

**APPLICATION FOR DETERMINATION OF NEED**

**EMERGENCY APPLICATION**

**LIFESPAN OF MASSACHUSETTS, INC.**

**DON APPLICATION # LMA-24080618-EA**

**BY  
LIFESPAN OF MASSACHUSETTS, INC.**

**September 12, 2024**

LIFESPAN OF MASSACHUSETTS, INC.  
DON APPLICATION # LMA-24080618-EA  
SEPTEMBER 12, 2024

**TABLE OF CONTENTS**

Appendix 1.	DON APPLICATION FORM
Appendix 2.	DON NARRATIVE
Appendix 3.	AFFIDAVIT OF TRUTHFULNESS AND COMPLIANCE
Appendix 4.	ARTICLES OF INCORPORATION

**APPENDIX 1:**  
**DON APPLICATION FORM**



# Massachusetts Department of Public Health

## Determination of Need

### Application Form

Version: 11-8-17

Application Type:	Emergency Application	Application Date:	09/11/2024 3:31 pm
Applicant Name:	Lifespan of Massachusetts, Inc.		
Mailing Address:	167 Point Street		
City:		State:	Rhode Island
		Zip Code:	02903
Contact Person:	Benjamin Wilson	Title:	Partner
Mailing Address:	800 Boylston Street, Prudential Tower		
City:	Boston	State:	Massachusetts
		Zip Code:	02199
Phone:	6179517336	Ext:	
E-mail:	benjamin.wilson@ropesgray.com		

## Facility Information

List each facility affected and or included in Proposed Project

1	Facility Name:	St. Anne's Hospital		
	Facility Address:	795 Middle Street		
	City:	Fall River	State:	Massachusetts
			Zip Code:	02721
	Facility type:	Hospital	CMS Number:	220020
		<a href="#">Add additional Facility</a>	<a href="#">Delete this Facility</a>	
2	Facility Name:	Morton Hospital		
	Facility Address:	88 Washington Street		
	City:	Taunton	State:	Massachusetts
			Zip Code:	02780
	Facility type:	Hospital	CMS Number:	220073
		<a href="#">Add additional Facility</a>	<a href="#">Delete this Facility</a>	

## 1. About the Applicant

1.1 Type of organization (of the Applicant):	nonprofit
1.2 Applicant's Business Type:	<input checked="" type="radio"/> Corporation <input type="radio"/> Limited Partnership <input type="radio"/> Partnership <input type="radio"/> Trust <input type="radio"/> LLC <input type="radio"/> Other
1.3 What is the acronym used by the Applicant's Organization?	LSMA

- 1.4 Is Applicant a registered provider organization as the term is used in the HPC/CHIA RPO program? ☐ Yes ☒ No
- 1.5 Is Applicant or any affiliated entity an HPC-certified ACO? ☐ Yes ☒ No
- 1.6 Is Applicant or any affiliate thereof subject to M.G.L. c. 6D, § 13 and 958 CMR 7.00 (filing of Notice of Material Change to the Health Policy Commission)? ☒ Yes ☐ No
- 1.7 Does the Proposed Project also require the filing of a MCN with the HPC? ☒ Yes ☐ No
- 1.7.a If Yes, has Material Change Notice been filed? ☒ Yes ☐ No
- 1.7.b If yes, provide the date of filing.
- 1.8 Has the Applicant or any subsidiary thereof been notified pursuant to M.G.L. c. 12C, § 16 that it is exceeding the health care cost growth benchmark established under M.G.L. c. 6D, § 9 and is thus, pursuant to M.G.L. c. 6D, §10 required to file a performance improvement plan with CHIA? ☐ Yes ☒ No

1.9 Complete the Affiliated Parties Form

## 2. Project Description

2.1 Provide a brief description of the scope of the project.

See Project Narrative attached.

2.2 and 2.3 Complete the Change in Service Form

## 3. Delegated Review

3.1 Do you assert that this Application is eligible for Delegated Review? ☒ Yes ☐ No

3.1.a If yes, under what section?

