



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
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November 18, 2022

Alan H. Einhorn
Foley & Lardner LLP
111 Huntington Avenue
Boston, MA 02199

Via Email

RE: Notice of Final Action

Dear Attorney Einhorn,

At their meeting of November 9, 2022, 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 application filed by New England Baptist Surgery Center, LLC (Applicant, NEBSC) to establish a freestanding ambulatory surgery center (ASC) at 40 Allied Drive, Suite #200, Dedham, MA. Through the Proposed Project, ownership of an existing surgery center will inure to NEBSC, which will then secure a new clinic license as a freestanding ASC.

The Proposed Project is comprised of 8 operating suites, pre-operative and post-op/recovery areas, 2 procedure rooms located within the pre-op PACU suite, administrative offices, and a patient lobby and waiting area.¹ While there is no substantial construction² for the Proposed Project, the total value of the project of \$26,273,899 and it includes 33,000 gross square feet.

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.

¹ There will be no change in the number of operating suites or procedure rooms

² There are minor construction costs for code updates and "fit-out" \$617,441.

This Determination of Need 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, the Department found that the Applicant has met each DoN factor with conditions and approves this Determination of Need application for a substantial capital expenditure of \$26,273,899. The total required Community Health Initiative (CHI) contribution is \$1,313,694.95.

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 Condition to the DoN

1. Of the total required CHI contribution of \$1,313,694.95
 - a. \$318,571.03 will be directed to the CHI Statewide Initiative
 - b. \$955,713.08 will be dedicated to local approaches to the DoN Health Priorities
 - c. \$39,410.84 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 \$318,571.03 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

Sincerely,

< Signature on file >

Dennis Renaud

Director, Determination of Need Program

cc:

Elizabeth D. Kelley, Director Bureau of Health Care Safety and Quality

Rebecca Rodman, General Counsel
Stephen Davis, Director, 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
Katelyn Teague, 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
Pavel Terpelets, MassHealth
Christopher King, Executive Office of Health and Human Services