

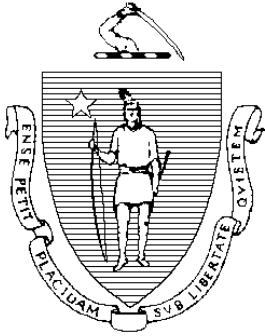
The

Massachusetts

Register

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THE COMMONWEALTH OF MASSACHUSETTS
Secretary of the Commonwealth - William Francis Galvin

The Massachusetts Register
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Notice of Expiration of Emergency Regulations

There are no Expiration of Emergency Regulations.

Emergency Regulations

There are no Emergency Regulations.

Permanent Regulations

101 CMR	Executive Office of Health and Human Services	
204.00	Rates of Payment to Resident Care Facilities - <i>Compliance</i>	53
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760 CMR	Executive Office of Housing and Livable Communities	
72.00	Multi-family Zoning Requirement for MBTA Communities	61
	<i>Implements the MBTA Communities Act, created by M.G.L. c. 40A, § 3A, to require MBTA Communities to have a zoning ordinance or bylaw that provides for at least one district of reasonable size in which multi-family housing is permitted as of right.</i>	
970 CMR	Office of Campaign and Political Finance	
2.00	Political Expenditures - <i>Compliance</i>	63

Acts 2025

CHAPTER NUMBER	BILL NUMBER	TITLE	DATE
1	H 58	Making Appropriations for Fiscal Year 2025 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.	2/28/2025

STATE REGISTER OF HISTORIC PLACES

WEEKS OF: February 1 – February 28, 2025

For further information call the Massachusetts Historical Commission (617-727-8470)

ACTIONS TAKEN UNDER 950 CMR 71.00			
Town/Property/Agency NONE	Finding	Date	
ADDITIONAL LISTINGS UNDER 950 CMR 71.00			
Town/Name/Address	Designation	Date	Number of Properties
Brockton Blanchard Plat Historic District 4-17 Carleton St, 10-79 Ellsworth St, 70 Highland St, 4-18 Montgomery St, 101-138 Newbury St, 3-18 North Arlington St, 195-249 West Elm St	NRDIS	2/13/2025	52
Brookline Goddard, Benjamin House 43 Sumner Rd	PR	1/10/2025	2
Taunton Coyle, Monsignor James High School 61 Summer St	NRIND	2/3/2025	3
Weymouth Keith, George E. Company Factory No. 8 44 Wharf St	NRIND	2/3/2025	3



EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
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Administrative Bulletin 25-03

101 CMR 316.00: Rates for Surgery and Anesthesia Services
101 CMR 317.00: Rates for Medicine Services
101 CMR 318.00: Rates for Radiology Services

Effective January 1, 2025

2025 CPT/HCPCS Coding Updates

Summary

In accordance with 101 CMR 316.01(5) and (6), 101 CMR 317.01(5) and (6), and 101 CMR 318.01(5) and (6), the Executive Office of Health and Human Services (EOHHS) is adding new service codes and deleting outdated codes, effective for dates of service on and after January 1, 2025. The following tables specify the codes that have been added and deleted, followed by crosswalks identifying replacement codes for applicable deleted codes. For entirely new codes that require new pricing and have Medicare-assigned relative value units (RVUs), rates are calculated according to the rate methodology used in setting physician rates. Rates for new codes with one-to-one crosswalks from deleted codes or to existing codes are set at the current payment rate of the deleted or existing codes, respectively. Rates for new codes with one-to-many crosswalks from deleted codes are calculated using the current rate-setting methodology in accordance with the regulations. All other codes listed in this bulletin that require pricing are paid at individual consideration (I.C.). Rates listed in this administrative bulletin are applicable until revised rates are issued by EOHHS. Deleted codes are not available for use for dates of service after December 31, 2024.

