

118 CMR 1.00: SCOPE AND AUTHORITY

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1.01: Scope and Purpose

(1) Scope.

(a) 118 CMR applies to all cases of abuse and retaliation reported to, investigated by or on the behalf of the Disabled Persons Protection Commission and remediated as a result of such investigations pursuant to M.G.L. c. 19C and 118 CMR.

(b) 118 CMR does not provide for an adjudicatory hearing within the meaning of M.G.L. c. 30A, § 1(1), except as provided for in 118 CMR 5.04(4). 118 CMR is not intended to constitute an administrative remedy under the doctrine of exhaustion of administrative remedies or otherwise, except in cases appealed to the Division of Administrative Law Appeals pursuant to M.G.L. c. 19C, § 15, and 118 CMR 14.03: *Entry of Care Provider's Name on the Registry* or 118 CMR 14.04: *Removal of Care Provider's Name from the Registry: Petitions for Removal*.

(2) Purpose. The purpose of 118 CMR is to establish the procedures and standards the Commission utilizes to effectuate the purposes of the Commission including, but not limited to, the investigation and remediation of abuse of persons with disabilities who reside in the Commonwealth of Massachusetts, or of nonresident persons with disabilities who are abused while in the Commonwealth of Massachusetts, the investigation and remediation of instances of retaliation against a person for having reported such abuse or cooperated in the investigation of abuse, and the administration of the registry of care providers against whom the Commission has made a substantiated finding of registrable abuse. In pursuing its statutory purposes, the Commission shall endeavor to respect the privacy, self-determination rights and dignity of persons with disabilities.

1.02: Commentaries

Commentaries may be used throughout 118 CMR to clarify certain issues, concepts, or problems, as well as to give specific examples of typical situations that may arise under 118 CMR. These commentaries are intended to be illustrative only, and do not apply to fact situations different from those specifically described in 118 CMR.

1.03: Construction

(1) In interpreting 118 CMR, words and phrases shall be construed according to common and approved usage; provided, however, that technical words and phrases and such others as may have acquired a special and appropriate meaning in law shall be construed and understood according to such meaning.

(2) The generally accepted rules of construction shall be observed in 118 CMR, unless their observance requires a construction inconsistent with the manifest intent of M.G.L. c. 19C or is repugnant to its context.

(3) The time frames for performing acts required by M.G.L. c. 19C, and 118 CMR shall be determined as follows: a time requirement which refers to "business days" shall refer to Mondays through Fridays, excluding legal holidays; a time requirement which refers to "calendar days", shall refer to all the days of the week within the time frame, provided that if the final day of the time frame regarding either "business days" or "calendar days" is a Saturday or Sunday or a legal holiday, the time requirement shall be extended to the next regular business day. References to "days" shall refer to calendar days, unless otherwise specifically indicated.

1.04: Severability

If any regulation, section, sub-section, division, subdivision, sentence, clause, phrase, word, or portion of 118 CMR is found to be invalid by a court of competent jurisdiction for any reason, said portion shall be deemed a separate, distinct, and independent provision, and the validity of the remainder of 118 CMR shall be unaffected.

REGULATORY AUTHORITY

118 CMR 1.00: M.G.L. c. 19C, §§ 2, 3(b), 4(b), 11 and 15.