



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
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NOTICE OF PUBLIC HEARING

Notice is hereby given pursuant to M.G.L. c. 30A, §2, that the Department of Public Health will hold a public hearing and comment period on the recent amendments, filed on May 3, 2024, on an emergency basis, to 105 CMR 130.000: *Hospital Licensure*. These emergency amendments require hospitals to report certain hospital capacity data to the Department and are being promulgated on an emergency basis to address a change in federal reporting requirements.

Beginning in 2020, hospitals were required to report certain hospital capacity data, pursuant to federal requirements. In order to streamline data reporting requirements for hospitals, the Department became certified to collect this data and report it to the federal government on the hospitals' behalf. These data were not only used to inform the Department's COVID-19 response, but were also critical to allowing the Department to perform necessary planning and coordination to improve patient access to care. These data are critical in allowing the Department to: 1) monitor overall trends in hospital capacity, 2) designate the appropriate capacity tier for each region in the Commonwealth, and 3) have a better understanding of available capacity by service line. Further, these data allow for individual hospitals to have a better understanding of regional and statewide capacity.

On April 8, 2024, the federal government announced hospitals would no longer be required to submit these data after April 30, 2024; while there are currently proposed federal rules to require these data be submitted beginning in October 2024, there is currently no federal reporting requirement for hospitals to submit these data. These emergency amendments are necessary to minimize the gap in reporting of these critical data to the Department.

The public hearing will be held on June 10, 2024, at 1:00 p.m. The hearing will be conducted on a **moderated conference call**. The information for the moderated conference call is:

Dial-in Telephone Number: **800-369-1170**
Participant Passcode: **6410428**
To Testify Press: ***1**

A copy of the proposed amendments to 105 CMR 130.000 may be viewed on the Department's website at <http://mass.gov/dph/proposed-regulations> or requested from the Office of the General Counsel by calling 617-624-5220.

Speakers who testify at the public hearing are requested to provide a copy of their oral testimony. The Department encourages all interested parties to submit written testimony electronically to Reg.Testimony@mass.gov, or by mail to William Anderson, Office of the General Counsel, Department of Public Health, 250 Washington Street, Boston, MA 02108. Please submit electronic testimony as an attached Word document and type “105 CMR 130.000: Hospital Licensure- Data Reporting” in the subject line of the email. All submitted testimony must include the sender’s full name and address.

The Department will post all electronic testimony that complies with these instructions on its website. **All comments must be submitted by 5:00 p.m. on June 10, 2024.** All comments received by the Department may be released in response to a request for public records.

If you are deaf or hard of hearing, or are a person with a disability who requires accommodation, please contact Stacy Hart at least 5 days before the hearing at Tel #857-274-1120, or email Stacy.Hart@mass.gov.



Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

Agency: Department of Public Health

CMR No: 105 CMR 130.000: Hospital Licensure

Estimate of the Number of Small Businesses Impacted by the Regulation: Presently, there are approximately 112 hospitals in Massachusetts. It is unlikely that any of these businesses qualify as a small business.

Select Yes or No and Briefly Explain

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| Yes X | No | Will small businesses have to create, file, or issue additional reports? <i>Yes; small businesses will be required to report hospital capacity data.</i> |
| Yes | No X | Will small businesses have to implement additional recordkeeping procedures? <i>No, small businesses will not have to implement additional recordkeeping procedures.</i> |
| Yes | No X | Will small businesses have to provide additional administrative oversight? <i>No, small businesses will not have to provide additional administrative oversight as a result of proposed amendments to this regulation.</i> |
| Yes | No X | Will small businesses have to hire additional employees in order to comply with the proposed regulation? <i>No, small businesses will not have to hire additional employees in order to comply with the proposed regulation.</i> |
| Yes | No X | Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? <i>No, small businesses will not have to hire other professionals.</i> |
| Yes | No X | Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? <i>No, small businesses will not be required to make any other capital investments in order to comply with this regulation.</i> |
| Yes | No X | Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) <i>No - This regulation, which is required by statute, sets forth clear minimum standards to ensure consistency among programs and protect the health and safety of residents</i> |
| Yes | No X | Do any other regulations duplicate or conflict with the proposed regulation? <i>No, there are no other regulations that duplicate or conflict with the proposed amendments to this regulation.</i> |
| Yes X | No | Does the regulation require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities? <i>Yes, this regulation does require small businesses to cooperate with inspections and other regulatory enforcement activities in order for DPH to ensure the health and safety of residents.</i> |
| Yes | No X | Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? <i>No, this regulation does not require small businesses to provide educational services to keep up to date with regulatory requirements.</i> |

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| Yes | No X | Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? <i>No, this regulation will not deter the opening of additional small businesses in Massachusetts.</i> |
| Yes | No X | Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? <i>No, this regulation will not encourage the opening of additional small business health care facilities.</i> |
| Yes | No X | Does the regulation provide for less stringent compliance or reporting requirements for small businesses? <i>No, the reporting requirements are the same for all regulated parties.</i> |
| Yes | No X | Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? <i>No, the compliance standards for and reporting requirements are the same for all regulated parties</i> |
| Yes | No X | Did the agency consolidate or simplify compliance or reporting requirements for small businesses? <i>No, the compliance standards for and reporting requirements are the same for all regulated parties</i> |
| Yes | No X | Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? <i>No, this regulation, which is required by statute, sets forth clear minimum standards to ensure consistency among providers, and protects the health and safety of residents.</i> |
| Yes | No X | Are there alternative regulatory methods that would minimize the adverse impact on small businesses? <i>No, there are no other alternative regulatory methods that would minimize the adverse impact on small businesses.</i> |