101 CMR 316:00: Surgery and Anesthesia – Added Codes

Code	Description
15011	Harvest of skin for skin cell suspension autograft; first 25 sq cm or less

Code	Description
15012	Harvest of skin for skin cell suspension autograft; each additional 25 sq cm or part thereof (List separately in addition to code for primary procedure)
15013	Preparation of skin cell suspension autograft, requiring enzymatic processing, manual mechanical disaggregation of skin cells, and filtration; first 25 sq cm or less of harvested skin
15014	Preparation of skin cell suspension autograft, requiring enzymatic processing, manual mechanical disaggregation of skin cells, and filtration; each additional 25 sq cm of harvested skin or part thereof (List separately in addition to code for primary procedure)
15015	Application of skin cell suspension autograft to wound and donor sites, including application of primary dressing, trunk, arms, legs; first 480 sq cm or less
15016	Application of skin cell suspension autograft to wound and donor sites, including application of primary dressing, trunk, arms, legs; each additional 480 sq cm or part thereof (List separately in addition to code for primary procedure)
15017	Application of skin cell suspension autograft to wound and donor sites, including application of primary dressing, face, scalp, eyelids, mouth, neck, ears, orbits, genitalia, hands, feet, and/or multiple digits; first 480 sq cm or less
15018	Application of skin cell suspension autograft to wound and donor sites, including application of primary dressing, face, scalp, eyelids, mouth, neck, ears, orbits, genitalia, hands, feet, and/or multiple digits; each additional 480 sq cm or part thereof (List separately in addition to code for primary procedure)
25448	Arthroplasty, intercarpal or carpometacarpal joints; suspension, including transfer or transplant of tendon, with interposition, when performed
38225	Chimeric antigen receptor T-cell (CAR-T) therapy; harvesting of blood-derived T lymphocytes for development of genetically modified autologous CAR-T cells, per day
38226	Chimeric antigen receptor T-cell (CAR-T) therapy; preparation of blood-derived T lymphocytes for transportation (eg, cryopreservation, storage)
38227	Chimeric antigen receptor T-cell (CAR-T) therapy; receipt and preparation of CAR-T cells for administration
38228	Chimeric antigen receptor T-cell (CAR-T) therapy; CAR-T cell administration, autologous
49186	Excision or destruction, open, intra-abdominal (ie, peritoneal, mesenteric, retroperitoneal), primary or secondary tumor(s) or cyst(s), sum of the maximum length of tumor(s) or cyst(s); 5 cm or less
49187	Excision or destruction, open, intra-abdominal (ie, peritoneal, mesenteric, retroperitoneal), primary or secondary tumor(s) or cyst(s), sum of the maximum length of tumor(s) or cyst(s); 5.1 to 10 cm
49188	Excision or destruction, open, intra-abdominal (ie, peritoneal, mesenteric, retroperitoneal), primary or secondary tumor(s) or cyst(s), sum of the maximum length of tumor(s) or cyst(s); 10.1 to 20 cm

Code	Description
49189	Excision or destruction, open, intra-abdominal (ie, peritoneal, mesenteric, retroperitoneal), primary or secondary tumor(s) or cyst(s), sum of the maximum length of tumor(s) or cyst(s); 20.1 to 30 cm
49190	Excision or destruction, open, intra-abdominal (ie, peritoneal, mesenteric, retroperitoneal), primary or secondary tumor(s) or cyst(s), sum of the maximum length of tumor(s) or cyst(s); greater than 30 cm
51721	Insertion of transurethral ablation transducer for delivery of thermal ultrasound for prostate tissue ablation, including suprapubic tube placement during the same session and placement of an endorectal cooling device, when performed
53865	Cystourethroscopy with insertion of temporary device for ischemic remodeling (ie, pressure necrosis) of bladder neck and prostate
53866	Catheterization with removal of temporary device for ischemic remodeling (ie, pressure necrosis) of bladder neck and prostate
55881	Ablation of prostate tissue, transurethral, using thermal ultrasound, including magnetic resonance imaging guidance for, and monitoring of, tissue ablation;
55882	Ablation of prostate tissue, transurethral, using thermal ultrasound, including magnetic resonance imaging guidance for, and monitoring of, tissue ablation; with insertion of transurethral ultrasound transducer for delivery of thermal ultrasound, including suprapubic tube placement and placement of an endorectal cooling device, when performed
60660	Ablation of 1 or more thyroid nodule(s), one lobe or the isthmus, percutaneous, including imaging guidance, radiofrequency
60661	Ablation of 1 or more thyroid nodule(s), additional lobe, percutaneous, including imaging guidance, radiofrequency (List separately in addition to code for primary procedure)
61715	Magnetic resonance image guided high intensity focused ultrasound (MRgFUS), stereotactic ablation of target, intracranial, including stereotactic navigation and frame placement, when performed
64466	Thoracic fascial plane block, unilateral; by injection(s), including imaging guidance, when performed
64467	Thoracic fascial plane block, unilateral; by continuous infusion(s), including imaging guidance, when performed
64468	Thoracic fascial plane block, bilateral; by injection(s), including imaging guidance, when performed
64469	Thoracic fascial plane block, bilateral; by continuous infusion(s), including imaging guidance, when performed
64473	Lower extremity fascial plane block, unilateral; by injection(s), including imaging guidance, when performed
64474	Lower extremity fascial plane block, unilateral; by continuous infusion(s), including imaging guidance, when performed

