



COMMONWEALTH of VIRGINIA

Karen Shelton, MD
State Health Commissioner

Department of Health
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RICHMOND, VA 23218

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

April 19, 2024

Erin S. Whaley
Troutman Pepper Hamilton Sanders, LLP
Troutman Pepper Building
1001 Haxall Point
Richmond, Virginia 23219

**RE: COPN Request No. VA-8732
UVA Outpatient Imaging Culpeper, LLC
Expand MRI Services by adding one MRI**

Dear Ms. Whaley:

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 UVA Outpatient Imaging Culpeper, LLC to add a second MRI scanner on its campus.

As required by Section 32.1-102.3(B) 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 OIC 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. In light of the limited throughput, stemming from longer scanning times, resulting from the unique nature of the advanced imaging protocols used in academic medicine, OIC has demonstrated a unique, academic-based institutional need for the project that diverges from typical instances of institutional need involving levels of prevailing utilization directly complying with the SMFP threshold, consistent with the applicable provision of the SMFP;
3. There are no less costly or more efficient alternatives to the project. The project is feasible and the projected capital costs are reasonable;

Ms. Erin Whaley
UVA Outpatient Imaging Culpeper, LLC
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4. There is no known opposition to the proposed project; and
5. The proposed project is unlikely to impact existing providers significantly.

This certificate is valid for the period April 19, 2024, to April 18, 2025. The total authorized capital cost of the project is \$3,592,173.

Please file two copies of the application for a certificate extension with the Department 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
Olugbenga Obasanjo, MD MPH, District Director, Rappahannock Area Health District

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

THIS CERTIFIES THAT UVA Outpatient Imaging Culpeper, LLC is authorized to initiate the proposal as described below.

NAME OF FACILITY: UVA Outpatient Imaging Culpeper

LOCATION: 509 South Main Street, Culpeper, Virginia 22701

OWNERSHIP AND CONTROL: UVA Outpatient Imaging Culpeper, LLC

SCOPE OF PROJECT: Add one MRI scanner for a total of two. Capital costs authorized for this project total \$3,592,173. The project is expected to be completed by July 31, 2025. 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-04886

Date of Issuance: April 19, 2024

Expiration Date: April 18, 2025


Karen Shelton, MD, State Health Commissioner

UVA Outpatient Imaging Culpeper, LLC will provide MRI imaging 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 9 in an aggregate amount equal to at least 3.0% of UVA Outpatient Imaging Culpeper, LLC's gross patient revenue derived from MRI services. Compliance with this condition will be documented to the Division of Certificate of Public Need annually by providing audited or otherwise appropriately certified financial statements documenting compliance with the preceding requirement. UVA Outpatient Imaging Culpeper, 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. 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.

UVA Outpatient Imaging Culpeper, LLC will provide MRI services to individuals who are eligible for benefits under Title XVIII of the Social Security Act (42 U.S.C. § 1395 et seq.), Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.), and 10 U.S.C. § 1071 et seq. Additionally, UVA Outpatient Imaging Culpeper, 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.

**Recommended Case Decision
Certificate of Public Need (COPN)
Request Number VA-8732
UVA Outpatient Imaging Culpeper, LLC
Culpeper, Virginia
Planning District (PD) 9
Health Planning Region (HPR) I
Expand MRI service by adding 1 MRI**

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)¹ conducted in accordance with the Virginia Administrative Process Act² 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.”³ 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.⁴

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 documents prepared by the Division of Certificate of Public Need (“DCOPN”).

Specific findings of fact are as follows:

1. The University of Virginia (UVA) Outpatient Imaging Culpeper, LLC (“OIC”) is a Virginia not-for-profit limited liability company. One hundred percent of OIC is owned by UVA Outpatient Imaging Culpeper, LLC.⁵ Its members are Culpeper Memorial Hospital,

¹ The IFFC was held on February 8, 2024. A certified reporter’s transcript (“Tr.”) of the IFFC is in the administrative record (“AR”).

² Va. Code § 2.2-4000 *et seq.*

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

⁴ Va. Code §§ 32.1-102.1 and 32.1-102.3.

⁵ Application at 4, 12 (AR Exhibit 3).

