

**Health Systems Agency of Northern Virginia
Board of Directors Meeting
September 9, 2024**

Members Present

Ana Alvarez
Michelle Kimmel
Pamela Kincheloe, RN, Chairperson
Lydia Lawrence
Patrice Lepczyk
Anitha Raj
Douglas Samuelson
Robert Sharpe
James Smith, III MD
Jennifer Weber
John Whyte, MD
Maria Zlotnick

Staff Present

Ann McFeeley
Dean Montgomery

Guests (Partial List)

Matt Cobb, Counsel, Loudoun Rehabilitation and Nursing Center
Steve Danzinger, Chair, UVACH Board, Member, UVA Health System Board
Christopher Gaskin, M.D., Executive Vice Chair, Department of Radiology and Medical Imaging, UVA School of Medicine; Professor, Radiology and Orthopedic Surgery, University of Virginia
Mary Anne Harkins, Harkins Consulting, UVA Community Health
Jennifer Ligon, Williams Mullen, Counsel, UVA Community Health
Jamie Martin, Williams Mullen, Counsel, UVA Community Health
Betsy Reilly, Business Analyst, JHU Healthcare
Jennifer Siciliano, Chief External Affairs Officer, UVA Health
Erik Shannon, CEO, UVA Community Health
Kara Siford, M.D., UVACH Bull Run Family Medicine
Ross Snare, Deputy Chief External Affairs Officer, UVA Health
Donna Staton, Chief Operating Officer, UVA Community Health
Amanda Welch, Chief Operating Officer, UVACH/Haymarket Medical Center
Spencer Wildonger, Director of Planning, Transformation, JHU Medicine

I. Call to Order

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

Kincheloe stated that, among other matters, the board would consider three certificate of public need (COPN) applications:

- UVA Outpatient Imaging Gainesville, Establish MRI Service (COPN Request VA-8768)
- UVA Outpatient Imaging Gainesville, Establish CT Scanning Service (COPN Request VA-8769)
- Loudoun VA PropCo, Expand Loudoun Rehabilitation and Nursing Center (COPN Request VA-8773)

She noted that the UVA Community Health applications would be considered together but would be voted on separately, as distinct projects.

II. Previous Minutes

The board approved the minutes of the June 17, 2024, meeting.

III. Conflict of Interest

Kincheloe followed HSANV conflict of interest procedures to determine whether any member had a conflict of interest on any of the applications on the agenda. She declared a conflict on the two UVA Community Health applications (COPN Request VA-8768 and COPN Request VA-8769) and would abstain from voting on both. No other conflicts were declared, alleged, or otherwise identified.

**IV-A. COPN Applications: UVA Outpatient Imaging Gainesville, Establish MRI service (COPN Request VA-8768)
UVA Outpatient Imaging Gainesville, Establish CT service (COPN Request VA-8769)**

UVA Community Health Presentation

Mary Anne Harkins, UVA Community Health consultant, introduced Donna Staton, COO, UVA Community Health, who introduced other UVA Health and UVA Community Health officials representing the applicant: Christopher Gaskin, M.D., Executive Vice Chair, Department of Radiology and Medical Imaging, UVA School of Medicine; Professor, Radiology and Orthopedic Surgery, University of Virginia; and Kara Siford, M.D., UVA Community Health Bull Run Family Medicine.

Among other considerations, Stanton, Gaskin, and Siford emphasized:

- UVA Community Health (UVACH) services and facilities are the principal provider of acute care medical services in western Prince William County.
- A full-service diagnostic imaging center in Gainesville is critical to rationalizing UVACH services in western Prince William County and PD 8 generally..
- Establishing new CT and MRI scanning services in the manner proposed is consistent with applicable provisions of the Virginia State Medical Facilities Plan (SMFP).

- CT and MRI scanning positioned in Gainesville would permit UVACH to serve its existing patient base more effectively and efficiently.
- Access to diagnostic imaging among residents of western Prince William residents would be improved markedly.
- UVACH provides substantial amounts of charity care and serves the medically indigent equitably. Arguably, economic access to IDTF based diagnosed imaging services would be enhanced.
- Reductions in demand at nearby imaging services would be at UVACH CT and MRI services, where moderation of increasing demand would be beneficial and welcomed. There is no indication of potential negative health system effects.
- The costs of the proposals are reasonable, within the capital cost ranges commonly seen for similar projects locally and elsewhere in Virginia.

The slides referenced by UVACH representatives in their presentation are attached (Attachment 1)

Board & Staff Questions, Discussion

In response to questions, Staton, Gaskin, and Siford stated, or confirmed that:

- The second MRI scanner acquired for use at UVA Outpatient Imaging Centerville has not been installed there. If the application is approved, it will be installed in Gainesville.
- References to “institutional need” in the MRI proposal (COPN Request VA-8768) derive from the view that the proposal is properly characterized as an off site service relocation project rather than the establishment of a new service.
- Consistent with the “institutional need” argument, the UVACH expects the UVA Outpatient Imaging MRI service to be billed under the UVA Outpatient Imaging Centerville MRI service.
- UVA Community Health recognizes the chronic low use of the CT service at UVA Outpatient Imaging Centerville and is considering ways to increase service volumes.

Public Comment

There was no public comment other than the letters of support submitted with the application.

Applicant Final Summary

Staton thanked the board for its attention and offered to answer any additional questions members might have.

Staff Recommendations: COPN Request VA-8768 & COPN Request VA-8769

Montgomery noted that, though staff disagree with the UVA OIG argument that its MRI proposal (COPN Request VA-8768) qualifies for consideration under the institutional need provision of the Virginia SMFP, both proposals have substantial merit and are consistent with applicable provisions of the plan. Both capital outlays are within the normal capital expenditure ranges for similar projects. Both are likely to be positive additions to the local health care delivery system. Neither is likely to affect demand at, or use of, diagnostic imaging services outside the northern Virginia UVA Community Health network.

