

Joe Lombardo  
Governor



Richard Whitley, MS  
Director

**DEPARTMENT OF  
HEALTH AND HUMAN SERVICES**  
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH  
*Helping people. It's who we are and what we do.*



Cody Phinney, MPH  
Administrator

Ihsan Azzam,  
Ph.D., M.D.  
Chief Medical Officer

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## NOTICE OF PUBLIC HEARING

### DIGESTIVE HEALTH CENTER OF RENO, 5250 KIETZKE LANE, RENO, NV 89511, IS REQUESTING A VARIANCE, #747, FROM THE NEVADA STATE BOARD OF HEALTH REGULATIONS.

NOTICE IS HEREBY GIVEN THAT DIGESTIVE HEALTH CENTER OF RENO, 5250 KIETZKE LANE, RENO, NV 89511, has requested a variance from Nevada Administrative Code (NAC) 449.9843.2 The Facility Guidelines Institute, *Guidelines for Design and Construction of Outpatient Facilities*, 2018 Edition.

A public hearing will be conducted on June 2, 2023, at 9:00 am by the Nevada State Board of Health to consider this request. This meeting will be held online and at physical locations, listed below.

**Physical Locations:**

Southern Nevada Health District (SNHD)  
Red Rock Trail Rooms A and B  
280 S. Decatur Boulevard; Las Vegas, Nevada 89107

Nevada Division of Public and Behavioral Health (DPBH)  
Hearing Room No. 303, 3rd Floor  
4150 Technology Way; Carson City, Nevada 89706

**Meeting Link:**

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_MDI0M2VINDItNzU5NS00YjFhLThmMDUtMWEzOTA1NWUxODRj%40thread.v2/0?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%22e2f9f008-841c-437d-b037-927c30ea003e%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDI0M2VINDItNzU5NS00YjFhLThmMDUtMWEzOTA1NWUxODRj%40thread.v2/0?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%22e2f9f008-841c-437d-b037-927c30ea003e%22%7d)

*Please Note: If you experience technical difficulties connecting online, please call into the meeting to participate by phone.*

**Join by Phone:**

1-775-321-6111  
Phone Conference ID Number: 443 843 916#

**DIGESTIVE HEALTH CENTER OF RENO, 5250 KIETZKE LANE, RENO, NV 89511, is requesting a variance from NAC 449.9843.2 which states:**

**NAC 449.9843 Compliance with certain standards, laws, ordinances and codes; submission and approval of building plans; prerequisites to approval of center for licensure. ([NRS 439.200](#), [449.0302](#))**

2. Any new construction, remodeling or change in the use of an ambulatory surgical center must comply with the applicable provisions of the guidelines adopted by reference in paragraphs (c) and (d) of subsection 1 of [NAC 449.0105](#), unless the remodeling is limited to refurbishing an area within the center, including, without limitation, painting the area, replacing flooring in the area, repairing windows in the area and replacing window or wall coverings in the area.

**NAC 449.0105 Adoption of certain publications by reference; revision of publication after adoption. ([NRS 439.200](#), [449.0302](#))**

1. The State Board of Health hereby adopts by reference:

(c) *Guidelines for Design and Construction of Hospitals and Outpatient Facilities*, in the form most recently published by the Facility Guidelines Institute, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the guidelines may be obtained from the Facility Guidelines Institute at AHA Services, Inc., P.O. Box 933283, Atlanta, Georgia 31193-3283, at the Internet address <http://www.fgiguilines.org/> or by telephone at (800) 242-2626, for the price of \$200.

The Facility Guidelines Institute, *Guidelines for Design and Construction of Outpatient Facilities* (2018 Edition)

2.9-3.2.1 General The endoscopy procedure room shall meet the requirements in Section 2.1-3.2.2 (procedure room) as amended in this section.

2.9-3.2.2 Space Requirements

2.9-3.2.2.1 Area. Each endoscopy procedure room shall have a minimum clear floor area of 180 square feet (16.73 square meters).

2.9-3.2.2.2 Clearances. Room arrangement shall permit the minimum clearances around the gurney/table:

(1) 5 feet (1.53 meters) at each side.

(2) 3 feet 6 inches (1.07 meters) at the head and foot.

