



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  
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KIMBERLEY DRISCOLL  
Lieutenant Governor

KATHLEEN E. WALSH  
Secretary

ROBERT GOLDSTEIN, MD, PhD  
Commissioner

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April 24, 2023

Rami Rustum, MD  
1641 Salem Street  
North Andover, MA 01845

Via Email: [RRRUSTUM@yahoo.com](mailto:RRRUSTUM@yahoo.com)

Dear Dr. Rustum,

At their meeting of April 19<sup>th</sup>, 2023, 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 Excel Surgery Center, LLC for a Substantial Change in Service for the development of a single-specialty, freestanding ambulatory surgery center (ASC) with two operating rooms, to be located at 386 Merrimack Street Suit #D, Methuen, MA (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 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 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 Other Conditions listed below. The total capital expenditure for the Proposed Project is \$1,200,000.00 (November 2022 dollars) and the required CHI contribution is \$60,000.00.

In compliance with the provisions of 105 CMR 100.310(A)(2) and (11) the Holder shall submit and 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@State.MA.US](mailto:DPH.DON@State.MA.US) 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.

### **Other Conditions to the DoN**

1. The total required CHI contribution of \$60,000 will be directed to the Massachusetts Statewide Community Health Funds.
2. To comply with the Holder's obligation to contribute to the Massachusetts Statewide Community Health Funds, the Holder must submit the payment, a check for \$60,000, 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 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,

*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  
Eric Gold, 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