

To: Catrice C. Williams

 Office of the General Counsel

 Massachusetts Department of Public Health

From: Donna Kelly-Williams, President of the Massachusetts Nurses Association

Date: October 28, 2016

Re: Comments on proposed changes to 105 CMR 140.000 Licensure of Clinics

Thank you for the opportunity to offer comments on the proposed changes to 105 CMR 140.000- Licensure of Clinics. On behalf of the more than 23,000 registered nurses and health care professionals we represent, the Massachusetts Nurses Association offers the following comments on the proposed changes.

1. The proposed change in 105 CMR 140.105 would require a clinic to notify the Department of Public Health of transfer of ownership or change in location 30 days prior to a change rather than “immediately.” We recommend retaining the word immediately, adding a definition of within 48 hours, for the hospital to notify MDPH & other stakeholders (unions, vendors, the public, etc.) that it plans to take a vote on closure or transfer of ownership at an upcoming Board of Directors meeting, in order to provide a starting point for the time period. The current notice requirement has been circumvented to an appalling extent in recent years. As an example, the public and health care personnel were given less than twenty-four hours’ notice of the closure of North Adams Regional \Hospital. It is crucial for the protection of the public that adequate notice be given in order to make arrangements for their health care services or to mandate continued operation of services until stakeholders reach a permanent resolution on provision of services.
2. We urge retention of the requirement at 105 CMR 140.305 (Emergency Transfer) for clinics to have written transfer agreements with nearby hospitals rather than the proposed substitution of a procedure to call 911, which is a significantly less requirement and which would lack clarity for the birthing couple and their healthcare provider as to where their baby may be born.
3. We applaud the new language in 105 CMR 140.310 and 140.311 which calls for the clinical administrator and professional services director to be physically present on site.
4. We strongly encourage retention of language in 105 CMR 140.607 requiring only

 registered nurses to be allowed to function as circulating nurses.

1. We urge that in 105 CMR 140.305 language be inserted for emergency transfer of patients when indicated rather than relying on the proposed substitution of a procedure to call 911 in the proposed Clinic regulations, which is a significantly lesser requirement and which would lack clarity for the birthing couple and their healthcare provider as to where their baby may be born.
2. We strongly recommend that for the purpose of improving mother and baby safety, language be inserted in 105 CMR 140.000 which would place limits on the number of birthing mothers assigned to a nurse, with the provision that hospitals be allowed and encouraged to provide additional staffing in instances when patient acuity would make this advisable:

 **Patient Care Area RN-to-Patient Limit**

 Labor & Delivery Nurse Midwife 1:1

 Post partum couplets 1:2

5. We strongly recommend that for the purpose of improving patient safety, language be inserted in 1-05 CMR 140.610 (Recovery Procedures) which would place limits on the number of patients recovering from surgery assigned to a nurse, with the provision that hospitals be allowed and encouraged to provide additional staffing in instances when patient acuity would make this advisable:

 **Patient Care Area RN-to-Patient Limit**

 Operating room 1:1

 Post anesthesia recovery 1:2

1. We urge that 105 CMR 140.611 be retained for its language which called for each clinic to record all surgery related or anesthesia related complications that result in serious morbidity or death of a patient in the patient’s record and to report such complications in writing to MDPH. In fact we would encourage additional language to require such reporting immediately, defined as within 48 hours. Medical errors are currently the 3rd leading cause of death in hospitals despite efforts since the 1999 landmark Institute of Medicine (IOM) report, *To Err is Human*, calling attention to this problem and demanding a spotlight on this problem. The proposal to eliminate a key reporting requirement is completely contrary to this widely lauded goal.
2. We urge that 105 CMR 140.909 (Reporting Requirements) include language calling for each birth center to record all birth-related complications that result in serious morbidity or death of a mother or baby in the patient’s record and to report such complications in writing to MDPH immediately, defined as within 48 hours.