Based on these considerations, on the data and information presented in the agency staff report on the applications, and on the testimony presented by UVA Community Health representatives, Montgomery recommended approval of both applications.

Board Deliberation and Vote, COPN Request VA-8768

James Smith offered a motion to recommend approval of COPN Request, VA-8768. Doug Samuelson seconded the motion. The motion passed by a vote of eleven in favor (Alvarez, Kimmel, Lawrence, Lepczyk, Raj, Samuelson, Sharpe, Smith, Weber, Whyte, Zlotnick), none opposed, and one abstention (Kincheloe).

Board Deliberation and Vote, COPN Request VA-8769

Ana Alvarez offered a motion to recommend approval of COPN Request, VA-8769. Doug Samuelson seconded the motion. The motion passed by a vote of eleven in favor (Alvarez, Kimmel, Lawrence, Lepczyk, Raj, Samuelson, Sharpe, Smith, Weber, Whyte, Zlotnick), none opposed, and one abstention (Kincheloe).

IV-B. COPN Application: Loudoun PropCo, Expand Loudoun Rehabilitation and Nursing Center (COPN Request VA-8773)

Loudoun Property PropCo Presentation

Matt Cobb, Williams Mullin, Counsel, Loudoun PropCo, presented the application. Among other considerations, he stressed:

- The Loudoun project is filed, and accepted for review, under a provision of the Virginia COPN statute (§ 32.1-102.3:7. *Application for transfer of nursing facility beds*) that permits inter planning district transfers of surplus nursing home beds as an exception to the standard request for applications (RFA) planning process. This provision is commonly referred to as “the bed transfer statute”.
- There is a strong precedent for approval of the application. All the inter planning district nursing projects filed under § 32.1-102.3:7 have been approved.
- The Commissioner of Health has considered, and ultimately rejected, HSANV’s arguments against nursing home bed transfers to northern Virginia in accordance with § 32.1-102.3:7.
- The Virginia SMFP bed need methodology used by Virginia Department of Health officials is mandated and must be used by all parties until officially replaced.
- Occupancy of authorized bed capacity may not be a consideration in, or the reason for, denying a proposed bed transfer under § 32.1-102.3:7.
- The capital cost of the project is modest, about \$1.9 million.
- The project would have positive health system effects in both the donor planning district (PD 5) and the recipient district (PD 8).

The slides Cobb used in his presentation are attached (Attachment 2).

Board & Staff Questions, Discussion

In response to questions, Cobb stated or acknowledged:

- The nursing home bed need methodology and formulae are dated, resulting in problematic bed need estimates.
- There has not been a RFA to add nursing home capacity in northern Virginia (PD 8).
- The nursing home request for applications, which is supposed to be updated and published annually, has been published only irregularly and is years in arrears.
- Loudoun PropCo disagrees with HSANV's view that the Commissioner of Health is not bound to use the problematic nursing home use data and planning methodology currently relied on in the RFA process.
- William Mullins was involved in the transactions that led to the \$400,000 bed license fee referenced in the application. That business was handled by other members of the firm. Mr. Cobb was not involved and has no knowledge of what occurred or of who was involved.
- Loudoun PropCo may not (is not permitted) to provide a copy of the "Release and Settlement Agreement" between Friendship and Loudoun HRC which details the transaction resulting in the \$400,000 payment for the licensing rights to the four beds that would be transferred.
- He was (is) unaware of the specific reason(s) for request for just four beds rather than a larger, presumably more rational, number given the claimed large and growing bed shortage in northern Virginia.

Public Comment

There was no public comment other than the letters of support submitted with the application.

Applicant Final Summary

Cobb did not wish to offer additional testimony. He acknowledged HSANV's concerns, but suggested that the cure lies elsewhere, with a new, up-to-date planning methodology or a statutory (legislative) change.

Staff Recommendations: COPN Request VA-8773

Montgomery disagreed with Loudoun VA PropCo's view and assertions which amount to arguing that all parties are bound to use a fatally flawed and discredited planning and regulatory process that is inconsistent with the public interest. He outlined two readily available planning methods (trended historical population-based use rates, and annual facility-based service caseloads and trends) available to all parties, including the applicant. These methods are well known to all parties. They can be used to determine more accurate use rates and to make reliable projections of demand and service volumes.

There is no acceptable ethical basis or rationale for manufacturing language (e.g., "calculated need" and "numerical need" rather than public need) to facilitate continued reliance on a meritless process. No party's hands are tied. Contrary to the applicant's arguments and private interests, there is no requirement to distort reality or to ignore the public interest.

Based on these considerations, and the data and information presented in the agency staff report on the project, Montgomery recommended denial of the project.

Board Deliberation and Vote, COPN Request VA-8773

A motion to take no position on the application failed (three in favor and eight opposed).

Michelle Kimmel offered a motion to recommend denial of the Loudoun PropCo application, COPN Request, VA-8773. Doug Samuelson seconded the motion. The motion passed by a vote of ten in favor (Alvarez, Kimmel, Kincheloe, Lawrence, Raj, Samuelson, dZXSharpe, Smith, Weber, Zlotnick) and one opposed (Lepczyk).

VI. Other Business

The next HSANV board meeting was set for Monday, October 7, 2024.

VII. Adjourn

Kincheloe adjourned the meeting at 9:40 PM.

Respectfully submitted,

A handwritten signature in cursive script that reads "Dean Montgomery".

Dean Montgomery

Attachments (2)