Incorporated d/b/a UVA Health Culpeper Medical Center with 80% ownership, and Outpatient Imaging Affiliates, LLC with 20% ownership.⁶ Outpatient Imaging Affiliates, LLC is a Nashville, Tennessee based company that develops, owns, and manages outpatient imaging centers in partnership with local healthcare providers.⁷

2. UVA is a nationally recognized public university. UVA operates a highly ranked academic medical school, a teaching hospital that administers a comprehensive array of training programs and conducts various complex research initiatives, and a tertiary-quaternary health system that provides a vast array of medical and health care services, including numerous specialty and subspecialty services, to residents of the Commonwealth.
3. OIC proposes to expand an existing MRI service by adding 1 MRI scanner.
4. The total capital costs of the proposed project are \$3,592,173 of which \$680,654 are financing costs.⁸
5. DCOPN is comprised of the Virginia Department of Health's professional health facilities planning staff. On January 19, 2024, DCOPN issued its staff report recommending denial of this project.⁹
6. The administrative record on the proposed project closed on March 11, 2024.¹⁰

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 the 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.

PD 9 has three providers of MRI services. OIC, the sole free-standing, non-hospital-based imaging provider in PD 9, seeks to add 1 MRI scanner to an existing MRI service in Culpeper.

OIC is readily accessible by developed highways and roadways; and Virginia Regional Transit stops directly across the street from the facility.

OIC plays a pivotal role within UVA Health, delivering outpatient imaging services to patients in Culpeper and the surrounding areas, thereby filling a critical healthcare gap in the

⁶ *Id.*

⁷ *Id.* at 11.

⁸ *Id.* at 41.

⁹ AR Exhibit 7.

¹⁰ Tr. at 114.

region. The lack of other outpatient imaging options in this PD, particularly in rural areas like Culpeper, has significantly limited access to these services for local residents.

PD 9 is relatively rural. It is a slightly older and faster growing area than Virginia overall. The population in PD 9 is projected to grow 7.7% by 2030, adding about 14,000 people during that decade.¹¹ PD 9 will have about 9,816 more people over 65 in 2030 vs 2020, 2,652 of those residing in Culpeper.¹² These numbers reflect a faster rate of growth than that of Virginia during this time frame.¹³ Demand for MRI services is projected to increase with both a growing and aging population.

OIC proposes to add a second MRI scanner based on institutional need, contending that it operates above its functional capacity.

Barriers to prompt, advanced and more reliable MRI scanning,¹⁴ provided by an entity majority-owned by an academic medical center, exists for OIC's patients. In 2022, the most recent year for which Virginia Health Information (VHI) data is available, PD 9 providers performed 12,345 MRI scans.¹⁵ While this increase indicates that more PD 9 residents, including those from rural areas like Culpeper, were able to receive care within the district, there is a significant outmigration with residents of PD 9 traveling to providers outside of PD 9 for services. Currently, around 9,000 MRI referrals are out-migrating per year due to lack of access to MRI services.¹⁶ The Advisory Board projects that by 2024, residents of OIC's primary service area will require 18,219 MRIs, and this demand will rise to 19,636 by 2029.¹⁷

OIC offers extended hours to help address the needs of their patients. Because many of OIC's patients are older and will not drive after dark the late-night hour slots do not effectively address the population's need.¹⁸ Furthermore, despite OIC's extended operating hours, patients continue to wait an average of 7-12 business days for MRI services at OIC.¹⁹ The proposed addition of an MRI would reduce the outpatient backlog of MRI services at OIC.

Hospital-based imaging providers in PD 9 can be cost-prohibitive. Patients appear to prefer the outpatient imaging center's comparatively lower costs. OIC's waiting times and the higher costs associated with hospital-based MRI services likely contribute to the outmigration of PD 9 residents to providers in other PDs.

Delaying care can have a detrimental impact on the patients in need of services. To the extent that patients would no longer have to rely on providers outside of PD 9 for timely outpatient MRI services, the addition of one MRI scanner would improve patient geographic access and timeliness of access to outpatient MRI services.

¹¹ DCOPN Staff Report at 3-4 (AR Exhibit 7).