## 4. Conservation Project

4.1 Are you submitting this Application as a Conservation Project? ☐ Yes ☒ No

## 5. DoN-Required Services and DoN-Required Equipment

5.1 Is this an application filed pursuant to 105 CMR 100.725: DoN-Required Equipment and DoN-Required Service? ☐ Yes ☒ No

## 6. Transfer of Ownership

6.1 Is this an application filed pursuant to 105 CMR 100.735? ☒ Yes ☐ No

6.2 If Yes, Is Applicant's Proposed Project subject to 958 CMR 7.00 (Notices of Material Changes and Cost and Market Impact Reviews)? ☒ Yes ☐ No

6.3 Does the Proposed Project constitute the transfer of the Health Care Facility's license in its entirety to a single transferee? ☒ Yes ☐ No

6.4 Which of the following most closely characterizes the Proposed Project;

- ☐ A transfer of a majority interest in the ownership of a Hospital or Clinic;
- ☐ A transfer of a majority of any class of the stock of a privately-held for-profit corporation;
- ☐ A transfer of a majority of the partnership interest of a partnership;
- ☐ A change of the trustee or a majority of trustees of a partnership;
- ☐ Changes in the corporate membership and/or trustees of a non-profit corporation constituting a shift in control of the Hospital or Clinic;
- ☐ Foreclosure proceedings have been instituted by a mortgagee in possession of a Hospital or Clinic;
- ☒ A change in the ownership interest or structure of a Hospital or Clinic, or of the Hospital or Clinic's organization or parent organization(s), such that the change results in a shift in control of the operation of the Hospital or Clinic.

6.5 Explain why you believe this most closely characterizes the Proposed Project.

The Applicant has acquired substantially all of the assets of two Hospitals.

6.6 In context of responding to each of the Required Factors 1, 3, and 4, consider how the proposed transaction will affect the manner in which Applicant serves its existing Patient Panel in the context of value (that is cost and quality), and describe the impact to the Patient Panel in the context of Access, Value (price, cost, outcomes), and Health Disparities.

See Project Narrative attached.

6.7 See section on Transfer of Ownership in the Application Instructions

## 7. Ambulatory Surgery

7.1 Is this an application filed pursuant to 105 CMR 100.740(A) for Ambulatory Surgery?

☐ Yes ☒ No

## 8. Transfer of Site

8.1 Is this an application filed pursuant to 105 CMR 100.745?

☐ Yes ☒ No

## 9. Research Exemption

9.1 Is this an application for a Research Exemption?

☐ Yes ☒ No

## 10. Amendment

10.1 Is this an application for a Amendment?

☐ Yes ☒ No

## 11. Emergency Application

11.1 Is this an application filed pursuant to 105 CMR 100.740(B)?

☒ Yes ☐ No

11.2 Is the emergency situation due to a government declaration?

☐ Yes ☒ No

11.3 If No, Please describe the destruction/substantial damage to the Applicant's Health Care Facility and its impact upon public health.

See Project Narrative.

12. Total Value and Filing Fee

Enter all currency in numbers only. No dollar signs or commas. Grayed fields will auto calculate depending upon answers above.

Your project application is for: Emergency Application

12.1 Total Value of this project:	\$484,874,230.00
12.2 Total CHI commitment expressed in dollars: (calculated)	\$0.00
12.3 Filing Fee: (calculated)	\$0.00
12.4 Maximum Incremental Operating Expense resulting from the Proposed Project:	\$0.00
12.5 Total proposed Construction costs, specifically related to the Proposed Project, If any, which will be contracted out to local or minority, women, or veteran-owned businesses expressed in estimated total dollars.	\$0.00

### 13. Factors

Required Information and supporting documentation consistent with 105 CMR 100.210

Some Factors will not appear depending upon the type of license you are applying for.

Text fields will expand to fit your response.



## Documentation Check List

The Check List below will assist you in keeping track of additional documentation needed for your application. Once you have completed this Application Form the additional documents needed for your application will be on this list. E-mail the documents as an attachment to: [DPH.DON@state.ma.us](mailto:DPH.DON@state.ma.us)

- ☐ Copy of Notice of Intent
- ☐ Certification from an independent Certified Public Accountant
- ☒ Notification of Material Change
- ☒ Articles of Organization / Trust Agreement

## Document Ready for Filing

When document is complete click on "document is ready to file". This will lock in the responses and date and time stamp the form.

To make changes to the document un-check the "document is ready to file" box. Edit document then lock file and submit

Keep a copy for your records. Click on the "Save" button at the bottom of the page.

To submit the application electronically, click on the "E-mail submission to Determination of Need" button.

**This document is ready to file:**



Date/time Stamp: 09/11/2024 3:31 pm

E-mail submission to  
Determination of Need

**Application Number: LMA-24080618-EA**

**Use this number on all communications regarding this application.**

☐ Community Engagement-Self Assessment form

## APPENDIX 2: DON NARRATIVE

In accordance with 105 CMR 100.740, Lifespan of Massachusetts, Inc. (“**Lifespan**” or the “**Applicant**”) files this Emergency Application for a Determination of Need (“**Application**”) with the Massachusetts Department of Public Health (“**Department**”) on behalf of Lifespan of Massachusetts - Fall River, Inc. (“**Lifespan-Fall River**”) and Lifespan of Massachusetts – Taunton, Inc. (“**Lifespan-Taunton**”). Capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Department’s regulations at 105 CMR 100 et seq. (the “**DON Regulations**”).

