Commonwealth of Massachusetts
Department of Public Health

Helping People Lead Healthy Lives In Healthy Communities

Proposed Amendments to 105 CMR 141.000: *Licensure of Hospice Programs*

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Background

- M.G.L. c. 111 § 57D authorizes DPH to license and regulate the conduct of hospice programs.
- 105 CMR 141.000, *Licensure of Hospice Programs,* regulates hospice services, which-may be offered in multiple types of health care settings and in the community, including a patient's home, a nursing home, or a free-standing hospice facility operated by a hospice program.
- This regulation ensures a high quality of care, industry standardization and strong consumer protection for individuals receiving care at end of life.
- These amendments are proposed as part of the regulatory review process, mandated by Executive Order 562, which requires all state agencies to undertake a review of each and every regulation under its jurisdiction currently published in the Code of Massachusetts Regulations.

Proposed Amendment

The proposed amendments will achieve the following:

- Remove outdated or conflicting provisions and unnecessary language;
- Define “primary care provider” to reflect the role of a range of health care professionals in providing care to hospice patients;
- Update the transfer of ownership procedure;
- Clarify training requirements for hospice program employees providing dementia care to residents in nursing homes;
- Align the regulations with other healthcare licensure regulations; and
- Allow for clear construction standards that can be more easily updated when necessary.

Proposed Amendment Highlights: Primary Care Provider

Current Regulation:

- Does not include a definition for "primary care provider".

Proposed Amendment:

- Adds a definition for "primary care provider":
  - "A health care professional qualified to provide general medical care for common health care problems, who supervises, coordinates, prescribes or otherwise provides or proposes health care services, initiates referrals for specialist care and maintains continuity of care within the scope of practice. "
- Clarifies that a primary care provider may provide care to hospice patients.

Rationale:

- Provides consistency with other healthcare licensure regulations.
- Reflects the role of a range of healthcare professionals, including nurse practitioners and physician assistants, in providing care to hospice patients.

Proposed Amendment Highlights: Transfer of Ownership

Current Regulation:

- Allows a person applying for a license as a result of a transfer of ownership to file an application for licensure within 48 hours of the transfer.

Proposed Amendment:

- Adds a definition for "transfer of ownership" to clarify the transfer of ownership process.
- Updates the transfer of ownership procedure to ensure that DPH completes its suitability review for licensure within 30 days of receiving a completed application form.

Rationale:

- Provides consistency with other healthcare licensure regulations.
- Prevents delays for regulated parties in DPH suitability review.

Proposed Amendment Highlights: Application for Licensure

Current Regulation:

- Allows DPH to accept an application for a hospice inpatient facility from an applicant that has been licensed for 2 years prior to the initial adoption of the inpatient hospice regulations on October 10, 2003.

Proposed Amendment:

- Allows an application for a free-standing inpatient hospice facility from an applicant that has been a licensed hospice program for more than 2 years.
- Increases the free-standing inpatient hospice facility cap, which is set according to M.G.L. c. 111, § 57D, from 6 facilities to 8 facilities.

Rationale:

- Clarifies eligibility for the licensure of new inpatient hospice facilities.
- Recognizes the increased number of inpatient hospice facilities allowed by statute.

Proposed Amendment Highlights: Dementia Care Training

Current Regulation:

- Does not address documenting dementia care training for long-term care facility employees.

Proposed Amendment:

- Adds requirement that hospice programs document dementia care training for their employees who provide direct care to nursing home residents.

Rationale:

- Clarifies that hospice programs are responsible for the initial and ongoing annual dementia care training of their employees providing services in nursing homes, pursuant to M.G.L. c. 111, § 71C.

Proposed Amendment Highlights: Incident Reporting

Current Regulation:

- Requires reporting of any of the following: fire, serious criminal acts or pending or actual strike action by its employees.

Proposed Amendment:

- Updates the reportable incident criteria for hospice programs to make the requirements consistent with those for other healthcare facilities.

Rationale:

- Provides consistency and clarity with other healthcare licensure regulations, including clinic and hospital licensure regulations.

Proposed Amendment Highlights: Medication Orders

Current Regulation:

- Requires medications ordered by a physician assistant or nurse practitioner to be reviewed by the supervising physician.

Proposed Amendment:

- Removes requirement that a physician review each initial medication order or significant change to an order by a nurse practitioner or physician assistant.

Rationale:

- Aligns regulation with statute and professional board scope of practice regulations.
- Recognizes the current role of nurse practitioners or physician assistants in health care delivery.

Proposed Amendment Highlights: Construction Standards

Current Regulation:

- Includes 105 CMR 141.299: Appendix A: General Standards of Construction: Hospice Inpatient Facility Directly Owned and Operated by a Hospice Program, a lengthy appendix detailing construction standards.

Proposed Amendment:

- Deletes entirety of Appendix.
- Adds section requiring hospice facilities to comply with DPH guidelines, based on nationally recognized standards of the Facility Guidelines Institute.
- Adds section requiring hospice inpatient facilities to have written policies to operate a safe, effective inpatient hospice facility.

Rationale:

- Provides consistency with other healthcare facilities licensure regulations.
- Allows for clear, uniform national standards that are easily updated.

Next Steps

- The Department intends to conduct a public hearing to solicit comments on the proposed amendment.

- Following the public comment period, the Department will return to the Public Health Council to report on testimony and any recommended changes to this amendment, and seek final promulgation.

Additional Information

- Thank you for the opportunity to present this information today.

- For more information on 105 CMR 141, *Licensure of Hospice Programs,* please find the relevant statutory language (M.G.L. c. 111, § 3, 57D) and the full current regulation here:
  https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter111
  http://www.mass.gov/courts/docs/lawlib/104-105cmr/105cmr141.pdf