The Commonwealth of Massachusetts

Executive Office of Health and Human Services

Department of Public Health

Bureau of Health Care Safety and Quality

Division of Health Care Facility Licensure and Certification

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**To:** Massachusetts Licensed Adult Day Health Programs

**From:** Stephen Davis, Division Director. Division of Health Care Facility Licensure and Certification. Massachusetts Department of Public Health

**Date:** June 27, 2024

**Subject:** Reminder to Licensees Regardingthe Regulatory Requirements for Calculating the Maximum Participant Capacity and Participant Square Footage for Adult Day Health Programs

The purpose of this memorandum is to provide important clarifying information about the Department of Public Health’s (Department) requirements pertaining to occupancy for licensed adult day health programs (Program), and to share instructions to assist applicants, licensees, and municipalities in calculating the Maximum Participant Capacity and Maximum Participant Square Footage.

A licensed adult day health program must utilize this guidance to calculate the Maximum Participant Capacity. A Program’s Maximum Participant Capacity will be by the least participant number calculated upon using the three criteria below.

1. **Participant Area:** Participant Area is defined by the adult day health program licensure regulation (105 CMR 158) as the physical space within the Program used for the provision of services, therapeutic activities, and dining. The Participant Area does not include reception areas, storage areas, offices, restrooms, corridors, or services areas. The Participant Area must contain at least 50 square feet per participant. When a kitchen is used for activities other than meal preparation, 50% of the kitchen floor area must be counted as Participant Area.

* Total Participant Area Square Feet divided by 50 equals Number of Participants.

1. **Participant Toilets:** A Program with a licensed program capacity of 24 or more participants must provide at least one toilet per 12 participants and at least 50% of the toilets must be designed or adapted to provide access and maneuverability for individuals with disabilities or individuals in wheelchairs.

* Total Participant Toilets multiplied by 12 equals Number of Participants.

1. **Maximum Occupant Load:** A Program with five or more unrelated participants must comply with the Massachusetts State Building Code, 780 CMR 3.00: Use and Occupancy Classification. The Maximum Occupant Load from the current Certificate of Occupancy is issued by the local municipality and is the maximum number of people anticipated to occupy the building rooms or spaces at any given time and under all probable situations.

* The Maximum Participant Capacity, plus required staffing, plus probable visitors cannot exceed the Certificate of Occupancy Maximum Occupant Load. This means the Maximum Participant Capacity cannot equal the Maximum Occupant Load.

The Department reminds all licensed Programs to please closely review the Adult Day Health Licensure regulations [105 CMR 158.00: Licensure of adult day health programs | Mass.gov](https://www.mass.gov/regulations/105-CMR-15800-licensure-of-adult-day-health-programs) for additional information and licensure requirements.

If there are additional questions, please contact Julie Crocker-Wilson, Licensure Unit Supervisor [julie.crocker-wilson@mass.gov](mailto:julie.crocker-wilson@mass.gov)