

950 CMR 131.00: ALTERNATIVE ADDRESS FOR THOSE ENGAGED IN PROTECTED HEALTH CARE SERVICES

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131.01: Scope and Purpose

950 CMR 131.00 describes the practices and procedures of the State Secretary relative to M.G.L. c. 9A, the Address Confidentiality Program. The Program, which is under the supervision of the Program Manager, administers the provisions of M.G.L. c. 9A pertaining to the Address Confidentiality Program and related matters. The Program Manager may make, amend and rescind such rules, forms, orders and policies as are contemplated by M.G.L. c. 9A and as are necessary to carry out its purpose.

131.02: Definitions

Application. Standard application form provided by the Program which must be completed by an applicant.

Certification. The process by which an applicant is determined eligible to participate in the Program.

Gender-affirming Health Care Services. This includes all supplies, care and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative or supportive nature relating to the treatment of gender dysphoria.

Health Care Program Participant. A person engaging in a legally-protected health care activity that is certified by the Secretary of the Commonwealth to participate in the Address Confidentiality Program.

Identification Card. Card issued by the Secretary of the Commonwealth to a Health Care Program Participant upon certification, which includes the Health Care Program Participant's name, identification code, a designated substitute address, certification expiration date, and signature.

Identification Number. A number assigned to a Health Care Program Participant upon acceptance into the Program.

Legally-protected Health Care Activity. This includes:

- (a) the exercise and enjoyment, or attempted exercise and enjoyment, by any person of rights to reproductive health care services or gender-affirming health care services secured by the constitution or laws of the commonwealth or the provision of insurance coverage for such services; or

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(b) any act or omission undertaken to aid or encourage, or attempt to aid or encourage, any person in the exercise and enjoyment, or attempted exercise and enjoyment, of rights to reproductive health care services or gender-affirming health care services secured by the constitution or laws of the commonwealth or to provide insurance coverage for such services; provided, however, that the provision of such a health care service by a person duly licensed under the laws of the commonwealth and physically present in the commonwealth and the provision of insurance coverage for such services shall be legally protected if the service is permitted under the laws of the commonwealth, regardless of the patient's location; and provided further, that "legally-protected health care activity" shall not include any service rendered below an applicable professional standard of care or that would violate anti-discrimination laws of the commonwealth.

Program. The Address Confidentiality Program established by M.G.L. c. 9A to provide designated addresses for survivors of domestic violence, rape, sexual assault or stalking or those engaged in legally-protected health care services for use by state and local agencies. The Program is not a witness protection program.

Program Manager. An employee of the Office of the Secretary of the Commonwealth designated by the Secretary to administer the Address Confidentiality Program.

Reproductive Health Care Services. This includes all supplies, care and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative or supportive nature relating to pregnancy, contraception, assisted reproduction, miscarriage management or the termination of a pregnancy.

Residential Address. Means the street name, street number, city or town, and zip code of the address where the Health Care Program Participant resides.

Secretary. Means the State Secretary or the Secretary of the Commonwealth.

Substitute Addresses. The mailing and other addresses designated by the Secretary of the Commonwealth for use by Health Care Program Participants. The address is listed on the identification card.

131.03: Health Care Program Participant Application and Certification Process

(1) Each Health Care Program Participant must be certified by the Program Manager to participate in the Program.

(2) Health Care Program Participant certification will be granted only where the prospective Health Care Program Participant:

- (a) is a current Massachusetts resident;
- (b) is an individual engaged in the provision, facilitation or promotion of a legally-protected health care activity;
- (c) provides specific evidence that the applicant is engaged in the provision, facilitation or promotion of a legally-protected health care activity or the applicant provides other specific evidence deemed acceptable in the sole discretion of the Program Manager and General Counsel of the Office of the Secretary of the Commonwealth.
- (d) completes, signs, dates and provides all necessary information required under M.G.L. c. 9A, § 2 and the standard application form provided by the Program;
- (e) agrees in writing to use the applicable substitute addresses designated by the Program for use by Health Care Program Participants;
- (f) agrees in writing to abide by 950 CMR 131.00 and all other written Program rules, policies and procedures;
- (g) provides the residential address and mailing address, if applicable, where the applicant may be contacted by the Program Manager or their designee and the telephone number(s) where the applicant may be called by the Program Manager or their designee; and

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- (h) provides one or more addresses the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household.
 - (i) demonstrates custody or guardianship of any minor children or incapacitated persons also being admitted to the Program and agrees not to use the Program to evade law enforcement or to avoid establishing or following child custody or visitation orders.
- (3) Prior to certification of the application, the Secretary of the Commonwealth may request additional documentation from the Program applicant.
- (4) A properly completed application shall be effective on the day that it is certified by the Program Manager.
- (5) An individual who is certified as a Health Care Program Participant shall be issued an identification card which includes their name, identification code, substitute address, certification expiration date, and applicant's signature.
- (6) The term of a Health Care Program Participant's certification shall be four years following the effective date of their certification unless the certification is withdrawn or canceled before that date pursuant to M.G.L. c. 9A, § 3 or 950 CMR 131.08.