¹² *Id.*

¹³ *Id.*; IFFC Presentation at 4 (IFFC Exhibit 1).

¹⁴ IFFC Presentation at 12-17 (IFFC Exhibit 1).

¹⁵ Virginia Health Information, 2022 ASLD, Diagnostic Services.

¹⁶ Tr. at 47; Application at 29 (AR Exhibit 3).

¹⁷ *Id.*

¹⁸ Tr. at 93.

¹⁹ Tr. at 94; OIC Closing Remarks at 10.

Culpeper has one of the largest Medicaid populations in the state per capita.²⁰ OIC is a safety net provider, delivering a significant level of services to Medicaid and other vulnerable patients.²¹ OIC participates with the UVA financial assistance policy and charity care.²² Though OIC is a limited liability company without historical charity care to review, it is partially owned by UVA Health Culpeper Medical Center which provided charity care in the amount of 3.4% in 2021, the latest year for which such data are available.²³ This is well above the HPR I average of 1.9%.²⁴ OIC has agreed to offer 3% charity care in its application, should the project be approved.

Approval of the additional MRI would position OIC to continue providing a considerable amount of charity care and access to advanced diagnostic expertise, thereby helping to address socioeconomic barriers to care for residents of PD 9. The most reasonable, cost effective and efficient way to meet OIC's institutional need for additional MRI capacity is to add a second MRI scanner at OIC.

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;

OIC submitted several letters of community support with their Application and at the IFFC.²⁵ Collectively, the letters expressed OIC's important role in the Culpeper community, including how it reduces health disparities related to receiving high-quality, financially accessible healthcare in a rural area. More specifically, while MRI services are available in a hospital setting within PD 9, insurance companies regularly deny coverage of hospital-based MRIs when there is a freestanding center alternative; and OIC is the only freestanding imaging center in PD 9.

In letters of support, physicians have reported long wait times, patients receiving care in higher-cost settings and/or patients leaving the area for MRI scans, despite OIC's expansion of operating hours in attempt to accommodate demand.

The proposal has support from the community and there is no known opposition to the proposed project.

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

A unique academic-based institutional need for an additional MRI scanner at OIC exists.

²⁰ Tr. at 17.

²¹ *Id.*

²² Tr. at 46.

²³ DCOPN Staff Report at 7 (AR Exhibit 7).

²⁴ *Id.*

²⁵ AR Exhibit 3; IFFC Exhibit 9.

The 5,000 scans per year of the SMFP utilization threshold for MRI scanners assumes that MRI procedures take approximately 15 minutes. However, OIC's MRI procedures average 40-60 minutes per scan service because they are based on academic protocols and can involve the use of contrast, which provides a more accurate image and makes the underlying issue easier to diagnose.²⁶ Academic protocols and contrast studies take longer than standard studies. Academic protocols contain more sequences, or images, than MRIs performed in non-academic settings.²⁷ About a quarter of OIC's studies use contrast.²⁸ Contrast studies require the administration of contrast and additional sequences for comparative purposes, comparing images with and without contrast.²⁹ Protocols, like OIC's, have been shown to avoid major medical discrepancies by approximately 20% when compared to community practice.³⁰

DCOPN suggests that the project is premature and OIC should wait until it has met the 5,000 SMFP threshold. I do not believe additional delay is necessary to recognize the unique institutional need given their academic protocols.

OIC's average scan is 40-60 minutes long. A 40-minute scan is 33% longer than the average scan assumed by the SMFP. At an average of 40 minutes per scan, it would take 3,333 hours to perform 5,000 scans. An MRI's functional capacity is the number of MRIs that can be performed on a scanner during a year. This functional capacity is primarily driven by two factors: the average length of an MRI scan and the number of hours per year that the imaging center operates. In 2023, OIC was at 89.92% of the SMFP utilization standard, and at 119.89% of its functional capacity.³¹ OIC's projected SMFP utilization rate for 2024 is 100.89%, and its projected functional capacity rate is 134.52%.³² Based on OIC's academic protocols and use of contrast, functional capacity for the MRI scanners is 3,750 scans per year.³³

OIC extended hours and has made reasonable efforts to improve patient access to outpatient MRI services at its facility.³⁴ Despite these efforts, OIC is experiencing a backlog of 7 to 12 business days.³⁵ OIC is highly utilized and has an institutional need for an additional MRI scanner.

