

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
250 Washington Street, Boston, MA 02108-4619

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

MARGRET R. COOKE
Commissioner

Tel: 617-624-6000
www.mass.gov/dph

May 11, 2022

Via Email - Andrew.Levine@huschblackwell.com

Andrew Levine
Partner
Husch Blackwell LLP
One Beacon Street,
Suite 1320
Boston, MA 02108

RE: Notice of Final Action DoN # MGB-20121612-HE

Dear Mr. Levine,

At their meeting of May 4, 2022, the Commissioner and the Public Health Council, acting together as the Department, voted pursuant to M.G.L. c.111, §25(c) and the regulations adopted thereunder, to approve in part and with conditions, the Determination of Need application filed by Mass General Brigham, Inc. for a Proposed Project at Massachusetts General Hospital for the construction of a new tower on the MGH Main Campus that will contain the following:

- 388 private beds, of which, 364 existing semi-private M/S beds and 24 ICU beds (388 total) beds will be transferred from other buildings on MGH's Main Campus. The Department did not approve the requested addition of 94 new licensed beds.
- Outpatient oncology services relocated from current buildings on the MGH Main Campus and expanded to include 100 oncology infusion bays and 120 oncology exam rooms.
- Cardiac services relocated from current buildings on the MGH Main Campus and expanded. Five (5) operating rooms (ORs) currently dedicated to cardiology and nine (9) rooms currently serving as catheterization and electrophysiology (EP) rooms will be moved to the new tower as hybrid ORs. In addition, there will be one new OR dedicated to cardiology, eight (8) new hybrid ORs, and three (3) new procedure rooms dedicated to cardiology.
- New diagnostic imaging equipment. Two (2) new computed tomography (CT) units, two (2) new magnetic resonance imaging (MRI) units, and two (2) new positron emission tomography-computed tomography (PET/CT) units. The Department did not approve the addition of a new PET/MR Unit.
- Other clinical services renovation projects at MGH's Main Campus and licensed satellites.

This Notice of Final Action incorporates by reference the Staff Report, and the Public Health Council proceedings concerning this application, all of which are incorporated herein by reference.

This Application was reviewed pursuant to M.G.L. c. 111, § 25(c), and the regulatory provisions of 105 CMR 100.000 et seq. Based upon a review of the materials submitted, the Department found that the Applicant has met each DoN factor with additional conditions, with the exception of the request for 94 new licensed beds and a new PET/MR and approves in part this Determination of Need application for a substantial capital expenditure for the Proposed Project of \$1,875,274,238.00 (January, 2021 dollars). The total required Community Health Initiative (CHI) contribution is \$93,763,711.90.

In compliance with the provisions of 105 CMR 100.310(A)(2) and (11) the Holder shall submit an acknowledgment of receipt to the Department (attached) and include a written attestation of participation or intent to participate in MassHealth.

In compliance with 105 CMR 100.310(A)(12), which requires a report to the Department, at a minimum on an annual basis, including the measures related to achievement of the DoN factors for a period of five years from completion of the Proposed Project, the Holder shall address its assertions with respect to all the factors.

Other Conditions to the DoN

Condition 1 – CHI Contribution

1. Of the total required CHI contribution of \$93,763,711.90
 - a. \$22,972,109.42 will be directed to the CHI Statewide Initiative
 - b. \$68,916,328.24 will be dedicated to local approaches to the DoN Health Priorities
 - c. \$1,875,274.24 will be designated as the administrative allowance
2. To comply with the Holder’s obligation to contribute to the Statewide CHI Initiative, the Holder must submit a check for \$22,972,109.42 to Health Resources in Action (the fiscal agent for the CHI Statewide Initiative).
 - i. The Holder must submit the funds to HRiA within 30 days from the date of the Notice of Approval.
 - ii. The Holder must promptly notify DPH (CHI contact staff) when the payment has been made.

Payment should be sent to:
Health Resources in Action, Inc., (HRiA)
2 Boylston Street, 4th Floor
Boston, MA 02116
Attn: Ms. Bora Toro

Condition 2 – If the Holder submits any request for Significant Change to add any of the 94 new inpatient beds¹ related to the Proposed Project, the Holder must include the following data as part of its Application:

- a. Emergency Department (ED) boarders waiting for a medical/surgical (M/S) bed including
 - i. Number of patients and length of stay
 - ii. Location of bed (inpatient or observation)
- b. Post-Acute Care Unit (PACU) patient data including
 - i. Number of patients and length of stay
 - ii. Location of bed (inpatient or observation)
- c. Average daily number of blocked M/S beds
- d. Percentage (with numerator and denominator) of MGH inpatients who were part of MGB’s Patient Panel prior to the MGH admission
- e. Operating capacity and occupancy rate
- f. Acuity level by case mix index, and number of discharges for M/S patients at MGH by service line:
 - i. Cancer
 - ii. Cardiac
 - iii. Other Adult M/S (with exclusion of obstetric, pediatric, and psychiatric discharges)
- g. Average monthly lost transfer number and rate (calculated as the number of transfers not accepted over the number of requests for transfers) from community hospitals
$$\frac{\text{Number of transfers not accepted by Holder}}{\text{Number of requests for transfers to Holder}}$$

Condition 3 – If the Holder submits any request for Significant Change to add a new PET/MR unit, the Holder must include the following:

- a. Number of PET/MR scans conducted at MGH, separated by research and clinical scans. Include the number of scans broken out by PET/MR and MRI only.
- b. Wait times for PET/MR scans at MGH.
- c. Acuity by case mix index of patients receiving PET/MR scans at MGH.
- d. Average time per PET/MR scan.
- e. Hours current PET/MR scan is available for clinical use.