131.04: Responsibilities of a Health Care Program Participant

A Health Care Program Participant:

- (1) may not disclose any address other than the applicable designated address to any state or local agency, including the Registry of Motor Vehicles;
- (2) must notify the Program in writing of a change in the Health Care Program Participant's contact information, at least seven days in advance, or immediately thereafter if such change is necessitated by an emergency or other unforeseen event;
- (3) must return the identification card to the Program immediately upon withdrawal or cancellation of participation in the Program; and
- (4) must promptly disclose in writing to the Program any civil, criminal or administrative proceeding in which Participant is a witness or party and any court order including, but not limited to, divorce proceedings, child support, child custody and visitation orders.

131.05: Responsibilities of State and Local Agencies

- (1) A Health Care Program Participant shall request, at the time of creation of a new record, that a state or local agency use a substitute address designated by the Program as their residential or mailing address.
- (2) A Health Care Program Participant shall show their original identification card to the agency official creating a new record and request address confidentiality through use of a substitute address in *lieu* of their actual location. The substitute address shall appear on the Health Care Program Participant's identification card.
- (3) Agency personnel may contact the Program manager to verify Participant's certification in the Program. They may make a file photocopy of the identification card and shall immediately return the identification card to the Health Care Program Participant.
- (4) An agency shall accept the applicable designated substitute address unless the agency has received a written record exemption determination from the Program.

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(5) An agency shall not question the Health Care Program Participant about the details or circumstances of their inclusion in the Program. Rather, the agency shall accept the determination made by the Program that the person is a qualified Health Care Program Participant.

131.06: Substitute Addresses Designated by the Address Confidentiality Program

(1) The Address Confidentiality Program has designated a substitute address to be used as a Health Care Program Participant's legal mailing and residential address.

(2) The Address Confidentiality Program, in consultation with the Registry of Motor Vehicles, has designated a specific street address solely for use on motor vehicle operator licenses, registrations and for vehicle insurance and excise tax purposes. Health Care Program Participants must use the designated street address on all such matters.

131.07: Agency Exemption Request

(1) An agency requesting an exemption under 950 CMR 131.07 must provide in writing to the Program Manager:

- (a) identification of the statute or administrative rule which demonstrates the agency's *bona fide* requirement and authority for the use of the actual address of an individual;
- (b) identification and description of the specific record or record series for which the exemption is requested;
- (c) identification of the individuals who will have access to the record;
- (d) an explanation of why the agency cannot meet its statutory or administrative obligations by a change in its internal procedures.

(2) The Program Manager shall review an agency's request for an exemption.

(3) During the review, evaluation and appeal of an agency's exemption request, the agency shall accept the use of a Health Care Program Participant's substitute address.

(4) The Program Manager's determination to grant or withhold a requested exemption shall be based on, but not limited to, an evaluation of the information provided under 950 CMR 131.07(1) in conformance with the statutory standard of a *bona fide* statutory or administrative requirement for the use of a Health Care Program Participant's actual address.

(5) If the Program Manager determines that an agency has a *bona fide* statutory or administrative requirement for the use of a Health Care Program Participant's actual address information and that the actual address information will be used only for those statutory and administrative purposes, the Program Manager may issue a written exemption for the agency. When granting an exemption, the Program Manager may include:

- (a) an agency's obligation and ability to maintain the confidentiality of a Health Care Program Participant's address information;
- (b) limitations on use and access to that address information;
- (c) the term during which the exemption is authorized for use by the agency;
- (d) designation of the record format on which the address information may be maintained;
- (e) designation of an address information disposition date after which the agency may no longer maintain a record of the address information; and
- (f) any other provisions and qualifications determined appropriate by the Program Manager.

(6) When a Health Care Program Participant requests use of the substitute address in a record and the agency has received an exemption for that record, the agency shall immediately provide a copy of the written exemption to the requesting Health Care Program Participant. The agency shall notify the address confidentiality Program Manager of the occurrence and denial of the Health Care Program Participant's request for use of substitute address..

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(7) The Program Manager's denial of an agency exemption request shall be made in writing and include a statement of the specific reasons therefore.

(8) An agency may appeal the denial of its request by resubmitting its written request within 60 days of the issuance of a denial. The request shall be accompanied by additional data, information and an explanation of corrective action taken to alleviate concerns and considerations included in the Program Manager's denial determination.