PD 9 has underutilized scanners within hospital settings. Overall underutilization of MRI scanners within the PD is not primarily consequential when reviewing the project alleged to address an institutional need and given the practicalities of why patients choose an outpatient imaging center over hospitals for their MRI services. MRIs at OIC and hospital-settings are not interchangeable, notwithstanding potential capacity at PD 9's hospitals. Insurance is frequently unwilling to pay for or authorize non-emergent in-hospital MRI procedures when there is a

²⁶ Tr. at 70; IFFC Presentation at 10-17 (IFFC Exhibit 1); OIC Closing Remarks at 10-12.

²⁷ Tr. at 55.

²⁸ Tr. at 73.

²⁹ Tr. at 67-73.

³⁰ IFFC Presentation at 15-17 (IFFC Exhibit 1); Tr. at 62-64.

³¹ IFFC Presentation at 21-22 (IFFC Exhibit 1).

³² *Id.*

³³ IFFC Presentation at 20 (IFFC Exhibit 1).

³⁴ Tr. at 92-93.

³⁵ Tr. at 94; OIC Closing Remarks at 10.

freestanding imaging center within 30 miles.³⁶ The cost of receiving MRI services at a hospital is significantly higher than at an independent diagnostic testing facility. The national average cost for an MRI at a hospital is approximately \$2,250.63.³⁷ This is significantly higher than the average cost of the same procedure at outpatient facilities, which is around \$650.³⁸ This substantial difference in cost can pose a financial burden for patients and may not be the most economical choice for their healthcare needs. Directing patients to pay out-of-pocket or pay more for MRI services is not a reasonable alternative.

An overall surplus is not primarily consequential when reviewing a project alleged to address an institutional need. Additionally, the proposed project poses little potential to affect the utilization of MRI services in PD 9. There is insufficient capacity at OIC, and there is no other freestanding center anywhere else in PD 9 that could absorb the expected growth in demand for lower cost imaging services.

Due to OIC's wait times, patients will likely have to delay MRI services for one to two weeks, pay out-of-pocket, or travel outside of PD 9 to another freestanding imaging center. The closest two freestanding imaging centers outside of PD 9 are in Fredericksburg or Centreville.³⁹ Re-directing patients to imaging facilities outside of the planning district is not a feasible alternative.

OIC has demonstrated a unique, academic-based institutional need for an additional MRI scanner that diverges from typical instances of institutional need involving strict compliance with the SMFP threshold. Lack of compliance with the SMFP's expansion standard is not dispositive of institutional need, particularly when the very factors that suppress utilization (e.g. longer exam times) are the factors creating the institutional need. OIC's longer scanning times has led to the need for a second MRI scanner to ensure the provision of public access to uninterrupted and cost-effective outpatient MRI services continues. Maintaining the status quo is not a reasonable alternative to the addition of a second MRI scanner at OIC to meet its institutional need.

(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;

Not applicable, without prejudice to the applicant. No regional health planning agency exists for the purpose of reviewing projects proposed in HPR I.

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

The total capital costs of the proposed project are \$3,592,173 of which \$680,654 are financing costs. The estimated capital costs are reasonable in comparison to other recently

³⁶ Tr. at 39-42.

³⁷ IFFC Exhibit 8; Tr. at 45; IFFC Presentation at 24 (IFFC Exhibit 1).

³⁸ *Id.*

³⁹ Per Google Maps' driving time directions, Centreville is approximately 1 hour and 6 minutes away from Culpeper, and Fredericksburg is approximately 1 hour away from Culpeper.

approved projects adding an MRI scanner at an established facility.⁴⁰ The applicant has provided assurances of continued financial accessibility. It is wholly feasible in the short and long term.

OIC is the only freestanding imaging center in PD 9 so its costs to patients and payors are less than other PD 9 MRI service providers, which are hospital-based. The Project will increase access to lower-cost MRI scans that would otherwise have to be performed in an inpatient facility at a premium.