Code	Description
66683	Implantation of iris prosthesis, including suture fixation and repair or removal of iris, when performed
81195	Cytogenomic (genome-wide) analysis, hematologic malignancy, structural variants and copy number variants, optical genome mapping (OGM)
81515	Infectious disease, bacterial vaginosis and vaginitis, real-time PCR amplification of DNA markers for Atopobium vaginae, Atopobium species, Megasphaera type 1, and Bacterial Vaginosis Associated Bacteria-2 (BVAB-2), utilizing vaginal-fluid specimens, algorithm reported as positive or negative for high likelihood of bacterial vaginosis, includes separate detection of Trichomonas vaginalis and Candida species (C. albicans, C. tropicalis, C. parapsilosis, C. dubliniensis), Candida glabrata/Candida krusei, when reported
81558	Transplantation medicine (allograft rejection, kidney), mRNA, gene expression profiling by quantitative polymerase chain reaction (qPCR) of 139 genes, utilizing whole blood, algorithm reported as a binary categorization as transplant excellence, which indicates immune quiescence, or not transplant excellence, indicating subclinical rejection
82233	Beta-amyloid; 1-40 (Abeta 40)
82234	Beta-amyloid; 1-42 (Abeta 42)
83884	Neurofilament light chain (NfL)
84393	Tau, phosphorylated (eg, pTau 181, pTau 217), each
84394	Tau, total (tTau)
86581	Streptococcus pneumoniae antibody (IgG), serotypes, multiplex immunoassay, quantitative
87513	Infectious agent detection by nucleic acid (DNA or RNA); Helicobacter pylori (H. pylori), clarithromycin resistance, amplified probe technique
87564	Infectious agent detection by nucleic acid (DNA or RNA); Mycobacterium tuberculosis, rifampin resistance, amplified probe technique
87594	Infectious agent detection by nucleic acid (DNA or RNA); Pneumocystis jirovecii, amplified probe technique
87626	Infectious agent detection by nucleic acid (DNA or RNA); Human Papillomavirus (HPV), separately reported high-risk types (eg, 16, 18, 31, 45, 51, 52) and high-risk pooled result(s)

101 CMR 316.00: Surgery and Anesthesia – Deleted Codes

Code	Description
15819	Cervicoplasty
21632	Radical resection of sternum; with mediastinal lymphadenectomy
33471	Valvotomy, pulmonary valve, closed heart, via pulmonary artery

