



## COMMONWEALTH of VIRGINIA

Karen Shelton, MD  
State Health Commissioner

Department of Health  
P O BOX 2448  
RICHMOND, VA 23218

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

March 6, 2024

Mr. Daniel Glynn  
2755 Hartland Road, Suite 205  
Falls Church, VA 22043

RE: **COPN No. VA-04881**  
**Dominion Plastic Surgery**  
**Establish a 2-Operating Room Outpatient Surgical Hospital**

Dear Mr. Glynn:

In accordance with Chapter 4, Article 1.1 of Title 32.1 of the Code of Virginia of 1950 (the Code), as amended, I reviewed the application and all supporting documents submitted by Dominion Plastic Surgery, LLC to establish an outpatient surgical hospital with two restricted use operating rooms at Dominion Plastic Surgery.

As required by Section 32.1-102.3B of the Code, I have considered all factors that must be taken into account in a determination of public need, and I have concluded that **conditional approval** of the request is warranted based on the following findings:

1. The Dominion project is consistent with the COPN law, is in harmony with the SMFP or public policies, interests, and purposes to which the SMFP and COPN law are dedicated;
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. There are no less costly or more efficient alternatives to the project;
4. The project is feasible. Its capital costs are reasonable and would be covered without financing;
5. HSANV has recommended denial of the proposed project. DCOPN has recommended conditional approval of the proposed project. With the exception of

Mr. Daniel Glynn  
Dominion Plastic Surgery, LLC  
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HSANV, there is no known opposition to the proposed project;

6. The proposed project is unlikely to impact existing providers significantly; and
7. The proposed project should be contingent upon the charity care condition on the back of the certificate.

This certificate is valid for the period March 6, 2024 to March 5, 2025. The total authorized capital cost of the project is \$926,000.

Please file two copies of the application for a certificate extension with the Department and one copy with the regional health planning agency no later than 30 days before the expiration date of the certificate. Part VIII of the Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations identifies the filing requirements and review procedure for certificate extension requests.

Sincerely,



Karen Shelton, MD  
State Health Commissioner

Enclosure

cc: Allyson Tysinger, Senior Assistant Attorney General, Commonwealth of Virginia  
Erik Bodin, Director, Division of Certificate of Public Need  
Deborah K. Waite, Chief Operating Officer, Virginia Health Information  
Gloria Addo-Ayensu, MD, MPH, District Director, Fairfax Health District

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

**THIS CERTIFIES THAT Dominion Plastic Surgery, LLC is authorized to initiate the proposal as described below.**

**NAME OF FACILITY: Dominion Plastic Surgery**

**LOCATION: 2755 Hartland Road, Falls Church, Virginia 22043**

**OWNERSHIP AND CONTROL: Dominion Plastic Surgery, LLC**

**SCOPE OF PROJECT: Establish an outpatient surgical hospital with two restricted use operating rooms for plastic surgery at Dominion Plastic Surgery. Capital costs authorized for this project total \$926,000. The project is expected to be completed by March 30, 2024. This certificate is issued with the condition that appears on its reverse.**



Pursuant to Chapter 4, Article 1:1 of Title 32.1, Sections 32.1-102.1 through 32.1-102.12 of the Code of Virginia (1950), as amended and the policies and procedures promulgated thereunder, this Medical Care Facilities Certificate of Public Need is issued contingent upon substantial and continuing progress towards implementation of the proposal within twelve (12) months from the date of issuance. A progress report shall be submitted to the State Health Commissioner within twelve (12) months from the date of issuance along with adequate assurance of completion within a reasonable time period. The Commissioner reserves the right not to renew this Certificate in the event the applicant fails to fulfill these conditions. This Certificate is non-transferable and is limited to the location, ownership, control and scope of the project shown herein.

**Certificate Number: VA-04881**

**Date of Issuance: March 6, 2024**

**Expiration Date: March 5, 2025**

**Karen Shelton, MD, State Health Commissioner**

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.

