The Commonwealth of Massachusetts

Executive Office of Health and Human Services

Department of Public Health

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To: Acting Commissioner Margret Cooke and Members of the Public Health Council

From: Elizabeth Kelley, Bureau Director, Bureau of Health Care Safety and Quality

Date: October 14, 2020

RE: Informational Briefing on Proposed Amendments to 105 CMR 150.000, *Standards for Long-Term Care Facilities*

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**I. Introduction**

The purpose of this memorandum is to provide the Public Health Council (PHC) with information about proposed amendments to 105 CMR 150.000, *Standards for Long-Term Care Facilities*.

The Department is proposing amendments to this regulation as part of the Executive Office of Health and Human Services’ (EHS) implementation of the Nursing Facility Accountability and Supports Package 2.0. Building off the accountability and support measures EHS implemented in April, the Nursing Facility Accountability and Supports Package 2.0 holds facilities to higher standards of care and infection control, invests up to $140 million in new funding, and restructures Medicaid rates. There are five key elements to EHS’s Nursing Facility Accountability and Support Package 2.0: requirements to strengthen staffing and the direct care workforce, de-densify congregate rooms, and improve standards of care; long term investment through MassHealth rate restructuring; targeted COVID-19 funding to support COVID response actions; sustained state oversight and monitoring; and early identification of issues and rapid response teams.

DPH is proposing several updates to its nursing home licensure regulation in order to strengthen staffing requirements and the direct care workforce, de-densify congregate rooms, and improve standards of care.

**II. Summary of Proposed Changes**

**105 CMR 150.001 (Definitions)** – The Department proposes inserting a definition for “hours of care per resident per day” to mean the total number of hours worked by registered nurses, licensed practical nurses, and nursing assistants, including certified nurse aides, and nurse aides in training with direct resident care responsibilities for each 24 hour period, divided by the total census of the facility for each day.

**105 CMR 150.007 (Nursing Services**) – The Department proposes amending 150.007 in several places to require nursing homes, effective February 1, 2021, to provide a minimum number of hours of care per resident per day, of which a subset of the hours must be care provided by a registered nurse.

**105 CMR 150.017** – The Department proposes amending 150.017 to require, on and after January 31, 2022, nursing homes built prior to 1968 to convert multiple occupancy bedrooms to single or double occupancy bedrooms and to increase the square footage requirements in some single occupancy and all double occupancy resident bedrooms. The Department’s proposed amendments align with the May 2020 amendments to the Facility Guidelines Institute’s 2018 Edition of the *Guidelines for Design and Construction*, with the exception of the requirement to space beds 6 feet apart, which the Department recommends for strengthening infection control in nursing homes.

**105 CMR 150.320** - The Department proposes amending 150.320 to require, on and after January 31, 2022, nursing homes to convert multiple occupancy bedrooms to double occupancy bedrooms and to increase the square footage requirements in double occupancy resident bedrooms. The Department’s proposed amendments align with the May 2020 amendments to the Facility Guidelines Institute’s 2018 Edition of the *Guidelines for Design and Construction*, with the exception of the requirement to space beds 6 feet apart which the Department recommends for strengthening infection control in nursing homes.

**III. Summary**

DPH intends to conduct a public comment hearing and hopes to return to the PHC in January 2021to report on testimony and any recommended changes to the proposed amendments. Following final action by the PHC, the Department will be able to file the final amendment with the Secretary of the Commonwealth.

The proposed amendments to 105 CMR 150.000 are attached to this memorandum.