131.08: Cancellation of Program Certification

(1) Program certification shall be cancelled if the Participant:

- (a) no longer resides in Massachusetts;
- (b) changes their name without informing the Program in a timely manner;
- (c) discloses their residential address to any state or local agency, including the Registry of Motor Vehicles;
- (d) fails to agree to, or use, the designated substitute address or, if applicable, the designated street address on motor vehicle operator licenses, registration, vehicle insurance or excise tax.
- (e) Fails to agree to or abide by any written Program rule, policy or procedure previously communicated to the Participant;
- (f) Fails to notify the Program Manager in writing of a change in contact information as provided in 950 CMR 131.04(2);
- (g) Fails to disclose in writing to the Program Manager any civil, criminal or administrative proceeding as provided in 950 CMR 131.04(4);
- (h) Provides false or misleading information in the application or to any state or local agency in connection with the Program; or
- (i) Uses or attempts to use the Program to evade law enforcement or to avoid establishing or following child custody or visitation orders.

(2) The Program will notify the Health Care Program Participant of the cancellation by mail addressed to the Participant's last known address in the Program records.

(3) Upon cancellation of Program certification, the Health Care Program Participant will immediately return the identification card to the Program.

(4) Upon Program certification cancellation, the former Participant shall update their address with all agencies and individuals previously using the address designated by the Secretary of the Commonwealth. Any former Health Care Program Participant's mail received by the Program after cancellation will be returned to sender.

131.09: Appeal of Denial, Non-renewal or Cancellation of Program Certification

(1) Within 30 days of the date of the denial, cancellation or non-renewal, the Program applicant may request, in writing, that the Program Manager reconsider the decision to deny or cancel Program certification. The Program Manager may determine to allow Program certification to remain in place during the pendency of the appeal if the applicant establishes that the cancellation was due to accident or oversight. The Program Manager shall consider any application for which a request for reconsideration is received. The Program Manager may request additional documentation to establish qualification. After reconsideration of the application, the Program Manager shall affirm the denial or certify the application.

(2) The Program Manager shall notify the applicant of the decision within 30 days of receipt of the request for reconsideration.

131.10: Program Participation Renewal

- (1) A currently certified Program Participant may apply to renew their Program certification by completing the Recertification Application provided by the Program and providing a copy of legal identification and birth certificates for any children. A notice of recertification eligibility shall be sent to the Participant at least 30 days before the expiration of the current authorization.
- (2) If the Program Manager determines that the Health Care Program Participant is eligible to participate in the Program, they shall certify the Participant for an additional four-year term and issue a new identification card. The Participant shall return the expired card to the Program Manager.

131.11: Service of Process

- (1) The Secretary of the Commonwealth shall be an agent of the Health Care Program Participant upon whom any summons, writ, notice, demand, or process may be served.
- (2) Service on the Secretary of the Commonwealth of any such summons, writ, demand, notice, or process shall be made by mailing or delivering to the applicable substitute address, or by delivering to the address of the General Counsel, Secretary of the Commonwealth at One Ashburton Place, Room 1719, Boston, Massachusetts 02108 two copies of the summons, writ, notice, demand, or process.
- (3) If a summons, writ, notice, demand, or process is served on the Secretary of the Commonwealth, the Secretary of the Commonwealth shall forward a copy within 24 hours of receipt to the Health Care Program Participant at the Participant's current residential address shown on the records of the Program.
- (4) The Program Manager shall maintain in the Health Care Program Participant's file, a record of all summonses, writs, notices, demands, and processes served upon the Secretary of the Commonwealth for that Participant under which shall include the date of such service and the Secretary of the Commonwealth's action.

131.12: Correspondence from Courts

All correspondence with a return address of a court shall be forwarded within 24 hours of receipt to the Health Care Program Participant's residential address shown on the records of the Program.

131.13: Disclosure of Health Care Program Participant's Address

The Program Manager shall disclose a Health Care Program Participant's address:

- (1) upon written request by the chief commanding officer of a law enforcement agency or their designee in connection with a law enforcement matter;
- (2) upon receipt of a court order which specifically orders the disclosure of a particular Health Care Program Participant's address and the reason therefore; or
- (3) to law enforcement if the Program Manager has reasonable cause to believe the Participant is using the Program to evade law enforcement.

131.14: Written Agreement of Current Health Care Program Participants to Abide by 950 CMR 131.00 and Other Written Program Rules, Policies and Procedures

- (1) The Program will send written notice of the adoption of the amended regulations to each Health Care Program Participant.

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(2) Each Health Care Program Participant must sign, date and return the written agreement provided by the Program to the Participant reflecting their agreement to use the applicable substitute addresses designated for use by Health Care Program Participants and to abide by 950 CMR 131.00 and all other written rules, policies and procedures of the Program communicated to the Participant.

(3) The written agreement must be received by the Program no later than the date and time set forth in the written notice.

(4) Failure to sign, date and return the agreement timely will result in cancellation of Program certification pursuant to 950 CMR 131.08.

REGULATORY AUTHORITY

950 CMR 131.00: M.G.L. c. 9A.