feasible as its reasonable capital costs have already been incurred and the proforma at **Table 6** shows positive income from operations in years one and two. The applicant anticipates the need for seven full-time equivalent employees to operate the ORs. Though health care staffing is a statewide challenge which the applicant may be underestimating, the modest of additional staff members anticipated appears achievable without significant impact on existing providers.

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)

The proposed project does not represent innovations in the financing and delivery of health care services but does add capacity for very specific surgical services on an outpatient basis.

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

Not applicable. The applicant is not affiliated with a teaching hospital, medical school or institution of higher education.

DCOPN Staff Findings and Conclusions

The proposed project will not improve geographic access in PD 8. Though there is a surplus of five GPORs in PD 8, Dominion proposes specialty specific ORs, and the proposed project would improve access to specialized limb reconstruction and sternal reconstructions for both the growing PD 8 population surrounding Dominion, and others outside of the PD. It will also decompress overutilized ORs at Inova Fairfax Hospital. The proposed project is generally consistent with the eight Required Considerations of the Code of Virginia and the relevant provisions of the SMFP.

The population growth rate in PD 8 exceeds Virginia's as does the growth rate for the 65 and older population. With these high growth projections, overutilization of PD 8 ORs is likely to continue. The proposed project will benefit plastic surgery patients with more convenient and timely access. Given the scarcity of physicians available to perform the specialized services proposed, especially limb and sternal reconstructions, there appears to be no alternative to the proposed project. Status quo would result in continued or worsening access issues for Dominion's patients.

The costs of the proposed project are very low with no financing costs and importantly, these costs have already been incurred. The benefits of the project to shift surgeries appropriately to the outpatient setting and to provide services with limited availability statewide are significant. The proposed project is wholly feasible in the short and long term from the perspective of staffing and expected return.

HSANV has recommended denial of the proposed project. There is a surplus of five GPORs in PD 8, with a net addition of eighteen newly authorized ORs in PD 8, since the latest VHI report in 2021. The scope and volume of Dominion's offerings are a small percentage of the overall surgical market and represent little potential impact to area providers.

DOPN Staff Recommendation

DCOPN recommends **conditional approval** of Dominion Plastic Surgery, LLC's COPN Request number VA-8688 to establish an outpatient surgical hospital with two limited use ORs for plastic 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 proposed project would expand access to specific services with scarce availability statewide, specifically limb and sternal reconstruction for which the applicant claims national recognition.
3. The proposed project is unlikely to impact existing providers significantly.

4. The proposed project is more beneficial than the status quo.
5. The proposed project is financially viable in both the short and long term.

DCOPN's recommendation is contingent upon Dominion Plastic Surgery, LLC's agreement to the following charity care condition:

Dominion Plastic Surgery, LLC will provide surgical services to all persons in need of this service, regardless of their ability to pay, and will provide as charity care to all indigent persons free services or rate reductions in services and will facilitate the development and operation of primary medical care services to medically underserved persons in PD 8 in an aggregate amount equal to at least 2.5% of Dominion Plastic Surgery, LLC's gross patient revenue derived from surgical services. Compliance with this condition will be documented to the Division of Certificate of Public Need annually by providing audited or otherwise appropriately certified financial statements documenting compliance with the preceding requirement. Dominion Plastic Surgery, LLC will accept the revised charity condition based on 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. when it 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.

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