



# *The Commonwealth of Massachusetts*

*Executive Office of Health and Human Services*

*Department of Mental Health*

*Office of the General Counsel*

*25 Staniford Street*

*Boston, Massachusetts 02114-2575*

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## **NOTICE OF COMMENT PERIOD**

Pursuant to the authority of M.G.L. c. 19, ss. 1, 18 and M.G.L. c. 123, s. 2 and in accordance with M.G.L. c. 30A, the Department of Mental Health will hold a Comment Period for the purpose of receiving written testimony on its proposed amendments. The Department describes the substance of the amendments as follows:

### **104 CMR 33.00 Designation and Appointment of Qualified Mental Health Professionals**

The Department of Mental Health is proposing an amendment to regulation 104 CMR 33.00 (104 CMR 33.03(20)) to implement a recent amendment to GL. ch. 123 §18(a), inserting new §18(a)1/2, which permits the Court to transfer incarcerated individuals to facilities of the Department of Mental Health or to Bridgewater State Hospital under specified circumstances. The Trial Court has issued a form order for such transfers that requires “a qualified advanced practice registered nurse, physician, or psychologist” to examine the individual and report to the Court in writing their opinion, supported by clinical findings. Pursuant to GL. ch 123 §1, “qualified” clinicians are those who are “designated by and meet qualifications required by the regulations of” DMH. The proposed regulation establishes the process for such designation and sets qualifications for clinicians authorized to perform the 18(a)1/2 evaluations ordered by the Court.

### **COMMENT PERIOD**

A Comment Period will be held by the Department from February 2, 2024, ending on February 23, 2024.

**WRITTEN TESTIMONY AND COMMENTS:** To submit written testimony or comments, email your testimony to: [DMH-regulations@state.ma.us](mailto:DMH-regulations@state.ma.us) as an attached Word or PDF document or as text within the body of the email; with the name of the regulation in the subject line. All written testimony or comments must include the sender’s full name, mailing address, and organization or affiliation, if any. Written testimony may also be submitted by USPS to: Office of the General Counsel, Department of Mental Health, 25 Staniford Street, Boston, MA 02114. Comments/testimony must be received by the Department **NO LATER THAN February 23, 2024, at 5:00 p.m. when the Comment Period ends.**

**INFORMATION:** The proposed regulations are posted on the DMH website and can be viewed at: <https://www.mass.gov/service-details/dmh-proposed-regulations> or request a copy in writing from DMH Regulations, 25 Staniford Street, Boston, MA 02114 or email: [DMH-regulations@state.ma.us](mailto:DMH-regulations@state.ma.us). DMH may adopt a revised version of the proposed actions, taking into account relevant comments and any other practical alternatives that come to its attention.

By Order of the Department of Mental Health  
Brooke Doyle, Commissioner