Code	Description
33737	Atrial septectomy or septostomy; open heart, with inflow occlusion
33813	Obliteration of aortopulmonary septal defect; without cardiopulmonary bypass
47802	U-tube hepaticoenterostomy
49203	Excision or destruction, open, intra-abdominal tumors, cysts or endometriomas, 1 or more peritoneal, mesenteric, or retroperitoneal primary or secondary tumors; largest tumor 5 cm diameter or less
49204	Excision or destruction, open, intra-abdominal tumors, cysts or endometriomas, 1 or more peritoneal, mesenteric, or retroperitoneal primary or secondary tumors; largest tumor 5.1-10.0 cm diameter
49205	Excision or destruction, open, intra-abdominal tumors, cysts or endometriomas, 1 or more peritoneal, mesenteric, or retroperitoneal primary or secondary tumors; largest tumor greater than 10.0 cm diameter
50135	Pyelotomy; complicated (eg, secondary operation, congenital kidney abnormality)
51030	Cystotomy or cystostomy; with cryosurgical destruction of intravesical lesion
54438	Replantation, penis, complete amputation including urethral repair
58957	Resection (tumor debulking) of recurrent ovarian, tubal, primary peritoneal, uterine malignancy (intra-abdominal, retroperitoneal tumors), with omentectomy, if performed;
86327	Immunoelectrophoresis; crossed (2-dimensional assay)
86490	Skin test; coccidioidomycosis
88388	Macroscopic examination, dissection, and preparation of tissue for non-microscopic analytical studies (eg, nucleic acid-based molecular studies); in conjunction with a touch imprint, intraoperative consultation, or frozen section, each tissue preparation (eg, a single lymph node) (List separately in addition to code for primary procedure)

101 CMR 316.00: Surgery and Anesthesia – Crosswalk

Deleted Code	Crosswalk to Newly Added Codes
49203	49186, 49187, 49188, 49189, 49190
49204	49186, 49187, 49188, 49189, 49190
49205	49186, 49187, 49188, 49189, 49190
58957	49186, 49187, 49188, 49189, 49190

101 CMR 316.00: Surgery and Anesthesia Rates

Code	Non-Facility Fee	Facility Fee	Global	Professional Component Fee	Technical Component Fee
15011	-	-	I.C.	-	-
15012	-	-	I.C.	-	-
15013	-	-	I.C.	-	-
15014	-	-	I.C.	-	-
15015	-	-	I.C.	-	-
15016	-	-	I.C.	-	-
15017	-	-	I.C.	-	-
15018	-	-	I.C.	-	-
25448	-	-	\$683.01	-	-
38225	-	-	\$71.65	-	-
38226	-	-	\$28.96	-	-
38227	-	-	\$29.21	-	-
38228	\$223.22	\$132.55	-	-	-
49186	-	-	\$975.10	-	-
49187	-	-	\$1,240.47	-	-
49188	-	-	\$1,483.12	-	-
49189	-	-	\$1,723.44	-	-
49190	-	-	\$2,123.48	-	-
51721	\$421.75	\$160.15	-	-	-
53865	\$2,343.40	\$121.40	-	-	-
53866	\$108.45	\$61.10	-	-	-
55881	\$7,005.22	\$358.48	-	-	-
55882	\$7,243.80	\$441.66	-	-	-
60660	\$1,956.83	\$233.43	-	-	-
60661	\$305.78	\$160.81	-	-	-
61715	-	-	\$880.11	-	-
64466	\$94.69	\$48.15	-	-	-
64467	\$178.32	\$55.54	-	-	-
64468	\$109.47	\$53.57	-	-	-

Code	Non-Facility Fee	Facility Fee	Global	Professional Component Fee	Technical Component Fee
64469	\$274.67	\$58.27	-	-	-
64473	\$89.59	\$43.04	-	-	-
64474	\$176.34	\$53.57	-	-	-
66683	-	-	\$588.56	-	-
81195	-	-	I.C.	-	-
81515	-	-	I.C.	-	-
81558	-	-	I.C.	-	-
82233	-	-	I.C.	-	-
82234	-	-	I.C.	-	-
83884	-	-	I.C.	-	-
84393	-	-	I.C.	-	-
84394	-	-	I.C.	-	-
86581	-	-	I.C.	-	-
87513	-	-	I.C.	-	-
87564	-	-	I.C.	-	-
87594	-	-	I.C.	-	-
87626	-	-	I.C.	-	-