The facility is an existing ambulatory surgery center, opened in 1995, located in Reno. Due to the increase with the population in Washoe County, the facility has seen an increase in patients requiring procedures. The facility is currently licensed for three (3) procedure rooms and is requesting the addition of a fourth (4<sup>th</sup>) procedure to be added back to their license.

The facility is requesting a variance to the requirement to have a minimum clear floor area of 180 square feet in the fourth procedure room. The room is existing within the building and was included in the facility's initial licensure application. The room measured 171.81 square feet, less a built-in sink and countertop, creating a clear floor area of 161.24 square feet.

**The authority of the State Board of Health to consider and grant a variance from the requirements of a regulation is set forth at [NRS 439.200](#) and [NAC 439.200 – 439.280](#).**

Persons wishing to comment upon the proposed variance may appear at the scheduled public hearing or may submit written testimony at least five days before the scheduled hearing to:

Secretary, State Board of Health  
Division of Public and Behavioral Health  
4150 Technology Way, Suite 300  
Carson City, NV 89706

Anyone wishing to testify for more than five minutes on the proposed variance must petition the Board of Health at the above address. Petitions shall contain the following: 1) a concise statement of the subject(s) on which the petitioner will present testimony; 2) the estimated time for the petitioner's presentation.

This notice has also been posted at the following locations:

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH), 4150 TECHNOLOGY WAY, CARSON CITY, NV  
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH WEBSITE:

<http://dpbh.nv.gov/Boards/BOH/Meetings/Meetings/>

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Lisa Sherych  
Administrator

Ihsan Azzam,  
Ph.D., M.D.  
Chief Medical Officer

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March 30, 2023

**Memorandum**

To: Jon Pennell, Chairperson  
State Board of Health

From: Lisa Sherych, Administrator  
Division of Public and Behavioral Health

RE: Digestive Health Center of Reno

**Subject:** Case #747: Digestive Health Center of Reno Request for Variance to NAC 449.9843.2, *Guidelines for Design and Construction of Outpatient Facilities*, Section 2.9-3.2.2.1, "Area (Space Requirements)."

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**Staff Review**

Nevada Administrative Code (NAC) 449.9843.2 states,

[...]

"Any new construction, remodeling or change in the use of an ambulatory surgical center must comply with the applicable provisions of the guidelines adopted by reference in paragraphs (c) and (d) of subsection 1 of NAC 449.0105, unless the remodeling is limited to refurbishing an area of the hospital, including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area and replacing window or wall coverings in the area."

NAC 449.0105.1.(c) states,

[...]

"1. The State Board of Health hereby adopts by reference:

(c) *Guidelines for Design and Construction of Hospitals and Outpatient Facilities*, in the form most recently published by the Facility Guidelines Institute, unless the Board gives notice that the most recent revision is not suitable for this State pursuant

to subsection 2. A copy of the guidelines may be obtained from the Facility Guidelines Institute at AHA Services, Inc., P.O. Box 933283, Atlanta, Georgia 31193-3283, at the Internet address <http://www.fgiguideines.org/> or by telephone at (800) 242-2626, for the price of \$200.

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2.9-3.2.2.1 Area. Each endoscopy procedure room shall have a minimum clear floor area of 180 square feet (16.73 square meters).

2.9-3.2.2.2 Clearances. Room arrangement shall permit the minimum clearances around the gurney/table:

(1) 5 feet (1.53 meters) at each side.

(2) 3 feet 6 inches (1.07 meters) at the head and foot.

Digestive Health Center of Reno (DHCR) is an existing ambulatory surgery center, opened in 1995, located in Reno. Due to the increase with the population in Washoe County, the facility has seen an increase in patients requiring procedures. The facility is currently licensed for three (3) procedure rooms and is requesting the addition of a fourth (4<sup>th</sup>) procedure to be added back to their license.

The facility is requesting a variance to the requirement to have a minimum clear floor area of 180 square feet in the fourth procedure room. The room is existing within the building and was included in the facility's initial licensure application. The room measured 171.81 square feet, less a built-in sink and countertop, creating a clear floor area of 161.24 square feet.