As described more fully below, the Applicant believes an Emergency Situation exists relating to the imminent closure and significant and continuing deterioration of St. Anne’s Hospital in Fall River, Massachusetts (“**St. Anne’s**”) and Morton Hospital in Taunton, Massachusetts (“**Morton**”), each operated by insolvent affiliates of Steward Health Care System LLC (“**Steward**”). To avoid the imminent closure of these Health Care Facilities, and the resulting crisis in health care access in southeastern Massachusetts, including access to Essential Health Services as defined in 105 CMR 130.020, the Applicant respectfully submits this request to the transfer of ownership of St. Anne’s to Lifespan-Fall River and Morton to Lifespan-Taunton (the “**Transfer of Ownership**”).

### A. Identity of the Applicant

The Applicant is a Massachusetts nonprofit corporation. The Applicant is an affiliate of Lifespan Corporation, the nonprofit parent of an integrated academic health care delivery system serving a population of over 1.6 million patients in Rhode Island and southeastern Massachusetts. Lifespan Corporation’s affiliates provide comprehensive inpatient and outpatient medical, surgical, and psychiatric services, for adults and children, through four hospital campuses, approximately 50 off-campus ambulatory locations, and 83 physician practice locations in Rhode Island and Massachusetts. Lifespan Corporation is the primary teaching affiliate of Brown University’s Warren Alpert Medical School, and recently entered into a renewed and strengthened academic affiliation with Brown University pursuant to which Lifespan Corporation and its affiliated hospitals will rebrand as Brown University Health. Lifespan also operates Gateway Healthcare, Inc., which provides community-based behavioral health services; Lifespan Physician Group, Inc., a multi-specialty physician practice; and Coastal Medical Physicians, Inc., a value-based primary care driven medical practice.

### B. Nature of the Emergency Situation

Each of St. Anne’s and Morton operate as an acute-care hospital licensed by the Department pursuant to G.L. ch. 111, § 51. Each has been designated by the Center for Health Information and Analysis (“CHIA”) as a “high public payer hospital,” having received more than 63% of its gross patient service revenue in fiscal year 2022 from government payors and free care.<sup>1</sup> St. Anne’s operates 211 beds and offers emergency care, general acute care, cardiology, behavioral health, and specialized services including a Joint Commission-certified Center for Orthopedic Excellence, cancer center, center for pain management, multi-disciplinary spine center and inpatient geriatric

---

<sup>1</sup> *High Public Payer Hospitals*, CENTER FOR INFORMATION AND ANALYSIS (Last Accessed Sept. 5, 2024), <https://www.chiamass.gov/high-public-payer-hospitals/>.

psychiatry services. Morton operates 144 beds and offers emergency care, general acute care, behavioral health and psychiatry, cardiology, cancer care, wound care, imaging services, and a variety of surgical services including vascular surgery, breast surgery, general surgery, orthopedic surgery, and podiatric surgery. The two Hospitals' primary service area comprise over 580,000 people in the Bristol County area.

On May 5, 2024, Steward and 166 of its affiliates, including the affiliates that operate St. Anne's and Morton, filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas. The record in the bankruptcy proceeding establishes that Steward is financially unable to support the further operation of St. Anne's and Morton and that, unless the facilities are transitioned to a new operator by September 30, 2024, Steward will close the facilities.<sup>2</sup>

There is clear and present danger that the Hospitals will be effectively destroyed by way of closure unless timely transitioned to a new operator. Further, the condition of these Hospitals deteriorates significantly with each passing day, as the physicians and non-physician staff necessary to maintain the existing services leave for other opportunities.

These Hospitals provide Essential Health Services to Fall River, Taunton, and surrounding communities. Members of the community have been clear in public statements that their closure would be devastating.<sup>3</sup> At the least, closure of these Hospitals would substantially impact public health and would mean that patients will need to travel farther and wait longer to access lifesaving emergency medical care, would further strain overburdened emergency departments at regional hospitals, and exacerbate the existing inpatient capacity crisis in southeastern Massachusetts.<sup>4</sup>

### C. Nature, scope, location, and projected costs of the Proposed Project

To address the Emergency Situation described above, the Applicant proposes (a) to transfer ownership of St. Anne's to Lifespan-Fall River; and (b) to transfer ownership of Morton to Lifespan-Taunton (the "**Proposed Project**"). The Proposed Project would be carried out pursuant to the terms of the Asset Purchase Agreement (the "**Purchase Agreement**")<sup>5</sup> subject to satisfaction