101 CMR 317.00: Medicine – Added Codes

Code	Description
90593	Chikungunya virus vaccine, recombinant, for intramuscular use
90611	Smallpox and monkeypox vaccine, attenuated vaccinia virus, live, non-replicating, preservative free, 0.5 mL dosage, suspension, for subcutaneous use
90662	Influenza virus vaccine (IIV), split virus, preservative free, enhanced immunogenicity via increased antigen content, for intramuscular use
90684	Pneumococcal conjugate vaccine, 21 valent (PCV21), for intramuscular use
90686	Influenza virus vaccine, quadrivalent (IIV4), split virus, preservative free, 0.5 mL dosage, for intramuscular use
90688	Influenza virus vaccine, quadrivalent (IIV4), split virus, 0.5 mL dosage, for intramuscular use

Code	Description
90695	Influenza virus vaccine, H5N8, derived from cell cultures, adjuvanted, for intramuscular use
92137	Computerized ophthalmic diagnostic imaging (eg, optical coherence tomography [OCT]), posterior segment, with interpretation and report, unilateral or bilateral; retina, including OCT angiography
93896	Vasoreactivity study performed with transcranial Doppler study of intracranial arteries, complete (List separately in addition to code for primary procedure)
93897	Emboli detection without intravenous microbubble injection performed with transcranial Doppler study of intracranial arteries, complete (List separately in addition to code for primary procedure)
93898	Venous-arterial shunt detection with intravenous microbubble injection performed with transcranial Doppler study of intracranial arteries, complete (List separately in addition to code for primary procedure)
96041	Medical genetics and genetic counseling services, each 30 minutes of total time provided by the genetic counselor on the date of the encounter
98000	Synchronous audio-video visit for the evaluation and management of a new patient, which requires a medically appropriate history and/or examination and straightforward medical decision making. When using total time on the date of the encounter for code selection, 15 minutes must be met or exceeded.
98001	Synchronous audio-video visit for the evaluation and management of a new patient, which requires a medically appropriate history and/or examination and low medical decision making. When using total time on the date of the encounter for code selection, 30 minutes must be met or exceeded.
98002	Synchronous audio-video visit for the evaluation and management of a new patient, which requires a medically appropriate history and/or examination and moderate medical decision making. When using total time on the date of the encounter for code selection, 45 minutes must be met or exceeded.
98003	Synchronous audio-video visit for the evaluation and management of a new patient, which requires a medically appropriate history and/or examination and high medical decision making. When using total time on the date of the encounter for code selection, 60 minutes must be met or exceeded.
98004	Synchronous audio-video visit for the evaluation and management of an established patient, which requires a medically appropriate history and/or examination and straightforward medical decision making. When using total time on the date of the encounter for code selection, 10 minutes must be met or exceeded.
98005	Synchronous audio-video visit for the evaluation and management of an established patient, which requires a medically appropriate history and/or examination and low medical decision making. When using total time on the date of the encounter for code selection, 20 minutes must be met or exceeded.
98006	Synchronous audio-video visit for the evaluation and management of an established patient, which requires a medically appropriate history and/or examination and

Code	Description
	moderate medical decision making. When using total time on the date of the encounter for code selection, 30 minutes must be met or exceeded.
98007	Synchronous audio-video visit for the evaluation and management of an established patient, which requires a medically appropriate history and/or examination and high medical decision making. When using total time on the date of the encounter for code selection, 40 minutes must be met or exceeded.
98008	Synchronous audio-only visit for the evaluation and management of a new patient, which requires a medically appropriate history and/or examination, straightforward medical decision making, and more than 10 minutes of medical discussion. When using total time on the date of the encounter for code selection, 15 minutes must be met or exceeded.
98009	Synchronous audio-only visit for the evaluation and management of a new patient, which requires a medically appropriate history and/or examination, low medical decision making, and more than 10 minutes of medical discussion. When using total time on the date of the encounter for code selection, 30 minutes must be met or exceeded.
98010	Synchronous audio-only visit for the evaluation and management of a new patient, which requires a medically appropriate history and/or examination, moderate medical decision making, and more than 10 minutes of medical discussion. When using total time on the date of the encounter for code selection, 45 minutes must be met or exceeded.
98011	Synchronous audio-only visit for the evaluation and management of a new patient, which requires a medically appropriate history and/or examination, high medical decision making, and more than 10 minutes of medical discussion. When using total time on the date of the encounter for code selection, 60 minutes must be met or exceeded.
98012	Synchronous audio-only visit for the evaluation and management of an established patient, which requires a medically appropriate history and/or examination, straightforward medical decision making, and more than 10 minutes of medical discussion. When using total time on the date of the encounter for code selection, 10 minutes must be exceeded.
98013	Synchronous audio-only visit for the evaluation and management of an established patient, which requires a medically appropriate history and/or examination, low medical decision making, and more than 10 minutes of medical discussion. When using total time on the date of the encounter for code selection, 20 minutes must be met or exceeded.
98014	Synchronous audio-only visit for the evaluation and management of an established patient, which requires a medically appropriate history and/or examination, moderate medical decision making, and more than 10 minutes of medical discussion. When using total time on the date of the encounter for code selection, 30 minutes must be met or exceeded.
98015	Synchronous audio-only visit for the evaluation and management of an established patient, which requires a medically appropriate history and/or examination, high