# 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
<b>Acute Hospital</b>					
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	<b>132</b>	<b>97,629</b>	<b>228,440</b>	<b>1,731</b>	<b>108.2%</b>
<b>Outpatient Surgical Hospital</b>					
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%
	<b>53</b>	<b>56,240</b>	<b>78,425</b>	<b>1,480</b>	<b>92.5%</b>
<b>Totals and Average, PD 8</b>	<b>185</b>	<b>153,869</b>	<b>306,865</b>	<b>1,659</b>	<b>103.7%</b>

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 <sup>1</sup>	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	--
<b>Total Inpatient Hospital</b>	<b>149</b>	<b>139</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>7</b>	<b>1</b>
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 <sup>2</sup>	3	3	--	--	--	--	--
Inova Oakville Ambulatory Surgery Center <sup>3</sup>	3	3	--	--	--	--	--
Inova Surgery Center at Franconia-Springfield	5	5	--	--	--	--	--
Kaiser Permanente Tysons Corner Surgery Center <sup>4</sup>	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	--	--	--	--	--
<b>Outpatient Surgical Hospital Total</b>	<b>64</b>	<b>60</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Authorized Operating Rooms</b>	<b>213</b>	<b>199</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>7</b>	<b>1</b>

Source: DCOPN Records

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

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

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

<sup>4</sup> 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
<b>TOTAL CAPITAL AND FINANCING COSTS</b>	<b>\$926,000</b>

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.

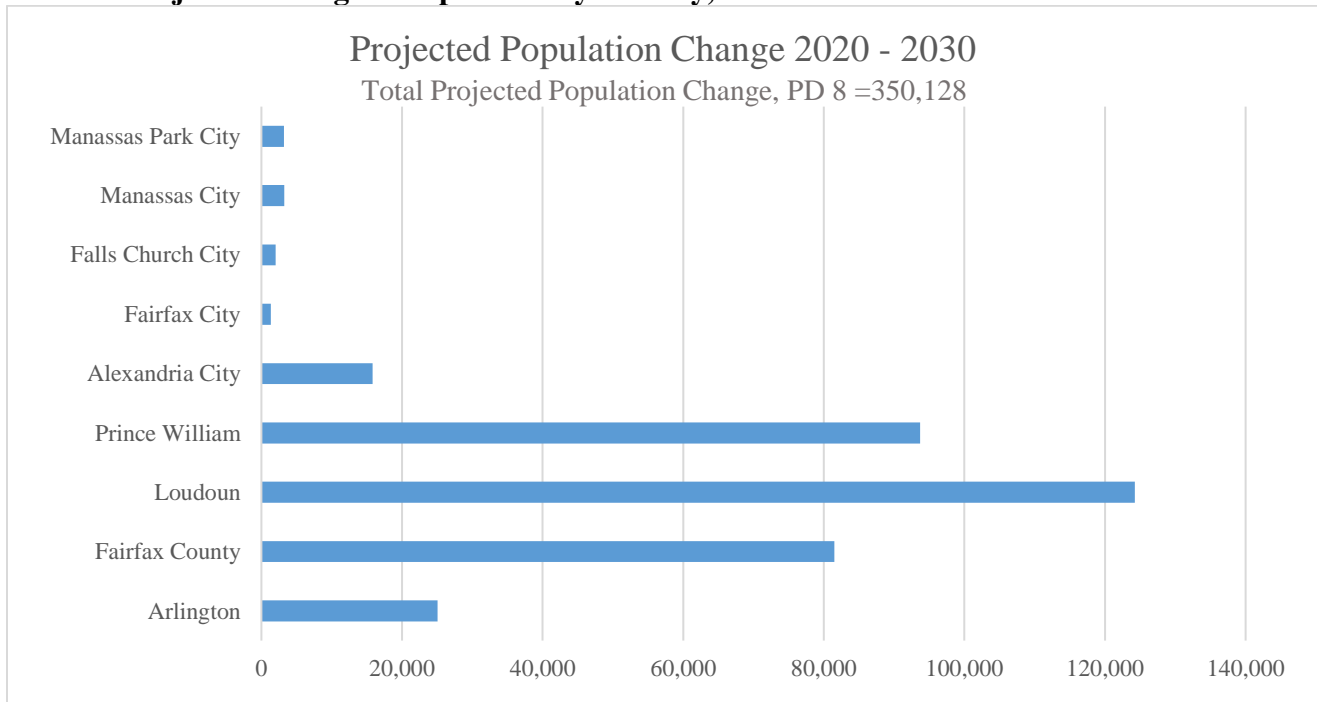
The population in PD 8 is projected to grow 1.28% on average annually between 2020 and 2030 adding 350,128 people to the PD over the decade. This is a substantially faster rate of growth than that of Virginia overall at 0.76% annually. Falls Church, in which Dominion is located, is projected to grow 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%
<b>Total PD 8</b>	<b>2,230,623</b>	<b>2,587,000</b>	<b>15.98%</b>	<b>1.46%</b>	<b>2,937,128</b>	<b>13.53%</b>	<b>1.28%</b>
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
<b>HPR II Inpatient Hospital Median</b>			2.9%
<b>HPR II Total Inpatient \$ &amp; Mean %</b>	\$ 14,191,211,548	\$ 373,093,487	<b>2.6%</b>
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
<b>HPR II Total Outpatient Hospital \$ &amp; Mean %</b>	\$ 671,423,585	\$ 453,452	<b>0.1%</b>
Total Hospitals:			28
<b>HPR II Total Hospital \$ &amp; Mean %</b>	\$ 14,862,635,133	\$ 373,546,939	<b>2.5%</b>