**Intent of the Regulation:**

The intent of the regulation is to provide ambulatory surgical centers with a clear floor area to perform procedures. The 180 square feet is specific to endoscopy only centers. This 180 square feet minimum requirement is continued into the newly adopted 2022 edition of the FGI Guideline and Legislative Counsel Bureau (LCB) File No. R048-22.

**Degree of risk to public health and safety:**

The minimum clear floor area was created and implemented based on the amount of equipment and staff required to perform endoscopy procedures. A "standard" bed size is 36 inches wide and 80 inches in length (measured from headboard to footboard). Contrasting these sizes

against the facility's existing Procedure Room, clearances were as follows when the bed was placed square inside the room:

- Headboard to Wall: 4.1 feet
- Footboard to Wall: 3.8 feet
- Anatomical Right Side of bed to Wall: 4.3 feet
- Anatomical Left Side of bed to Wall: 4.7 feet

The facility rotated the bed/gurney in a diagonal manner, creating the following clearances:

- Headboard to Wall: 5.0 feet
- Footboard to Wall: 6.0 feet
- Anatomical Right Side of bed to Wall: 5.7 feet
- Anatomical Left Side of bed to Wall: 5.0 feet

Even with the reduced clear floor area, if the facility ensures the bed will be positioned diagonally within the Procedure Room, the required minimum clearances will be met. This design will allow one Physician and two Registered Nurses, along with all required equipment to perform the surgery without jeopardizing the patient's health and safety.

The Ambulatory Surgical Center is staffed by licensed and trained nurses and physicians during cases. There is no risk of health imposed on patients, staff, or the public by granting this variance request.

**Exceptional and undue hardship:**

The Procedure Room four walls are shared walls with a fire barrier wall, a staff corridor, recovery bays, and the Sterilization Room. The fire barrier wall could not be altered/moved without a complete remodel and renovation of the structure. The staff corridor wall could not encroach further into the corridor due to the existing non-patient egress width. The Sterilization Room wall could not encroach further into the Sterilization Room due to medical gases within the wall and the Sterilization Room incapable of reducing the square footage due to the need of the space for sterilizing the equipment. The only wall capable of being altered would be the South wall, shared with the recovery bays. If this wall would be moved to provide the required 180 clear floor area of the Procedure Room, the recovery bay square footage would be reduced, thus requiring the facility to move the exterior wall of the building.

The existing structural elements cannot be modified. The facility would be required to completely demolish the existing exterior walls or fire barrier walls to allow an increase of approximately 19 square feet of floor space in one of the four procedure rooms.

**Staff Recommendation**

Staff recommends that the Board of Health approve Case #747, Digestive Health Center of Reno request for variance to NAC 449.9843.2, *Guidelines for Design and Construction of Outpatient Facilities*, Section 2.9-3.2.2.1, “Area (Space Requirements).”

**Public Comments:**

None

**Presenter:**

Michael Kupper, Health Facilities Inspector III  
Bureau of Healthcare Quality and Compliance

**Attachments:**

Life Safety Floor Plan

NEVADA STATE BOARD OF HEALTH  
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH  
4150 Technology Way, Suite 300  
CARSON CITY, NV 89706

**APPLICATION FOR VARIANCE**

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

Division Administration  
(NAC 439, 441A, 452, 453A, & 629)

Health Care Quality & Compliance  
(NAC 449, 457, 459 & 652)

Child, Family & Community Wellness  
(NAC 392, 394, 432A, 439, 441A, & 442)

Health Statistics, Planning,  
Epidemiology and Response  
(NAC 440,450B, 452, 453, 453A, & 695C)

Public Health & Clinical Services  
(NAC 211, 444, 446, 447, 583, & 585)

Date: 3 / 1 / 2 0 2 3

Name of Applicant: Digestive Health Center/ Corinne Whaley

Phone: 775-770-2717

Mailing Address: 5250 Kietzke Lane \_\_\_\_\_

City: Reno \_\_\_\_\_ State: NV \_\_\_\_\_ Zip: 89511 \_\_\_\_\_

We do hereby apply for a variance to \_\_\_\_\_ of the Nevada  
chapter/section \_\_\_\_\_  
Administrative Code (NAC). (For example: NAC 449.204)

Title of section in  
question: \_\_\_\_\_

Statement of existing or proposed conditions in violation of the NAC:

Request for variance approval on the square footage of our current fourth procedure room. The procedure room was built and licensed in 1995 with the building. It is just under the 180 sqft. Requirement.