Code	Description
	medical decision making, and more than 10 minutes of medical discussion. When using total time on the date of the encounter for code selection, 40 minutes must be met or exceeded.
98016	Brief communication technology-based service (eg, virtual check-in) by a physician or other qualified health care professional who can report evaluation and management services, provided to an established patient, not originating from a related evaluation and management service provided within the previous 7 days nor leading to an evaluation and management service or procedure within the next 24 hours or soonest available appointment, 5-10 minutes of medical discussion.
J0139	Injection, adalimumab, 1 mg
J0175	Injection, donanemab-azbt, 2 mg
J0601	Sevelamer carbonate (Renvela or therapeutically equivalent), oral, 20 mg (for ESRD on dialysis)
J0602	Sevelamer carbonate (Renvela or therapeutically equivalent), oral, powder, 20 mg (for ESRD on dialysis)
J0603	Sevelamer HCl (Renagel or therapeutically equivalent), oral, 20 mg (for ESRD on dialysis)
J0605	Sucroferric oxyhydroxide, oral, 5 mg (for ESRD on dialysis)
J0607	Lanthanum carbonate, oral, 5 mg (for ESRD on dialysis)
J0608	Lanthanum carbonate, oral, powder, 5 mg, not therapeutically equivalent to J0607 (for ESRD on dialysis)
J0609	Ferric citrate, oral, 3 mg ferric iron, (for ESRD on dialysis)
J0615	Calcium acetate, oral, 23 mg (for ESRD on dialysis)
J0666	Injection, bupivacaine liposome, 1 mg
J0870	injection, cyclaine
J0901	Vadadustat, oral, 1 mg (for ESRD on dialysis)
J0911	Instillation, taurolidine 1.35 mg and heparin sodium 100 units (central venous catheter lock for adult patients receiving chronic hemodialysis)
J1171	Injection, hydromorphone, 0.1 mg
J1307	Injection, crovalimab-akkz, 10 mg
J1414	Injection, fidanacogene elaparovec-dzkt, per therapeutic dose
J1434	Injection, fosaprepitant (Focinvez), 1 mg
J1552	Injection, immune globulin (Alyglo), 500 mg
J1597	Injection, glycopyrrolate (Glyrx-PF), 0.1 mg
J1748	Injection, infliximab-dyyb (Zymfentra), 10 mg

