



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

MAURA T. HEALEY
Governor

KIMBERLEY DRISCOLL
Lieutenant Governor

KATHLEEN E. WALSH
Secretary

ROBERT GOLDSTEIN, MD, PhD
Commissioner

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January 15th, 2025

Emily Kretchmer, Esq.
Krokidas & Bluestein LLP
600 Atlantic Ave
19th Floor
Boston, MA 02210

Via email: EKretchmer@kb-law.com

Dear Attorney Kretchmer,

At their meeting of January 15th, 2025, the Commissioner and the Public Health Council, acting together as the Department, voted pursuant to M.G.L. c.111, §25C and the regulations adopted thereunder, to approve the Determination of Need (DoN) application filed by Atrius Health, Inc. for the development of a freestanding ambulatory surgery center ("ASC") comprised of six (6) operating rooms ("ORs") and associated clinical and administrative spaces, to be located at 153 Second Avenue, Waltham, Massachusetts, 02451 ("Proposed Project"). This Notice of Final Action incorporates by reference the Staff Report and the Public Health Council proceedings concerning this application.

This application was reviewed pursuant to M.G.L. c. 111, §25C and the regulatory provisions at 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 and approves this Determination of Need application for a Substantial Change in Service subject to all standard conditions (105 CMR 100.310) and pursuant to 105 CMR 100.360, subject to the Other Conditions listed below. The capital expenditure for the Proposed Project is \$20,777,721.00 (August 2024 dollars). The Community Health Initiatives ("CHI") contribution is \$1,038,886.05.

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 of the factors.

Please notify the DoN Program at DPH.DON@mass.gov of the anticipated completion date of all the components of the DoN-approved Project once it has been established. Additionally, please send an email confirming the Project's completion (licensure/ amended licensure approval date) and the first day of operations to determine the annual DoN reporting timeline.

Other Conditions to the DoN

1. The total required CHI contribution of \$1,038,886.05 will be directed to the Massachusetts Statewide Healthy Aging Fund.
2. To comply with the Holder's obligation to contribute to the Massachusetts Statewide Community Health Funds, the Holder must submit payment to Health Resources in Action (HRiA), the fiscal agent for the CHI Statewide Initiative, in **two installments**.
 - a. The Holder must submit the first installment of \$519,443.03 to HRiA **within 30 days** from the date of the Notice of Approval.
 - b. The Holder must submit the second installment of \$519,443.02 to HRiA **within 12 months** from the date of the Notice of Approval.

Payments should be made out to:
Health Resources in Action, Inc. (HRiA)
2 Boylston Street, 4th Floor
Boston, MA 02116
Attn: MACHHAF c/o Bora Toro
DoN project # 24053113-AS

3. The **Holder must promptly notify DPH** (CHI contact staff) when each payment has been made. Please send a PDF image of the check or **confirmation of payment** to DONCHI@Mass.gov and dongrants@hria.org
4. In addition to the measures provided in Appendix 1, commencing with the approval of this DoN, and continuing for a period of five years after the Proposed Project is complete, the Holder shall provide the following information as part of the annual report required by 105 CMR 100.310(A)(12):
 - a. Surgical procedure volume by Specialty

- b. Payer-mix by specialty for surgical cases.

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,

Dennis Renaud

Dennis Renaud
Director, Determination of Need Program

cc:

Teryl Smith, Director, Bureau of Health Care Safety and Quality
Jaclyn K. Gagné, Chief Deputy General Counsel, Health Care Licensure
Joshua O. Boeh-Ocansey, Jr., Counsel
Stephen Davis, Director, Division of Health Care Facility Licensure and Certification
Judy Bernice, Division of Health Care Facility Licensure and Certification
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Jennica Allen, Division of Community Health Planning and Engagement
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