Source: VHI

**Table 6. Proforma-Dominion Proposed Project**

	<b>Year 1</b>	<b>Year 2</b>
<b>Surgical Fees</b>		
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
<b>Total Income</b>	<b>\$ 1,000,000</b>	<b>\$ 1,990,000</b>
<b>Total Expenses</b>	<b>\$ 506,400</b>	<b>\$ 676,650</b>
<b>Income from Operations</b>	<b>\$ 493,600</b>	<b>\$ 1,313,350</b>

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.**

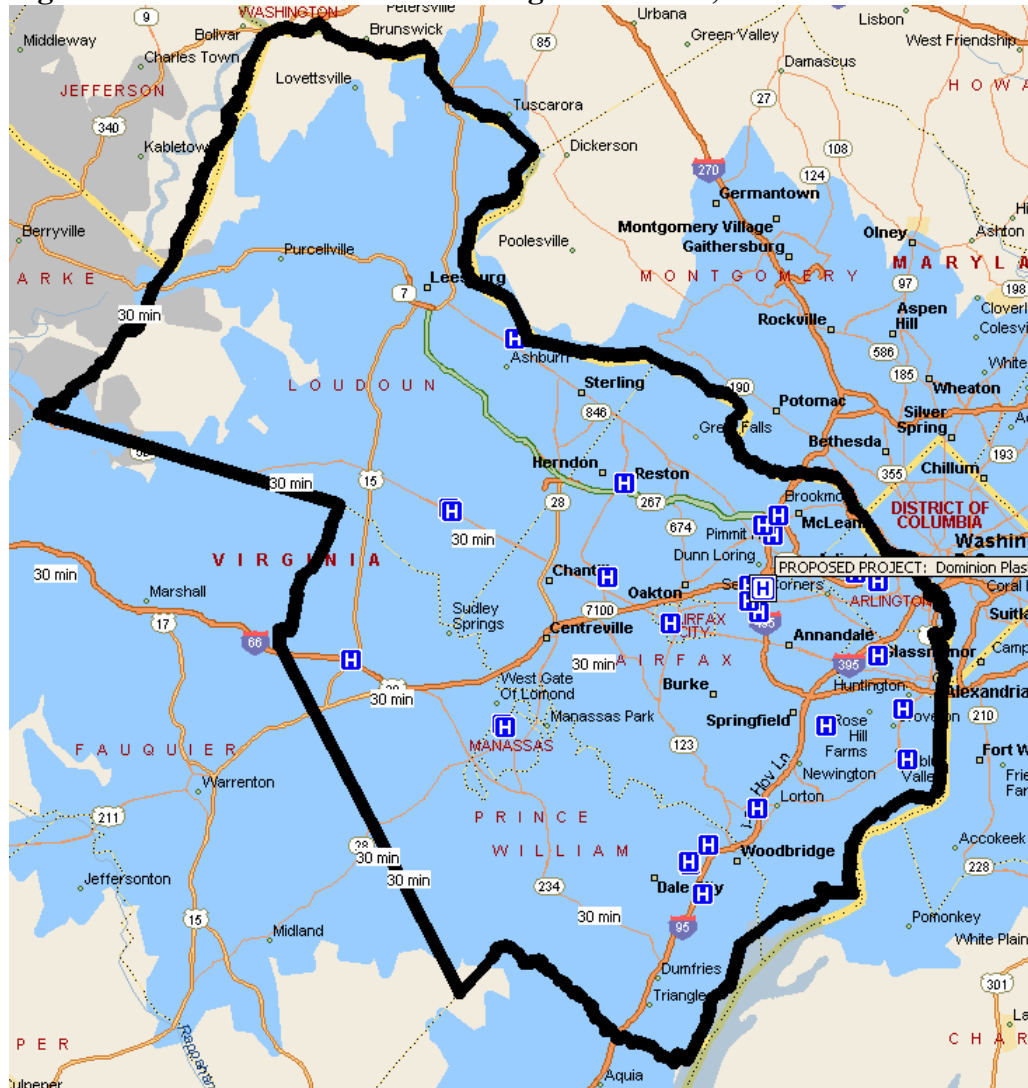
**Surgical services should be available within 30 minutes driving time one way under normal conditions of 95% of the population of the health planning district using mapping software as determined by the commissioner.**

