



*An Announcement from the
Massachusetts Department of Mental Health*



**DEPARTMENT OF MENTAL HEALTH
NOTICE OF REGULATION FILING
AND PUBLIC HEARING
**DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS EXTENDED TO
DECEMBER 6, 2017****

The Department of Mental Health's Notice of Regulation Filing for public comment on amendments to the following regulations will be published in the Massachusetts Register on November 3, 2017:

104 CMR 27.00 [Licensing and Operational Standards for Mental Health Facilities](#)

This regulation 104 CMR 27.00, [Licensing and Operational Standards for Mental Health Facilities](#) sets forth the licensing and operational standards by which DMH licenses private psychiatric facilities, and pursuant to which it operates DMH inpatient facilities.

DMH is proposing to amend the regulation to create and enforce as a condition of licensure that DMH licensed inpatient psychiatric facilities provide services that meet the needs of the Commonwealth, particularly with respect to specialty populations currently underserved and most likely to board in emergency rooms waiting for a placement. Significant amendments include:

- Requirement that DMH licensed inpatient psychiatric facilities have plans to assure adequate staffing to meet the needs of their current operating capacity
- Prohibit facilities from refusing to admit patients who meet commitment criteria under M.G.L. c. 123 § 12(b), for which they are licensed, while providing admission for a preferred specialty population, and permitting refusal only if the accepting such an admission would cause the facility to operate above its licensed capacity or beyond its capability to care for a specific patient
- Updating provisions regarding DMH action in response to licensing deficiencies, using language consistent with DPH's licensing regulations
- Permitting DMH to impose a provisional license, in lieu of license suspension or revocation, on a facility found to be out of compliance with licensing requirements, and charge a renewal fee to have its full license restored
- Simplifying privacy rules by applying federal HIPAA standards for disclosures for purposes of "treatment, payment and operations"
- Updating language to allow for alternative technology, such as telemedicine
- Updating language regarding authority of guardians to conform with current Uniform Probate Code in effect
- Clarifying current licensing practice regarding DMH action in response to licensing application, plans of correction, staff training, notices to DMH from licensed facilities
- Adopts language similar to DPH licensing regulations concerning required notifications to DMH
- Repeals out-dated section on behavior management
- Clarifies licensing and operational standards with reorganization of sections

104 CMR 28.00 Licensing and Operational Standards for Community Services

This regulation 104 CMR 28.00, Licensing and Operational Standards for Community Services establishes a comprehensive system of community mental health care and licensed programs that provide residential care and treatment for mental health conditions, by providing licensing and operational standards and procedures for community programs that DMH licenses.

DMH is proposing to amend the regulation to further improve services provided by DMH licensed community programs. Significant amendments include:

- Simplifying the application of privacy rules by applying federal HIPAA standards for disclosures for purposes of "treatment, payment and healthcare operations"
- Updating language for accuracy and clarity

TIME AND PLACE OF PUBLIC HEARING:

November 28, 2017 at 2:00 – 4:00 p.m.
DMH Legal Office
25 Staniford Street, Boston Room
Boston, MA 02114

METHOD OF COMMENT: Individuals planning to offer oral testimony on the proposed regulations mentioned above should arrive and register at the hearing site 30 minutes before their intent to testify and provide a written copy or summary of their testimony at the hearing. Written comments may be mailed to the Office of the General Counsel, Department of Mental Health, 25 Staniford Street, Boston, MA 02114; or submitted to e-mail address: DMH-regulations@state.ma.us NO LATER THAN NOVEMBER 28, 2017. Comment Period ends at 5:00 P.M. on November 28, 2017.

ACCOMMODATION: If you plan to attend the public hearing and wish to request the accommodation of a sign language or other interpreter, contact DMH Legal at least 14 days in advance of the hearing date at (617) 626-8236.

INFORMATION: Copies of the proposed regulations may be obtained from the Department of Mental Health Legal Office, 25 Staniford Street, Boston, MA 02114, and may also be found on the Department's Internet site at <http://www.mass.gov/eohhs/gov/laws-regs/dmh>.

By Order of the Department of Mental Health
Joan Mikula, Commissioner
October 18, 2017

[Notice of Public Hearing \(PDF\)](#) or please go to the link for the [Notice of Public Hearing](#) on the DMH Internet.

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