

**Health Systems Agency of Northern Virginia
Board of Directors Meeting
December 11, 2023**

Members Present

Michael Carrasco
Tom Fonseca
Pamela Kincheloe, RN, Chairperson
Lydia Lawrence
Patrice Lepczyk
Sally Patterson
Anitha Raj
Douglas Samuelson
Robert Sharpe
Jennifer Weber
Terry West

Staff Present

Ann McFeeley
Dean Montgomery

Zoom Audio Attendees

Several

I. Call to Order

Pam Kincheloe, Chairperson, Health Systems Agency of Northern Virginia (HSANV), called the meeting to order at 7:35 PM. She welcomed those present and reviewed the agenda.

Kincheloe stated that, among other matters, the Committee would consider a certificate of public need application from Dominion Plastic Surgery (COPN Request VA-8688) which proposes to establish an ambulatory surgery center in Fairfax County. She invited those present and on line to introduce themselves.

II. Previous Minutes

Minutes of the September 11, 2023, meeting was approved.

III. Conflict of Interest

Kincheloe followed established HSANV conflict of interest procedures to determine whether any member had a conflict of interest on the Dominion application. No conflicts were declared, alleged, or otherwise identified.

IV. COPN Application Review: Dominion Plastic Surgery, COPN Request VA-8688

Kincheloe noted that no representative of the applicant was present. Montgomery summarized his discussions with Dominion representatives over the last couple of months. Based on these interactions, he said he is not sure the applicant planned to appear.

There was general agreement to move to another agenda item. Members and staff reviewed recent COPN decisions on Northern Virginia projects on which an IFFC (informal fact-finding conference) was held. The two most recent projects are:

- Inova Loudoun Hospital's proposal to expand its radiation therapy service (COPN Request VA-8703), and
- Reston Hospital Center's proposal to establish a CT scanning service in Leesburg, VA (COPN Request VA-8684).

HSANV recommended approval of the Inova Loudoun proposal and denial of the Reston Hospital Center proposal. State staff (DCOPN) recommended denial of the Loudoun application and approval of the Reston Hospital application. The Commissioner approved both applications.

HSANV Staff Review

When it became evident that Dominion was unlikely to appear, Dean Montgomery summarized the proposal and the HSANV staff assessment of it. He called attention to key elements of the Dominion application and the agency report.¹

Examination of the proposal in the context of regulatory requirements, the regional surgery service market, authorized operating room capacity, and the substance of the application indicates that:

- There is no public need for additional surgery services or general purpose 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.
- Dominion's focus is on attracting and serving patients from outside PD 8. In discussing its current northern Virginia service area population, the applicant cautions that it is "important to note that this is not representative of the population that we are targeting with this project. As mentioned in other areas of the application, the intent is to drive revenue with patients located outside of this planning district."
- Dominion proposes to serve principally the private pay market, and few Medicare, Medicaid, and medically indigent patients. Projected Medicare, Medicaid, and charity care caseloads are, respectively, 1.25%, 0.50%, and 0.25%, of its total caseload. The project would not facilitate or ensure access for large segments of the population.

¹¹ Members of the HSANV board, and other identified interested parties, receive the substantive parts (extracts) of all COPN applications reviewed by the agency and a staff report/evaluation of each.

- 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 statement that Dominion would “set fees as dictated by the market.” Market fees typically include rapid recovery of capital investments with high returns on equity.
- The *pro forma* budget is opaque, and of little analytical value. The applicant acknowledges that projected revenue and expenses are “not based on a specific number of surgeries that we expect to complete.” The basis and rationale of the budget is unclear.
- Dominion has no history of providing charity care. The *pro forma* budget contemplates a charity care caseload of less than one percent.
- 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 the private pay population, locally and elsewhere. The applicant shows no interest in serving the medically indigent or in improving economic access to the services it offers.

Based on these considerations and findings, and on the data and arguments presented in the application, HSANV staff concluded that the Dominion proposal is not consistent with key provisions of the Virginia State Medical Facilities Plan (SMFP). There is no evidence of a public need for additional general purpose operating rooms over the next five years.

Dominion Presentation (COPN Request VA-8688)

There was no presentation by the applicant.

Public Comment

There was no public comment on the application.

Staff Recommendation

Based on the information presented in the agency staff report and on the earlier discussion of the proposal, Montgomery recommended denial of the Dominion application. Among other considerations, he argued that:

- There is no indication of a current or near-term regional need for an additional ambulatory surgery center.
- There is substantial unused surgery capacity in local outpatient surgery facilities.
- A Dominion ambulatory surgery center is not required or otherwise needed to respond to a health system deficiency or a documented public need.
- A Dominion surgery center would not improve access to needed surgical care.

Board Deliberation and Vote

Sally Patterson offered a motion to recommend denial of the application. Douglas Samuelson seconded the motion. The motion passed by a vote of eleven in favor (Carrasco, Fonseca, Kincheloe, Lawrence, Lepczyk, Patterson, Raj, Samuelson, Sharpe, Weber, West) and none opposed.

V. Virginia General Assembly, 2024 Session

The 2024 session of the Virginia Assembly convenes on January 10, 2024. Members and staff discussed the changes that are likely following the 2023 election.

VI. Other Business

The next HSANV board meeting was set for Monday, January 8, 2024, at 7:00 PM.

VI. Adjourn

Kincheloe adjourned the meeting at 8:50 P.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dean Montgomery". The signature is written in a cursive style with a large, stylized initial "D".

Dean Montgomery