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:

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

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.

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**Recommended Case Decision  
Certificate of Public Need (COPN)  
Request Number VA-8688  
Dominion Plastic Surgery  
Falls Church, Virginia  
Planning District (PD) 8  
Health Planning Region II  
Establish a 2-Operating Room Outpatient Surgical Center**

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**I. Introduction**

This document is a recommended case decision, submitted to the State Health Commissioner (hereinafter, “Commissioner”) for consideration. It follows full review of the administrative record pertaining to the above-captioned application, as well as the convening of an informal fact-finding conference (IFFC)<sup>1</sup> conducted in accordance with the Virginia Administrative Process Act<sup>2</sup> and Title 32.1 of the Code of Virginia.

**II. Authority**

Article 1.1 of Chapter 4 of Title 32.1 (§ 32.1-102.1 *et seq.*) of the Code of Virginia (the “COPN Law”) addresses medical care services and provides that “[n]o person shall undertake a project described in [this Article] or regulations of the [State] Board [of Health] at or on behalf of a medical care facility . . . without first obtaining a certificate [of public need] from the Commissioner.”<sup>3</sup> The endeavor described and proposed in this application falls within the statutory definition of “project” contained in the COPN law, and thereby, requires a Certificate to be issued before the project may be undertaken.<sup>4</sup>

**III. Statement of Facts**

The factual basis underlying this recommendation consists of evidence in the administrative record, including, but not limited to, the application giving rise to this review, the testimony of witnesses presented and written documents prepared by the applicant at and following the IFFC, and the two governmental analyses, *i.e.*, staff reports on the proposed project – one prepared by the Division of Certificate of Public Need (“DCOPN”) and one prepared by the Health Systems Agency of Northern Virginia (“HSANV”).

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<sup>1</sup> The IFFC was held on January 4, 2024. A certified reporter’s transcript (“Tr.”) of the IFFC is in the administrative record (“AR”).

<sup>2</sup> Va. Code § 2.2-4000 *et seq.*

<sup>3</sup> Va. Code § 32.1-102.1:2(A); (a “Certificate” or COPN).

<sup>4</sup> Va. Code §§ 32.1-102.1 and 32.1-102.3.



Specific findings of fact are as follows:

1. 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.<sup>5</sup>
2. Dominion is a plastic surgery and dermatology medical practice located in Fairfax County, in PD 8.
3. Dominion currently provides general plastic surgery as well as limb and sternal reconstruction surgery.
4. The total capital cost of the proposed project is \$926,000, which would be paid from Dominion funds.<sup>6</sup>
5. DCOPN is comprised of the Virginia Department of Health's professional health facilities planning staff. On December 20, 2023, DCOPN issued its staff report recommending conditional approval of this project.<sup>7</sup>
6. Virginia is divided into five Health Planning Regions. Each Health Planning Region may have a "regional health planning agency", as defined in Va. Code § 32.1-102.1. Dominion's proposed project would be located in PD 8, coterminous with Health Planning Region II. HSANV operates in PD 8 by reviewing projects and making recommendations on COPN applications. HSANV's Board of Directors voted, eleven to zero, recommending denial of this project.<sup>8</sup>
7. The administrative record on the proposed project closed on February 1, 2024.<sup>9</sup>

**A. The Proposed Project in Relation to the Eight Statutory Considerations**

The eight statutory considerations provided by the COPN law appear in bold type below, with statements pertinent to Dominion's proposed project.

