



105 CMR 158.000, *Licensure of Adult Day Health Programs* Final Regulatory Amendment Presentation

Sherman Lohnes, Esq.

**Director of the Division of Health Care Facility Licensure and Certification
Bureau of Health Care Safety and Quality**

Lauren B. Nelson, Esq.

**Director of Policy and Regulatory Affairs
Bureau of Health Care Safety and Quality**

Public Health Council

September 13, 2017



Background

- This regulation governs the licensure of adult day health programs (ADHPs) 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, ADHPs receiving MassHealth reimbursement for services were subject only to MassHealth certification and the associated regulatory standards, found in 130 CMR 404.000.



As a reminder, on June 14, 2017, the Department presented to the Public Health Council proposed revisions to 105 CMR 158.000, *Licensure of Adult Day Health Programs*, which will achieve the following while maintaining patient safety and quality of care:

- Provide ADHPs 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.



During the public comment period, including the public hearing on July 26, 2017, the Department received comments on proposed amendments to the regulation, and on the regulation overall.

- The Massachusetts Adult Day Services Association (MADSA) and its members submitted comments that :
 - Supported proposed changes to nurse staffing requirements;
 - Addressed the cost to implement the requirements of the regulation, as related to reimbursement rates. Specifically, comments requested:
 - Some direct care staff and consultant requirements be eliminated to reduce implementation costs
 - Several physical plant requirements, such as handrails, and space requirements be eliminated or revised so less costly to implement.
- A registered dietician working with ADHPs also provided testimony emphasizing the importance of frequent dietary service reviews for program participants.



Post-Comment Review: DPH Response

- No changes have been made to this regulation in response to comments received, as:
 - Comments were addressed through the initial proposal, or
 - Commenters requested changes were outside the scope of the regulation's sections proposed for revision.
- The amendments put forth for public comment are designed to maintain patient safety and quality of care, while providing some relief and flexibility to ADHPs.



Next Steps

- Staff requests the Public Health Council approve the proposed regulations for promulgation.
- Following Public Health Council approval, the Department will file the amended regulation with the Secretary of the Commonwealth for final enactment.



- 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>