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**APPLICATION FOR VARIANCE**

Date of initial operation (if existing): 1 9 9 5 \_\_\_\_\_

**ATTENTION: Please read this section closely. Your request for variance will be examined against these criteria:**

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
  - (a) There are circumstances or conditions which:
    - (1) Are unique to the applicant;
    - (2) Do not generally affect other persons subject to the regulation;
    - (3) Make compliance with the regulation unduly burdensome; and
    - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
  - (b) Granting the variance:
    - (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property; and
    - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that he suffers or will suffer economic hardship by complying with the regulation, he must submit evidence demonstrating the costs of his compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)

**Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supportive of your variance request.**

Statement of degree of risk of health:

The size of the fourth procedure room will not impact patient care, patient safety, or the quality of procedures performed within the space. Patient stretcher has adequate clearance on all four sides of the bed while in the procedure room. Procedure performed will be strictly endoscopies and colonoscopies. There is adequate working space so that the size of the room will not jeopardize the health of the patient.

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**APPLICATION FOR VARIANCE**

**Please state in detail the circumstances or conditions which demonstrate that:**

1. An exceptional and undue hardship results from a strict application of the Regulation:

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We would like to provide full capacity services with four procedure rooms rather three as our utilization rate has increased immensely and will continue to grow. If denied the variance, we would need to consider not utilizing the space or construction/renovation of the space. Resulting in a lengthy, costly process in a building that was constructed in 1995.

2. The variance, if granted, would not:
  - A. Cause substantial detriment to the public welfare.

If the variance is granted, it would only help public welfare as we would be able to provide additional services and increase our capacity for the community. The size of the room has been determined adequate to provide the procedures safely without risk incurred to the patient or those working within the space.

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Impair substantially the purpose of the regulation from which the application seeks a variance.

The space is only slightly under the 180sqft regulation and the patient bed within the room has adequate clearance on all four sides. Therefore, it does not substantially impair the purpose of the regulation.

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The bureau may require the following supporting documents to be submitted with and as a part of this application:

1. Legal description of property concerned

2. General area identification map

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CARSON CITY, NV 89706

**APPLICATION FOR VARIANCE**

- \_ 3. Plat map showing locations of all pertinent items and appurtenances
- \_ 4. Well log (if applicable)
- \_ 5. Applicable lab reports
- \_ 6. Applicable engineering or construction/remodeling information
- \_ 7. Other items (see following pages)

This application must be accompanied by evidence demonstrating the costs of your compliance with regulations or specific statutory standards. Your request will be placed on the Board of Health agenda 40 days or more after receipt in this office if accompanied by the required fee (NAC 439.210). The application and supporting documentation will form the basis for the Division of Public and Behavioral Health staff report and recommendation(s) to the Board. Failure to respond to the above statements may cause the Board to deny consideration of the application at the requested Board meeting.

Please schedule this hearing during:



The next regularly scheduled Board of Health meeting, regardless of location.



The next scheduled meeting in Carson City.



The next scheduled meeting in Las Vegas.

Signature: \_\_\_\_\_

*Corinne Umaley*

Printed Name: \_\_\_\_\_

*Corinne Umaley*

Title: \_\_\_\_\_

*Administrator*

Date: \_\_\_\_\_

*3/1/22*

NEVADA STATE BOARD OF HEALTH  
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH  
4150 Technology Way, Suite 300  
CARSON CITY, NV 89706

**APPLICATION FOR VARIANCE**

**PLEASE SUBMIT YOUR APPLICATION FOR VARIANCE BY USING  
ANY OF THE FOLLOWING METHODS:**

**MAIL TO:**

Lisa Sherych, Administrator  
Division of Public and Behavioral Health  
4150 Technology Way, Suite 300  
Carson City, NV 89706

**FAX:**

775-687-7570

**EMAIL:**

[DPBH@health.nv.gov](mailto:DPBH@health.nv.gov)