**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.**

Dominion is a limited liability company with a sole member-manager, independent of a health system. Dominion seeks to convert existing office space into two operating rooms. The proposed project is at an existing site, accessible to public and private transportation.

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<sup>5</sup> COPN Application (AR Exhibit 2).

<sup>6</sup> AR Exhibits 2, 4.

<sup>7</sup> AR Exhibit 23.

<sup>8</sup> HSANV Report and Minutes at 3 (AR Exhibit 22).

<sup>9</sup> Tr. at 53.

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.<sup>10</sup> This is a substantially faster rate of growth than that of Virginia overall at 0.76% annually.<sup>11</sup> Falls Church, in which Dominion is located, is projected to grow 1.29% annually, a rate higher than Virginia or PD 8.<sup>12</sup> 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.<sup>13</sup> Demand for health care services is projected to increase with both a growing and aging population.

The location, near other PD 8 surgical facilities, does not expand geographic access to general surgical care, but it would improve geographic access to specialized surgical care. The proposed project would improve access to specialized services within PD 8 as well as throughout Virginia, especially in Northern Virginia. Dominion provides plastic surgery and expects to provide the specialized limb reconstruction and sternal reconstructions, not requiring hospital support, in its proposed operating rooms.

The operating room public need determination methodology specified in the Virginia State Medical Facilities Plan (SMFP)<sup>14</sup> shows a likely surplus of five to fourteen operating rooms.<sup>15</sup> The overall utilization rate of PD 8 general purpose operating rooms in 2021, based on hours of use, was 103.7% of the SMFP threshold.<sup>16</sup> The hospital based operating rooms had an average utilization rate of 108.2% and the outside hospital sites averaged 92.5% utilization.<sup>17</sup>

Dominion claims national recognition for its high-quality sternal reconstructions and for performing more sternal reconstructions than any other provider in the country.<sup>18</sup> Dominion is one of only three providers of sternal reconstructive services in the entirety of the Commonwealth of Virginia, and the only one in PD 8.<sup>19</sup> The other two in-state providers, located in Charlottesville and Norfolk, provide sternal services secondary to their primary specialization, which are in cardiac or pediatric care, respectively.<sup>20</sup> Dominion is the only healthcare provider in Virginia specializing in sternal reconstructive services.<sup>21</sup> Some Virginia residents are going to other states, such as Maryland and North Carolina for sternal reconstruction procedures.<sup>22</sup>

Dominion sees an average annual caseload of 2000 patients,<sup>23</sup> 600 of which require reconstruction surgery.<sup>24</sup> Of these 600 patients requiring surgical reconstruction procedures,

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<sup>10</sup> DCOPN Staff Report at 5 (AR Exhibit 23).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> 12 VAC 5-230-500.

<sup>15</sup> DCOPN Staff Report at 13-14 (AR Exhibit 23); HSANV Staff Report at 2 (AR Exhibit 22).

<sup>16</sup> DCOPN Staff Report at 1 (AR Exhibit 23).

<sup>17</sup> *Id.*

<sup>18</sup> Tr. at 38-39.

<sup>19</sup> AR Exhibit 24.

<sup>20</sup> *Id.*; Tr. at 51; Dominion Closing Remarks at 2.

<sup>21</sup> COPN Application at IV(C)(2)(c) (AR Exhibit 2).

<sup>22</sup> Tr. at 50-51.

<sup>23</sup> Dominion Closing Remarks at 5.

