



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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December 15th, 2023

Emily B. Kretchmer, Esq.
Krokidas & Bluestein LLP
600 Atlantic Ave
Boston, MA 02210

VIA Email: ekretchmer@kb-law.com

Final Action: Notice of Determination of Need – Berkshire Health Systems, Inc.
Original License DoN # BHS-23072710-OL

Dear Attorney Kretchmer,

At their meeting of December 13, 2023, the Commissioner and the Public Health Council, acting together as the Department, voted pursuant to M.G.L. c.111, §51 and the regulations adopted thereunder, to approve the Determination of Need (DoN) application for an Original Hospital License to operate an acute care, Medicare-certified Critical Access Hospital (CAH) to be located at 71 Hospital Ave, North Adams, MA 01247 (North Adams Regional Hospital or NARH) which includes the following:

- 18 licensed medical/surgical beds, which will also be certified for use as 18 swing beds, which could be used for skilled nursing facility level care;
- Four-room mixed inpatient/outpatient operating rooms (ORs) that will meet surgical and endoscopy needs; and
- Imaging, emergency services and other outpatient services.

This Notice of Final Action incorporates by reference the Amended 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 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 and approves this DoN application for an Original License subject to all standard conditions (105 CMR 100.310) and pursuant to 105 CMR 100.360, subject to Other Conditions listed below. The total capital expenditure for the Proposed

Project is \$2,850,000.00 (August 2023 dollars) and the required CHI contribution is \$142,500.00.

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.

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, 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.

In Compliance with the provisions of 105 CMR 100.360 the Department has prescribed the following Other Conditions:

Other Conditions to the DoN

1. Of the total required CHI contribution of \$142,500.
 - a. \$14,250 will be directed to the CHI Statewide Initiative.
 - b. \$128,250 will be dedicated to local approaches to the DoN Health Priorities.
2. The holder shall, on an every 6 month basis, commencing with the approval of this DoN and continuing for a period of 5 years after the opening of the NARH Critical Access Hospital provide the following information to the Department:
 - a. Number of acute medical/surgical admissions refused due to lack of bed capacity.
 - b. Percent of patients in swing beds admitted directly after a discharge from an NARH M/S bed.
 - c. Average daily census (ADC) for med/surg beds and for swing beds.
3. To comply with the Holder's obligation to contribute to the Statewide CHI Initiative, the Holder must submit a check for \$14,250 to Health Resources in Action (the fiscal agent for the CHI Statewide Initiative):
 - a. The Holder must submit the funds to HRiA within 30 days from the date of the Notice of Approval.
 - b. 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

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,

A handwritten signature in cursive script that reads "Dennis Renaud".

Dennis Renaud
Director Determination of Need Program

cc:

Elizabeth D. Kelley, Director, Bureau of Health Care Safety and Quality
Rebecca Kaye, General Counsel's Office
Stephen Davis, Director, Division of Health Care Facility Licensure and Certification
Judy Bernice, Division of Health Care Facility Licensure and Certification
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
Katelyn Teague, Division of Community Health Planning and Engagement
Elizabeth Almanzor, Center for Health Information Analysis
Katherine Mills, Health Policy Commission
Sandra Wolitzky, Office of the Attorney General
Tomaso Calicchio, Executive Office of Health and Human Services
Hai Nguyen, Executive Office of Health and Human Services
Karina Mejias, Executive Office of Health and Human Services
Priscilla Portis, Executive Office of Health and Human Services