While not determinative, I note that OIC intends to purchase a 1.5T MRI scanner which would allow for greater MRI access for patients with metal in their bodies, such as a pacemaker or spine stimulators. Co-locating both 1.5T and 3.0T MRI scanners will give OIC the capacity it needs to select the optimal magnet strength for each patient based on their clinical needs.⁴¹

The benefits to the project are more timely, convenient, and affordable access to services that are not easily accessible within PD 9.

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

OIC is the only freestanding outpatient imaging center in PD 9, offering a less expensive alternative than hospital-based imaging and improving financial accessibility to patients. OIC has well established policies and procedures for screening and qualifying patients for charity care. OIC is a safety net provider, delivering a significant level of services to Medicaid and other vulnerable patients.⁴² Though OIC is a limited liability company without historical charity care to review, it is partially owned by UVA Health Culpeper Medical Center which provided charity care in the amount of 3.4% in 2021, the latest year for which such data are available.⁴³ This is well above the HPR I average of 1.9%.⁴⁴ Should the proposed project be approved by the Commissioner, I recommend a charity care condition requirement of 3% as proffered on the applicant's pro forma.⁴⁵

Approval of the additional MRI would position OIC to continue providing a considerable amount of charity care and access to advanced diagnostic expertise, thereby helping to address socioeconomic barriers to care.

(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.

⁴⁰ DCOPN Staff Report at 6 (AR Exhibit 7).

⁴¹ Tr. at 79-82.

⁴² Tr. at 17.

⁴³ DCOPN Staff Report at 7 (AR Exhibit 7).

⁴⁴ *Id.*

⁴⁵ AR Exhibit 3.

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.⁴⁶ 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.

COPN regulations allow the Commissioner to grant approval of the expansion of a service when the applicant can demonstrate that it has an institutional need for such expansion.

The SMFP standard contemplates that an imaging facility should conduct 5,000 scans per year, or 20 per day in a five-day week. However, if the average scan actually takes 40 minutes (OIC's average scan time is 40-60 minutes), a scanner's throughput capacity is only 15 scans per day, with annual utilization of only 3,750 annual procedures.

The conditions and requirements of providing advanced, exacting MRI imaging are unique. The inability of an MRI scanner operated based on academic protocols to perform procedures rapidly enough to satisfy the SMFP utilization threshold is apparent. Analysis of utilization based strictly on the SMFP standard does not take into account the unique imaging needs of patients receiving care in a health system whose hospitals and facilities have adopted the standards and protocols of its flagship academic medical center.

The proposed project will address OIC's institutional need for a second MRI scanner because its existing MRI scanner has exceeded its current functional capacity. OIC performed a total of 4,496 MRIs in 2023.⁴⁷ This is 90% of the SMFP standard but 120% of OIC's functional capacity.⁴⁸ For 2024, OIC is projecting 5,045 scans which will be 101% of the SMFP standard and 134% of OIC's functional capacity.⁴⁹

Virginia Code § 32.1-102.3(A) allows the Commissioner to approve a project despite not being fully consistent with the SMFP such that "if the Commissioner finds, upon presentation of appropriate evidence, that the provisions of such plan are not relevant to a rural locality's needs, inaccurate, outdated, inadequate or otherwise inapplicable." OIC presented compelling evidence that the 5,000 MRI threshold in the SMFP must be inapplicable to OIC because of the unique standards and protocols it follows as part of an academic medical center. The Commissioner may approve this addition of a second MRI scanner despite OIC's existing MRI scanner not strictly meeting the SMFP threshold standard.

⁴⁶ Va. Code § 32.1-102.3.

⁴⁷ IFFC Presentation at 21 (IFFC Exhibit 1).

⁴⁸ *Id.*

⁴⁹ *Id.*

OIC holds a distinctive position as the sole free-standing, non-hospital-based imaging center in PD 9. Sending patients to a hospital-based imaging center is not a reasonable alternative due to costs. Many insurance providers refuse to cover MRI costs at an inpatient facility when an outpatient facility is available within a 30-mile radius. In instances where insurers do agree to cover imaging at an inpatient facility, like a hospital, the cost to the patient can increase to almost 250% more than at an outpatient facility.⁵⁰

OIC complies with provisions of the SMFP addressing staffing. All MRI services provided at OIC are provided now, and, upon expansion, would continue to be provided, under the supervision of radiologists with faculty appointments in the UVA School of Medicine, who are appropriately trained and credentialed to direct and supervise these services.