---

<sup>2</sup> See Order (I) Approving Additional Funding From The Commonwealth Of Massachusetts For The Planned Transition And Sale Of Massachusetts Hospitals; and (II) Granting Related Relief (Docket No. 2345); Emergency Motion of Debtors for Entry of an Order (I) Approving Additional Funding from the Commonwealth of Massachusetts for the Planned Transition and Sale of Massachusetts Hospitals; and (II) Granting Related Relief (Docket 2286) ("Absent the payments to be provided to the Debtors pursuant to the Payment Agreement, the Debtors would not have sufficient funds to maintain operations at these hospitals, and would be forced to close the hospitals at a significant social and economic cost").

<sup>3</sup> Dan Medeiros, 'Parasites who put profits over people': Fall River rallies to save Saint Anne's Hospital, THE HERALD NEWS (April 26, 2024 4:02 AM)(quoting "In no way, shape or form should Saint Anne's close or be reduced in any capacity...[t]his is a key component to the public health in the city of Fall River and the surrounding towns."), <https://www.heraldnews.com/story/news/2024/04/26/unions-rally-at-fall-river-hospital-as-steward-health-care-in-crisis/73462586007/>; See also Daniel Schemer, Patients, staff rally to prevent 'devastating' loss of Morton Hospital amid Steward crisis, TAUNTON DAILY GAZETTE (Apr. 23, 2024)(quoting "...The loss of Morton will be a devastating blow to the community."), <https://www.tauntongazette.com/story/news/healthcare/2024/04/23/taunton-ma-rally-morton-hospital-financial-crisis-steward-brockton-good-sam-fall-river-saint-annes/73426259007/>.

<sup>4</sup> See Felice J. Freyer, It is by far the worst we've ever seen it': Eastern Mass. hospitals see a resurgence in discharge delays, BOSTON GLOBE (Feb. 6, 2024 at 6:59 pm) (noting that the Department designated hospitals in southeastern Massachusetts as "Tier 3," and at a high risk of capacity problems); Jake Holter, 'It's life or death': Taunton residents rally against possible closure of Morton Hospital, WPRI (Apr. 23, 2024 5:37 pm)(noting that the nearest hospitals are approximately a half-hour away), <https://www.wpri.com/news/local-news/se-mass/its-life-or-death-taunton-residents-rally-against-possible-closure-of-morton-hospital/>; see also Tom Marino, Study: Over 3 Hours Average Wait Time for ER in Mass., THIS WEEK IN WORCESTER (Aug. 9, 2023), <https://thisweekinworcester.com/over-3-hours-wait-time-er-mass/> (finding that Massachusetts was tied for the second longest emergency department wait time in the United States in 2023);

<sup>5</sup> See Notice of Filing of Asset Purchase Agreement, Schedules, and Exhibits by and among Certain Debtors, Lifespan of Massachusetts, Inc., and Lifespan Corporation (Redacted) (Docket 2266).

of certain closing conditions and receipt of all requisite governmental approvals.

The Applicant has been advised by Steward that it plans to convert all 32 substance addiction service beds currently on the hospital license for Morton to medical/surgical beds due to declining volume in Morton's substance use disorder treatment unit, or the MorCap Unit, and a substantial increase in medical/surgical volume. It is the Applicant's understanding that the conversion would occur prior to the Transfer of Ownership. Further, the Applicant anticipates that this change will be reflected in the hospital license it will receive pursuant to the Notice of Intent to Acquire it will submit in connection with the Transfer of Ownership process. The Applicant intends to maintain all other services in operation as of the closing, subject to the condition of the Hospitals and availability of adequate physician and non-physician staffing. However, given the continuing deterioration at the facilities, it may not be feasible to do so in every case.

The Total Value of the Transfer of Ownership is \$484,874,230, which the Applicant has been advised reflects the total combined net patient service revenue reported by the Hospitals to CHIA in FY2023.

- D. Demonstration that the Proposed Project will address the Emergency Situation, and that without issuance of a Notice of Determination of Need, the public health will be measurably harmed.

Lifespan Corporation and its affiliates are experienced nonprofit hospital operators. The Proposed Project, if completed expeditiously, would allow the Applicant to assume operation of the Hospitals so as to prevent their closure and preserve access to vital services. Timely approval of this Application is critical in order to avoid further deterioration of the Hospitals' facilities, which could result in reduction of services or closure that would measurably harm public health. For example, closure of the emergency department at either Hospital would mean that those in need of emergency medical care would have to travel farther, resulting in measurably worse outcomes and serious harm to patients. Reduction in or closure of other services would likewise result in measurable harm to patient access and health outcomes in the affected communities.

