



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

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

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

February 22, 2021

VIA EMAIL: alevine@summithealthlawpartners.com

Andrew Levine, Esq.
Summit Health Law Partners
One Beacon Street, Suite 1320
Boston, MA 02108

RE: Notice of Final Action DoN #20090210-AS

Dear Mr. Levine:

At their meeting of February 17, 2021, 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 Emerson Endoscopy and Digestive Health Center, LLC for a Substantial Change in Service to construct a free-standing, single-specialty ambulatory surgery center at 310 Baker Avenue Concord, MA 01742. This Notice of Final Action incorporates by reference the Staff Report, 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 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 \$4,636,588.00 (September 2020 dollars) and the required CHI contribution is \$231,829.40.

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 also include a written attestation of participation or intent to participate in MassHealth.

In compliance with the provisions of 105 CMR 100.310 A (12), which require 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:

1. Reporting of endoscopy procedure volume at Emerson Hospital Endoscopy Department and the proposed ASC, including a breakdown of endoscopy procedure volume by routine, advanced, and urgent cases, and inpatient and outpatient cases.
2. Provide a description of any programs or initiatives designed to increase CRC screening or rescreening behaviors according to appropriate intervals among the Patient Panel.
This shall include:
 - a. Program description and length (if applicable)
 - b. Description of program recruitment (if applicable) and number reached out to
 - c. Total number of participants
 - a. Percentage of participants from racial /ethnic minority groups to the extent possible based on follow up with existing patients
 - d. Any outcomes measured
3. Provide a description of any programs or initiatives designed to either reduce risk factors for CRCs and/or increase CRC screening or rescreening behaviors according to appropriate intervals in the broader community.
This shall include:
 - a. Program description and length (if applicable)
 - b. Description of program recruitment (if applicable) and number reached out to
 - c. Total number of participants
 - a. Percentage of participants from racial /ethnic minority groups to the extent possible
 - d. Any outcomes measured
4. Report on improvement of measures outlined in Attachment 1. Reporting will include a definition of the numerator and denominator of each measure.
5. Of the total required CHI contribution of \$231,829.40
 - a. \$22,255.62 will be directed to the CHI Statewide Initiative
 - b. \$200,300.60 will be dedicated to local approaches to the DoN Health Priorities
 - c. \$9,273.18 will be designated as the administrative fee.
6. To comply with the Holder's obligation to contribute to the Statewide CHI Initiative, the Holder must submit a check for \$22,255.62 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.

Contact for submitting contribution to the CHI Statewide Initiative:

To comply with the obligation to contribute to the CHI Statewide Initiative, please submit a check for \$22,255.62 to Health Resources in Action (the fiscal agent for the CHI Statewide Initiative) **within 30 days** from the date of this Notice of Approval. Please 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,



Lara Szent-Gyorgyi
Director
Determination of Need Program

cc:

Elizabeth D. Kelley, Director, Bureau of Health Care Safety and Quality
Sherman Lohnes, Director, Division of Health Care Facility Licensure and Certification
Rebecca Rodman, Deputy General Counsel
Daniel Gent, Health Care Facility Licensure and Certification
Samuel Louis, Health Care Interpretive Services Coordinator, Office of Health Equity
Ben Wood, Director, Division of Community Health Planning and Engagement
Suzanne Barry, Manager Health Care Finance, Center for Health Information and Analysis
Pavel Terpelets, Deputy Director of Institutional Programs OLTSS, MassHealth
Katherine Mills, Health Policy Commission
Eric Gold, Office of the Attorney General