



Proposed Amendments to 105 CMR 158.000: *Licensure of Adult Day Health Programs*

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Background

- This regulation, 105 CMR 158.000, governs the licensure of adult day health programs in the Commonwealth.
- The regulation contains specific requirements related to administration, staffing, quality of care and services, medication administration and physical plant specifications.
- Prior to Department regulation and licensure, adult day health programs receiving MassHealth reimbursement for services were subject only to MassHealth certification and the associated regulatory standards, found in 130 CMR 404.000.



Proposed Amendments

Since these licensure regulations became effective in January of 2015, the Department has engaged with stakeholders, leading to further review of these regulations and the MassHealth regulations establishing certification standards for adult day health.

The Department recommends several amendments to this regulation, which will achieve the following while maintaining patient safety and quality of care:

- Provide adult day health programs with more flexibility for nurse staffing requirements;
- Further align the regulation with MassHealth certification standards;
- Align the timeframe for the frequency of required dietary reviews with the review timeframes of other programs within EOHHS; and
- Clarify policy and program development requirements.



Proposed Amendment Highlights: Licensed Practical Nurses

Current Regulation:

- Requires a registered nurse (RN) to be onsite for a minimum number of hours per day, based on the program's licensed capacity.

Proposed Amendment:

- Allows licensed practical nurses (LPN) to fulfill ADH requirements for RN staffing duties, consistent with LPN scope of practice, during an RN's limited leave of absence.

Rationale:

- This change recognizes that an LPN may be able to substitute for an RN for a limited time, as included in 105 CMR 158.032(B)(2).



Proposed Amendment Highlights: Nurse Staffing

Current Regulation:

- Requires minimum nurse staffing based on program capacity, which is the maximum number of participants allowed under a license.

Proposed Amendment:

- Aligns Department nurse staffing minimums with existing MassHealth standards.
- Requires nurse staffing based on an adult day health program's daily census, versus the licensed program capacity.

Rationale:

- Allows an adult day health program more flexibility when responding to fluctuations in day to day attendance.



Proposed Amendment Highlights: Dietary Services

Current Regulation:

- Requires a registered dietitian to be on-site at an adult day health program for a minimum of 4 hours every quarter to monitor dietary services.

Proposed Amendment:

- Revise the frequency of required dietary reviews from quarterly to every 6 months, consistent with standards of other agencies within the Executive Office of Health and Human Services (EOHHS).

Rationale:

- Streamlines the review timeframe across other programs within EOHHS, while maintaining quality of care.



Proposed Amendment Highlights: Policies and Programs

Current Regulations:

- Requires an adult day health program to develop its own policies, procedures and programs in consultation with appropriate professionals.

Proposed Amendment:

- Allow programs to collectively use model policies, procedures and programs developed by the appropriate professionals, versus each program developing their own.

Rationale:

- This amendment allows multiple ADH Programs to pool resources to ensure consistent policies, procedures and programs are developed by subject matter experts.



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.



- Thank you for the opportunity to present this information today.
- For more information on 105 CMR 158, *Licensure of Adult Day Health Programs*, please find the relevant statutory language (chapter 87 of the acts of 2011) and the full current regulation here:

<https://malegislature.gov/Laws/SessionLaws/Acts/2011/Chapter87>

<http://www.mass.gov/courts/docs/lawlib/104-105cmr/105cmr158.pdf>