**APPENDIX 3:**  
**AFFIDAVIT OF TRUTHFULNESS**



# Massachusetts Department of Public Health

## Determination of Need

### Affidavit of Truthfulness and Compliance

#### with Law and Disclosure Form 100.405(B)

Version: 7-6-17

**Instructions:** Complete Information below. When complete check the box "This document is ready to print:". This will date stamp and lock the form. Print Form. Each person must sign and date the form. When all signatures have been collected, scan the document and e-mail to: **dph.don@state.ma.us** Include all attachments as requested.

Application Number:  Original Application Date:

Applicant Name:

Application Type:

Applicant's Business Type: ☒ Corporation ☐ Limited Partnership ☐ Partnership ☐ Trust ☐ LLC ☐ Other



Is the Applicant the sole member or sole shareholder of the Health Facility(ies) that are the subject of this Application? ☒ Yes ☐ No

The undersigned certifies under the pains and penalties of perjury:

1. The Applicant is the sole corporate member or sole shareholder of the Health Facility[ies] that are the subject of this Application;
2. I have been informed of the contents of 105 CMR 100.000, the Massachusetts Determination of Need Regulation;
3. I understand and agree to the expected and appropriate conduct of the Applicant pursuant to 105 CMR 100.800;
4. I have been informed of the contents of this application for Determination of Need including all exhibits and attachments, and certify that all of the information contained herein is accurate and true;
5. I have submitted the correct Filing Fee and understand it is nonrefundable pursuant to 105 CMR 100.405(B);
6. I have submitted the required copies of this application to the Determination of Need Program, and, as applicable, to all Parties of Record and other parties as required pursuant to 105 CMR 100.405(B);
7. I have been informed that, as required, notices of intent to be published and duplicate copies to be submitted to all Parties of Record, and all carriers or third-party administrators, public and commercial, for the payment of health care services with which the Applicant contracts, and with Medicare and Medicaid, as required by 105 CMR 100.405(C), et seq.;
8. I have been informed that proper notification and submissions to the Secretary of Environmental Affairs pursuant to 105 CMR 100.405(E) and 301 CMR 11.00;
9. If subject to M.G.L. c. 6D, § 13 and 958 CMR 7.00, I have submitted such Notice of Material Change to the HPC - in accordance with 105 CMR 100.405(G);
10. Pursuant to 105 CMR 100.210(A)(3), I certify that both the Applicant and the Proposed Project are in material and substantial compliance and good standing with relevant federal, state, and local laws and regulations, as well as with all Notices of Determination of Need issued in compliance with 105 CMR 100.00.
11. I have been informed of the contents of and understand the limitations on solicitation of funding from the general public prior to receiving a Notice of Determination of Need as established in 105 CMR 100.415;
12. I understand that, if Approved, the Applicant, as Holder of the DoN, shall become obligated to all Standard Conditions pursuant to 105 CMR 100.310, as well as any applicable Other Conditions as outlined within 105 CMR 100.000 or that otherwise become a part of the Final Action pursuant to 105 CMR 100.360;
13. Pursuant to 105 CMR 100.705(A), I certify that the Applicant has Sufficient Interest in the Site or facility; and
14. Pursuant to 105 CMR 100.705(A), I certify that the Proposed Project is authorized under applicable zoning by-laws or ordinances, whether or not a special permit is required; or,
  - a. If the Proposed Project is not authorized under applicable zoning by-laws or ordinances, a variance has been received to permit such Proposed Project; or,
  - b. The Proposed Project is exempt from zoning by-laws or ordinances.

#### Corporation:

Attach a copy of Articles of Organization/Incorporation, as amended

Marcia Neiberg		9/9/2024
CEO for Corporation Name:	Signature:	Date
John Fernandez		9/9/24
Board Chair for Corporation Name:	Signature:	Date

**APPENDIX 4:**  
**ARTICLES OF INCORPORATION**



## **Articles of Incorporation**

[https://corp.sec.state.ma.us/CorpWeb/CorpSearch/CorpSearchRedirector.aspx?Action=PDF&Path=CORP\\_DRIVE1/2013/1003/000486330/0011/020502967999\\_1.pdf](https://corp.sec.state.ma.us/CorpWeb/CorpSearch/CorpSearchRedirector.aspx?Action=PDF&Path=CORP_DRIVE1/2013/1003/000486330/0011/020502967999_1.pdf)