**FIRE EXTINGUISHER** X

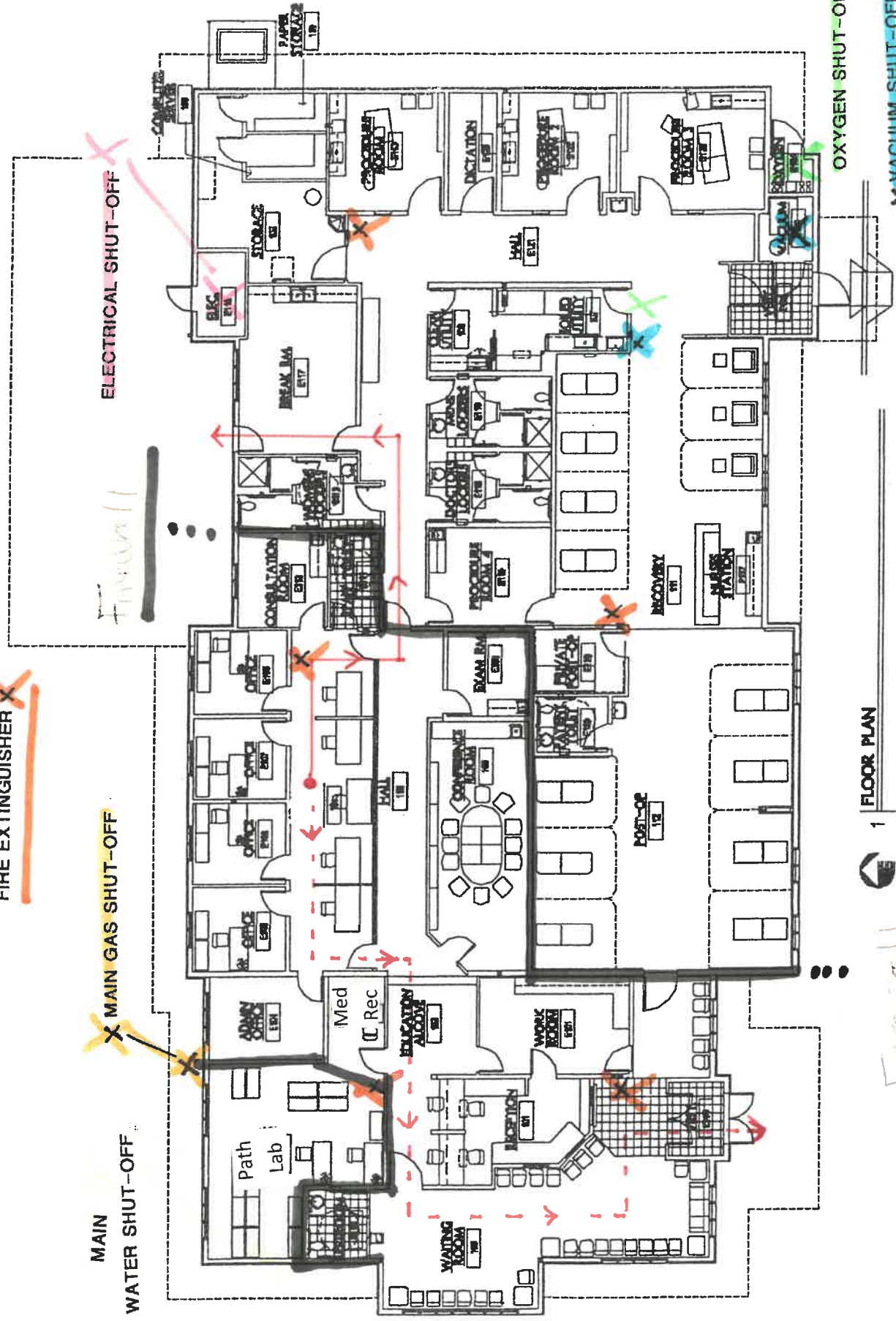
**MAIN GAS SHUT-OFF** X

**MAIN WATER SHUT-OFF** X

**ELECTRICAL SHUT-OFF** X

**OXYGEN SHUT-OFF** X

**VACUUM SHUT-OFF** X



- you are here
- ← Emergency exit
- ←-- alternate exit

1 FLOOR PLAN



Freeze!!