OIC has demonstrated an institutional need for an additional MRI scanner. Sufficient and detailed information in the administrative record supports the conclusion that OIC'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.

Approval of a second MRI scanner at OIC would remove the impediments to higher utilization by adding capacity and enabling the two MRI scanners at OIC to operate more efficiently; thereby, improving access to outpatient MRI services in PD 9.

OIC is the only freestanding outpatient imaging center in PD 9, and with its lower costs and convenience, OIC appears to be preferred by patients and/or payors. It is unlikely that approval of an additional MRI scanner at OIC would have a negative impact on the utilization of other area providers within a hospital setting. Other providers in PD 9 include UVA Health Culpeper Medical Center (80% owner of OIC) and Fauquier Hospital about 23 miles/32 minutes away.

Because OIC is committed to treating patients regardless of their ability to pay, the increased access to care also increases opportunities for those patients with financial needs so that they can obtain the healthcare services they require.

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 MRI scanner is not likely to negatively affect demand or caseloads at other service providers.

⁵⁰ IFFC Exhibit 8.

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 project would be financially beneficial to the applicant and the costs are reasonable. Review of OIC's pro forma financial statement indicates that the proposed project is financially feasible. Financing costs associated with the proposal are \$681 thousand, but the pro forma projects a positive net income in excess of half a million dollars in each of the first two years following implementation of the proposed project.

The applicant has a well-developed and effective recruitment program. Though healthcare staffing is challenging across Virginia, additional human resources required to operationalize are modest at 2 technologists. The applicant asserts that its affiliation with UVA will aid in filling these positions and, absent a UVA graduate, it will be able to recruit these from community colleges with which it works without impact to staffing of existing providers.

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 addition of a second MRI at OIC will enhance access to advanced diagnostic imaging services in PD 9.

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.

The applicant is not a teaching hospital, but it is affiliated with the UVA Health System. UVA Health has a three-part mission to provide research, training and clinical care to the benefit of Virginia. While the University is not the applicant here, there is no question that OIC is an integrated, integral part of the UVA Health System, lending vital support to the University's teaching and research missions. MRI services are offered at OIC, providing access closer to home for PD 9 residents, and to indigent and underserved populations, a component of the mission of UVA Health. The additional MRI capacity will provide enhanced opportunities for

medical education and clinical research at UVA. OIC affirms that its proposed project will support the UVA Health System's commitment to providing all patients with access to high quality imaging services without regard to their ability to pay.

B. Conclusion

Based on the administrative record and in light of the discussion above, I conclude that OIC has demonstrated an institutional need for the proposed project.

IV. Recommendation

Based on review of the evidence contained in the administrative record as a whole, the proposed project merits approval under the COPN law. OIC should receive a Certificate authorizing the project, issued with recognition of a charity care condition.

The OIC project would meet a public need.

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

- (1) The OIC 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) In light of the limited throughput, stemming from longer scanning times, resulting from the unique nature of the advanced imaging protocols used in academic medicine, OIC has demonstrated a unique, academic-based institutional need for the project that diverges from typical instances of institutional need involving levels of prevailing utilization directly complying with the SMFP threshold, consistent with the applicable provision of the SMFP;
- (3) There are no less costly or more efficient alternatives to the project. The project is feasible and the projected capital costs are reasonable;
- (4) There is no known opposition to the proposed project;
- (5) The proposed project is unlikely to impact existing providers significantly; and
- (6) The proposed project should be contingent upon the following charity care condition:

OIC will provide MRI imaging 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 9 in an aggregate amount equal to at least 3.0% of OIC's gross patient revenue derived from MRI 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. OIC 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.* 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.*

OIC will provide MRI services to individuals who are eligible for benefits under Title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*), Title XIX of the Social Security Act (42 U.S.C. § 1396 *et seq.*), and 10 U.S.C. § 1071 *et seq.* Additionally, OIC 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

April 4, 2024