Condition 4 – To ensure the Proposed Project is addressing inpatient Patient Panel need by reducing existing capacity constraints, one year after receiving the Notice of DoN, the Holder must provide as baseline data the below metrics, and as each part of the Proposed Project is implemented, begin reporting the following information as part of the annual report required by 105 CMR 100.310(A)(12):

¹ The Applicant can request to add any of these beds via a Significant Change request and the beds may be located in any appropriate space on the MGH campus.

1. With respect to Imaging

- a. Number of MRI, CT or PET/CT scans, by modality, for MGH Main Campus
- b. Wait time for inpatients who require MRI, CT or PET/CT scans, by modality, at MGH Main Campus
- c. Wait times for MRI, CT, or PET/CT scans, by modality, for units approved in this DoN, separated by inpatient and outpatient use
- d. Wait times for the Somerville and Waltham sites for MRI, CT or PET/CT scans, by modality
- e. Number of patients receiving MRI, CT or PET/CT scans at MGH Main Campus, by modality, for:
 - i. Inpatient
 - ii. Outpatient
 - iii. ED
- f. Average time per MRI, CT or PET/CT scans at MGH Main Campus, by modality
- g. Hours of operation, per unit, of all the MRI, CT and PET/CT units at MGH Main Campus

2. With respect to Cardiovascular services

- a. The average wait times for ED patients, outpatients, and inpatients for cardiovascular procedures including utilization of all hybrid operating rooms measured by
 - i. Number of procedures by type (catheterization, interventional, electrophysiology, surgery)
 - ii. Average time per procedure by type (see 2.a.i)
- b. Acuity by case mix index of inpatients who have cardiovascular procedures performed at the new cardiac center approved in this DoN.
- c. Percentage (with numerator and denominator) of patients who had a cardiovascular procedure, by procedure type (see 2.a.i), who were part of the MGB Patient Panel before the cardiovascular procedure (calculated for each procedure type as the number of patients who had (cardiovascular procedure type) who were part of the MGB Patient Panel as defined by regulation at the time of this approval over the total number of patients who had a cardiovascular procedure)

the number of patients who had (cardiovascular procedure type) who were part of the MGB Patient Panel
of pts who had (cardiovascular procedure type)

3. With respect to Oncology service

- a. The number of outpatient visits performed at the new cancer center approved in this DoN.
- b. Average case mix for oncology admissions
- c. Wait time for outpatient visits at the new cancer center.

- d. Utilization (number and utilization rate) of infusion bays in the new cancer center by
 - i. General infusion
 - ii. Observation
- e. Percentage (with numerator and denominator) of infusion patients who were part of the MGB Patient Panel (calculated as the number of patients who received an infusion who were part of the MGB Patient Panel as defined by regulation at the time of this approval over the total number of infusion patients)

$$\frac{\text{\# of infusion pts who were part of the MGB Patient Panel}}{\text{\# of infusion pts}}$$

4. With respect to Inpatient

- a. Boarding
 - i. ED boarders waiting for a M/S bed including number of patients and length of stay
 - ii. PACU patient data including number of patients and length of stay
- b. Average daily number of blocked M/S beds
- c. Operating capacity
- d. Occupancy rate
- e. Acuity level by case mix index, and number of discharges for M/S patients at MGH by service line:
 - i. Cancer
 - ii. Cardiac
 - iii. Other Adult M/S (with exclusion of obstetric, pediatric, and psychiatric discharges)
- f. Average monthly lost transfer number and rate (calculated as the number of transfers not accepted over the number of requests for transfers) from community hospitals

$$\frac{\text{Number of transfers not accepted by Holder}}{\text{Number of requests for transfers to Holder}}$$

The DoN program shall review the data received from MGB in accordance with Condition 4 to determine whether one or more of the following Referral Indicators is present:

Any of the following will be Referral Indicators:

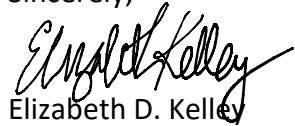
1. A material increase in 1b, 1c, 1d, 2a, 3c, 4(a)(i), 4(b), 4f
2. A material decrease in 2b, 2c, 3b, 3d, 3e, 4d, 4e

If the DoN Program finds any one or more of the Referral Indicators, the matter shall be referred to the Public Health Council (PHC) for review to determine whether MGB is in violation of one or more of the conditions and thus out of compliance with the terms of this Notice of DoN. Upon referral to the PHC

based upon any one or more of the Referral Indicators, MGB shall have an opportunity to show cause why the PHC shall not find one or more of the Referral Indicators.

Ongoing compliance with the conditions and all terms of the DoN is, pursuant to the Regulation, a precondition to the filing of any future DoN by the Holder.

Sincerely,



Elizabeth D. Kelley

Director, Bureau of Health Care Safety and Quality

cc:

Stephen Davis, Director, Division of Health Care Facility Licensure and Certification

Rebecca Rodman, General Counsel

Daniel Gent, Health Care Facility Licensure and Certification

Samuel Louis, Office of Health Equity

Jennica Allen, Division of Community Health Planning and Engagement

Elizabeth Maffei, Division of Community Health Planning and Engagement

Elizabeth Almanzor, Center for Health Information Analysis

Katherine Mills, Health Policy Commission

Eric Gold, Office of the Attorney General