Commonwealth of Massachusetts
Department of Public Health

Helping People Lead Healthy Lives In Healthy Communities

Proposed Amendments to 105 CMR 157.000: *The Registration and Operation of Temporary Nursing Service Agencies*

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Background

- This regulation, 105 CMR 157.000, *The Registration and Operation of Temporary Nursing Service Agencies,* sets out standards for the registration and operation of temporary nursing service agencies.

- This regulation ensures that patients and residents of health care facilities are provided quality nursing care.

- 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 regulation under its jurisdiction currently published in the Code of Massachusetts Regulations.

Background

- The regulation of Temporary Nursing Service Agencies is authorized by section 72Y of chapter 111 of the General Laws.

- Temporary Nursing Service Agencies provide health care facilities, including nursing homes, with staffing solutions to ensure quality nursing care when the employment of permanent nursing care is impractical or unavailable.

- 105 CMR 157 ensures the quality and consistency of these provisional resources by:
  - Providing oversight of temporary employers required to monitor staff;
  - Establishing predictable standards as to qualifications and compliance;
  - Ensuring alignment with MassHealth and other reimbursement rules.

Proposed Amendment

The proposed amendments will achieve the following:

- Clarify the procedures for filing applications for initial registration and changes of location;
- Update the process for reporting suspected drug diversion by medical personnel;
- Expand guidance on the reporting of suspected poor nursing care to the Board of Registration in Nursing;
- Add specific language on reporting obligations under the Patient Abuse Law;
- Remove outdated or unnecessary provisions; and
- Align the regulations with other health care facility regulations.

Proposed Amendment Highlights: Application Procedures

Current regulation:

- Requires applications for initial registration to be filed prior to commencing operation;
- Applications for change of existing location must be filed within 2 business days of the change.

Proposed amendment:

- Requires applications for initial registration and change of existing location to be filed with DPH at least 30 days before the planned effective date.

Rationale:

- Provides consistency in application procedures for regulated parties across licensed facilities; and
- Allows appropriate time for DPH planning and processing.

Proposed Amendment Highlights: Drug Diversion

Current regulation:

- Requires the administrator of the health care facility to immediately notify the Division of Food and Drugs in writing and by telephone of a known or suspected drug diversion.

Proposed amendment:

- Clarifies that, at a minimum, the administrator of the health agency must immediately notify the Drug Control Program of a drug diversion and file a report with DPH in accordance with DPH guidelines.

Rationale:

- Removes outdated references to the Division of Food and Drugs; and
- Allows for advances in technology for reporting.

Proposed Amendment Highlights: Poor Nursing Practice

Current regulation:

- Requires temporary nursing service agencies to refer nurses who demonstrate poor nursing practice to the Board of Registration in Nursing.

Proposed amendment:

- Clarifies that reports of poor nursing practice must be in writing, submitted within 7 days and include specific, detailed information.

Rationale:

- Provides clarity as to timeline, format and specific requirements to allow DPH and the Board of Registration in Nursing to investigate and respond appropriately.

Proposed Amendment Highlights: Patient Abuse Law

Current regulation:

- Does not include any reference to or requirements under the Patient Abuse Law (M.G.L. c. 111 § 72G).

Proposed amendment:

- Inserts specific language on the reporting obligations of a temporary nursing service agency under the Patient Abuse Law (M.G.L. c. 111 § 72G).

Rationale:

- Creates consistency among regulated parties and facilities with the Patient Abuse Law (M.G.L. c. 111 § 72G).

Next Steps

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- 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 157.000, *The Registration and Operation of Temporary Nursing Service Agencies* please find the relevant statutory language and the full current regulation here:
  https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter111/Section72Y
  http://www.mass.gov/courts/docs/lawlib/104-105cmr/105cmr157.pdf