<sup>24</sup> Tr. at 42-49.

approximately 300 patients wait three to twenty-four weeks for their reconstruction surgeries due to limited operating room availability.<sup>25</sup> Dominion competes for limited operating room time at other hospitals, resulting in predictable and consistent delays. These delays in treatment have a negative impact on patient outcomes.<sup>26</sup>

Historically, Dominion has performed its hospital-based procedures at the highly utilized Inova Fairfax Hospital (last reported at over 100% utilization)<sup>27</sup> and has experienced bottlenecks from limited operating room availability causing delays and inconvenient procedure times for its patients. Dominion has been forced to perform surgeries after midnight, on weekends, and holidays.<sup>28</sup> 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 Hospital.<sup>29</sup> Furthermore, the proposed project would likely free operating room time for other services at Inova Fairfax Hospital.

The proposed project will drastically lessen wait times for patients, potentially from waiting multiple months to mere days.<sup>30</sup>

I believe that approval of Dominion's project would increase access to general, sternal, and limb reconstruction services by adding operating room capacity. Denial of the project could be seen as creating a barrier to access to health care in the entire Northern Virginia area.

**2. The extent to which the proposed project will meet the needs of the 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;**

There were no letters of community support or public comments.

HSANV's Board of Directors unanimously opposed the project.<sup>31</sup>

**(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 applicant offers general plastic surgery and claims national recognition in the far more specialized areas of limb and sternal reconstruction. A data report from Virginia Health Information's All Payor Claims Database<sup>32</sup> confirms that only three physicians in Virginia had insurance claims for sternal reconstruction over the last two years available (2021 and 2022),

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<sup>25</sup> Tr. at 46-49; Dominion Closing Remarks at 5.

<sup>26</sup> Tr. at 21-23; Dominion Closing Remarks at 3, 5.

<sup>27</sup> DCOPN Staff Report at 2 (AR Exhibit 23).

<sup>28</sup> Tr. at 19, 23.

<sup>29</sup> DCOPN Staff Report at 15.

<sup>30</sup> Dominion Closing Remarks at 3.

<sup>31</sup> AR Exhibit 22 and HSANV Post-IFFC Comments.

<sup>32</sup> Virginia Health Information's All Payor Claims Database is not comprehensive. It does not include self-pay, some commercial payors, and some Medicare Advantage.

none of which were in PD 8.<sup>33</sup> Given the scarcity of physicians available to perform the specialized services proposed along with the level of pre-care and after-care required, there appears to be no reasonable 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;**

On December 11, 2023, the HSAHV Board of Directors reviewed and unanimously voted to deny Dominion's proposed project.<sup>34</sup> HSAHV based its decision, in part, on the operating room surplus in PD 8; lack of institution-specific data such as surgical caseload, surgery mix, and case referral data; lack of referrals to other services; and lack of explanation of how COPN approval would be critical to providing the services envisioned.<sup>35</sup>

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

The total capital cost of the proposed project is \$926,000, which would be paid from Dominion funds.<sup>36</sup> The total costs for the project are low in comparison to recently approved operating room projects.<sup>37</sup> Two recently approved projects' cost estimates ranged from \$2,253,500 to \$7 million per operating room.<sup>38</sup>

The benefits to the project are more timely, convenient access to services that are not easily accessible across Virginia, especially sternal reconstruction.

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

Dominion states its services are financially accessible to all patients.

The Health Planning Region II average for 2021, the latest year for which such data is available, was 2.5%.<sup>39</sup> Any Certificate issued to approve this project should be subject to a 2.5% charity care condition, to be derived from total gross patient services revenues.

Dominion represented that it would accept the 2.5% charity care condition, as described in the DCOPN Staff Report.<sup>40</sup>

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<sup>33</sup> AR Exhibit 24.

<sup>34</sup> AR Exhibit 22.

<sup>35</sup> *Id.*; HSAHV Post-IFFC Comments.

<sup>36</sup> AR Exhibits 2, 4.

<sup>37</sup> DCOPN Staff Report at 8 (AR Exhibit 23).

<sup>38</sup> *Id.*

<sup>39</sup> DCOPN Staff Report at 9-10.

<sup>40</sup> Dominion Closing Remarks at 4; Tr. at 28-29.

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

No additional factors relating to the review of this project are remarkable or appear to call for the exercise of the Commissioner's discretion in identifying or evaluating them in relation to the proposed project.

