

The Certificate of Public Need Review Process in Virginia

House Health, Welfare and Institutions
Committee COPN Task Force

September 19, 2006

The Certificate of Public Need Review Process is Established in:

- The Code of Virginia at §32.1-102.1 through §32.1-102.11
- *Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations* 12VAC 5-220

And

- *The State Medical Facilities Plan* 12VAC 5-230 through 12VAC 5-360

The Pre-Application Phase

- Formally starts at least 70 days prior to the start of the established Batch Review Cycle
 - Receipt of a Letter of Intent from the applicant
 - Response from Virginia Department of Health within seven days

The Pre-Application Phase

- Application Received from the Applicant at least 40 Days Prior to the Start of the Review Cycle
 - DCOPN and RHPA have up to 10 days to review the submission for completeness and transmit follow-up questions to the applicant

The Pre-Application Phase

- The applicant must provide responses to the “Completeness Follow-up” Questions at least 5 days prior to the Start of the Review Cycle
 - Responses must be adequate to complete the application
 - Application fee also due

The Pre-Application Phase Summary

Days	Cycle start -70	LOI + 7	Cycle start -40	Application +10	Cycle start -5	Cycle start
Action	Letter of Intent (LOI) Received by:	Respond to LOI	Application Rec'd by DCOPN & RHPA	DCOPN Issues Completeness Questions	Responses Due for Completeness Questions	Accept for Review
Code			§ 32.1-102.6 A	§ 32.1-102.6 A		
Regs	12VAC 5-220-180 A	12VAC 5-220-180 A	12VAC 5-220-180 C	12VAC 5-220-190	12VAC 5-220-190	12VAC 5-220-230 A

Application Review Phase

- Begins on the first day of the batch review cycle
- Dates established in the *Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations*

Application Review Phase

- By the 60th day of the Review Cycle the RHPA will:
 - Hold a public hearing
 - Hold a meeting of any local advisory council
 - Hold a meeting of the RHPA Board of Directors

Application Review Phase

- The DCOPN will:
 - Complete the review of the COPN request and transmit a recommendation to the applicant by the 70th Day of the Cycle

Application Review Phase Summary

Days	Cycle start	Cycle start + 60	Cycle start + 70	Cycle start + 70
Action	Review Cycle Start	RHPA Review Complete	RHPA Report Due	DCOPN Review Complete
Code	§ 32.1-102.6 D	§ 32.1-102.6 B	§ 32.1-102.6 B	
Regs	12VAC 5-220-200	12VAC 5-220-230 B	12VAC 5-220-230 B	12VAC 5-220-230 A

Decision Phase

- For uncontested COPN Requests recommended for approval by both the RHPA and the DCOPN
 - the record closes on the 75th day of the review cycle, and
 - The request and analysis are sent to the State Health Commissioner for a decision

Decision Phase

- For contested COPN Requests and/or those recommended for denial by either/both the RHPA and the DCOPN
 - the need for an informal fact-finding conference (IFFC) determination is made on the 75th day of the review cycle
 - Petitions for good cause from challenging parties are due by the 80th day of the review cycle
 - An IFFC will be held between the 80th and 90th day of the review cycle

Decision Phase

- For the requests heard at an IFFC
 - The record will close within 30 days of the IFFC (between the 110th and 120th day of the review cycle)
 - The State Health Commissioner's decision is due within 45 days of the close of the record (between the 155th and 165th day of the review cycle)

Decision Phase

- If the State Health Commissioner cannot transmit a decision by the deadline, an additional 25 days can be added (180th to 190th day).
- Projects are deemed approved if no decision is made by the 190th day of the review cycle

Decision Phase Summary

				Record Closes		
Days	Cycle start + 75	Cycle start + 80	Cycle start + 80 - 90	Cycle start + 80		IFFC + 30
Action	Determination of need for IFFC	Petitions for Good Cause	IFFC Held		Date set for IFFC	
Code	§ 32.1-102.6 E.2	32.1-102.6 E.3	§ 32.1-102.6 E.1	§ 32.1-102.6 E.5		§ 32.1-102.6 E.4
Regs	12VAC 5-220-230 A		12VAC 5-220-230 A			

Days	Record Closes + 45	Record Closes + 70	Cycle start + 190
Action	Commissioner's Decision Due	Deemed Approval	End of Review Cycle
Code	§ 32.1-102.6 E.6	§ 32.1-102.6 E.7	§ 32.1-102.6 D
Regs			

Performance

- In Fiscal Years 2003 through 2005
 - 507 letters of intent were received
 - 373 applications were received
 - 287 decisions were made by the State Health Commissioner
 - 260 (90.6%) approved
 - 27 (9.4%) denied

Performance

- The approved requests represent a 3-year capital expenditure of \$2,293,000,000
- The denied projects represent a 3-year capital request of \$165,920,000

Program Recommendations

- Each year the State Health Commissioner makes a report to the Governor and the General Assembly of Virginia
- Each report is required to analyze several project types and offer recommendations as to the appropriateness of continuing the certificate of public need program for those project types

Program Recommendations

- 3 basic types of recommendations have been made in recent years

- 1. Support efforts to deregulate COPN as it applies to the discussed service*

Recommended for lithotripsy, obstetrical services, ICF/MR, nuclear medicine imaging

Program Recommendations

2. *Continue to apply the COPN program, as currently developed, to the discussed service, with the modification of the State Medical Facilities Plan, as needed.*

Recommended for nursing homes, PET, MRI, CT, and MSI

Program Recommendations

3. *Expand the Request for Applications (RFA) process to include the discussed service based on a collaborative review with affected parties to determine the need for, and location of, such additional facilities and services.*

Recommended for radiation therapy, gamma knife, neonatal special care, medical rehabilitation and long term acute care hospitals