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

The COPN law requires that any decision to issue a Certificate must be consistent with the eight statutory factors enumerated in Virginia Code § 32.1-102.3(B) and consistency with the State Health Services Plan.<sup>41</sup> Virginia Code § 32.1-102.2:1 calls for the State Health Services Plan Task Force to develop recommendations for a comprehensive State Health Services Plan. Because the State Health Services Plan is still in development, I am considering consistency of the proposed project with the current regulatory language provided in the State Medical Facilities Plan (SMFP). The SMFP, found at 12 VAC 5-230-10 *et seq.*, is the planning document adopted by the Board of Health, which includes methodologies for projecting need for medical facilities and services, as well as procedures, criteria, and standards of review of applications for projects for medical care facilities and services.

The proposed project will expand geographical access to specialized surgical services.

Dominion complies with provisions of the SMFP addressing staffing.

The project is not based upon an institutional need because the applicant seeks to establish a new service.

Sufficient and detailed information in the administrative record supports the conclusion that Dominion's project would serve the intents and purposes of this statutory consideration. The project is consistent with the SMFP, is in harmony with the SMFP or with the public policies, interests, and purposes to which the SMFP and COPN law are dedicated.

**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.**

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 and sternal reconstruction.

The project is not proposed for the purpose of fostering institutional competition. Approval of the proposed project would improve access to limb and sternal reconstruction

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<sup>41</sup> Va. Code § 32.1-102.3.

surgical procedures and meet current and near-term demand for the people in the area to be served.

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

The proposed project does not entail a substantial change in the regional health care delivery system. The addition of the proposed two operating rooms is not likely to negatively affect demand or caseloads at other service providers. There is potential to free operating room time at Inova Fairfax Hospital.

**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.**

Review of Dominion's pro forma financial statement indicates that the proposed project is financially feasible. Financial resources are available. The capital costs of the proposed project are \$926,000, which would be funded through Dominion's reserves. The cost for the project is reasonable.

Dominion does not anticipate difficulty recruiting additional staff nor does it anticipate that their staffing needs will adversely impact other service providers. Though health care staffing is a statewide challenge, which the applicant may be underestimating, the modest number of additional staff members anticipated appears achievable without significant impact to existing providers.

The project would be financially beneficial to the applicant and the costs are reasonable.

**7. The extent to which the proposed project provides improvements or innovations in the financing and delivery of health 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.**

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

No additional factors relating to the review of this project are clearly remarkable or appear to call for the exercise of the Commissioner's discretion in identifying or evaluating them in relation to the proposed projects as gauged under this item under the seventh statutory consideration.

**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.

#### **B. Conclusion**

Based on the administrative record and in light of the discussion above, I conclude that Dominion has demonstrated a public need for the proposed project.

#### **IV. Recommendation**

Based on review of the evidence contained in the administrative record as a whole, the Dominion project merits conditional approval under the COPN law. Dominion should receive a Certificate authorizing the project, issued with recognition of a charity care condition. The Dominion project would meet a public need.

In addition to the conclusions drawn throughout this document, specific reasons for my recommendation include:

- (1) The Dominion project is consistent with the COPN law, is in harmony with the SMFP or public policies, interests, and purposes to which the SMFP and COPN law are dedicated;
- (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) There are no less costly or more efficient alternatives to the project;
- (4) The project is feasible. Its capital costs are reasonable and would be covered without financing;
- (5) HSANV has recommended denial of the proposed project. DCOPN has recommended conditional approval of the proposed project. With the exception of HSANV, there is no known opposition to the proposed project;
- (6) The proposed project is unlikely to impact existing providers significantly; and
- (7) The proposed project should be contingent upon the following charity care condition:
  - a. Dominion 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 by way of 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's gross patient revenue derived from surgical services. Compliance with this condition will be documented to DCOPN annually by providing audited or otherwise appropriately certified financial statements documenting compliance with the preceding requirement.

Dominion 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 to individuals pursuant to this condition shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*; and

- b. Dominion 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 will facilitate the development and operation of primary and specialty medical care services in designated medically underserved areas of the applicant's service area.

Respectfully submitted,



Vanessa MacLeod, JD  
Adjudication Officer

*February 16, 2024*