Code	Description
J2002	Injection, lidocaine HCl in 5% dextrose, 1 mg
J2003	Injection, lidocaine HCl , 1 mg
J2004	Injection, lidocaine HCl with epinephrine, 1 mg
J2252	Injection, midazolam in 0.8% sodium chloride, intravenous, not therapeutically equivalent to J2250, 1 mg
J2267	Injection, mirikizumab-mrkz, 1 mg
J2290	injection, myochrysine, up to 50 mg
J2472	Injection, pantoprazole sodium in sodium chloride (Baxter), 40 mg
J2802	Injection, romiplostim, 1 mcg
J3247	Injection, secukinumab, IV, 1 mg
J3392	Injection, exagamglogene autotemcel, per treatment
J7171	Injection, ADAMTS13, recombinant-krhn, 10 IU
J7355	Injection, travoprost, intracameral implant, 1 mcg
J7514	Mycophenolate mofetil (Myhibbin), oral suspension, 100 mg
J7601	Ensifentrine, inhalation suspension, FDA-approved final product, noncompounded, administered through DME, unit dose form, 3 mg
J8522	Capecitabine, oral, 50 mg
J8541	Dexamethasone (Hemady), oral, 0.25 mg
J9026	Injection, tarlatamab-dlle, 1 mg
J9028	Injection, nogapendekin alfa inbakicept-pmln, for intravesical use, 1 mcg
J9076	Injection, cyclophosphamide (Baxter), 5 mg
J9292	Injection, pemetrexed (Avyxa), not therapeutically equivalent to J9305, 10 mg
J9329	Injection, tislelizumab-jsgr, 1mg
Q0155	Dronabinol (Syndros), 0.1 mg, oral, FDA-approved prescription anti-emetic, for use as a complete therapeutic substitute for an IV anti-emetic at the time of chemotherapy treatment, not to exceed a 48 hour dosage regimen
Q0521	Pharmacy supplying fee for HIV pre-exposure prophylaxis FDA-approved prescription
Q4346	Shelter DM Matrix, per sq cm
Q4347	Rampart DL Matrix, per sq cm
Q4348	Sentry SL Matrix, per sq cm
Q4349	Mantle DL Matrix, per sq cm
Q4350	Palisade DM Matrix, per sq cm

Code	Description
Q4351	Enclose TL Matrix, per sq cm
Q4352	Overlay SL Matrix, per sq cm
Q4353	Xceed TL Matrix, per sq cm
Q5133	Injection, tocilizumab-bavi (Tofidence), biosimilar, 1 mg
Q5135	Injection, tocilizumab-aazg (Tyenne), biosimilar, 1 mg
Q5139	Injection, eculizumab-aeeb (bkemv), biosimilar, 10 mg
Q5140	Injection, adalimumab-fkjp, biosimilar, 1 mg
Q5141	Injection, adalimumab-aaty, biosimilar, 1 mg
Q5142	Injection, adalimumab-ryvk biosimilar, 1 mg
Q5143	Injection, adalimumab-adbm, biosimilar, 1 mg
Q5144	Injection, adalimumab-aacf (Idacio), biosimilar, 1 mg
Q5145	Injection, adalimumab-afzb (Abrilada), biosimilar, 1 mg
Q5146	Injection, trastuzumab-strf (Hercessi), biosimilar, 10 mg
Q9996	Injection, ustekinumab-ttwe (Pyzchiva), subcutaneous, 1 mg
Q9997	Injection, ustekinumab-ttwe (Pyzchiva), intravenous, 1 mg
Q9998	Injection, ustekinumab-aekn (Selarsdi), 1 mg

101 CMR 317.00: Medicine – Deleted Codes

Code	Description
90630	Influenza virus vaccine, quadrivalent (IIV4), split virus, preservative free, for intradermal use
90654	Influenza virus vaccine, trivalent (IIV3), split virus, preservative-free, for intradermal use
93890	Transcranial Doppler study of the intracranial arteries; vasoreactivity study
96003	Dynamic fine wire electromyography, during walking or other functional activities, 1 muscle
96040	Medical genetics and genetic counseling services, each 30 minutes face-to-face with patient/family
99441	Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 5-10 minutes of medical discussion
99442	Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an

Code	Description
	established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 11-20 minutes of medical discussion
99443	Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 21-30 minutes of medical discussion
J0135	Injection, adalimumab, 20 mg
J0172	Injection, aducanumab-avwa, 2 mg
J0570	Buprenorphine implant, 74.2 mg
J9057	Injection, copanlisib, 1 mg
J9259	Injection, paclitaxel protein-bound particles (American Regent), not therapeutically equivalent to J9264, 1 mg
J9371	Injection, vincristine sulfate liposome, 1 mg
Q0516	Pharmacy supplying fee for HIV pre-exposure prophylaxis (PrEP) FDA-approved prescription oral drug, per 30-days
Q0517	Pharmacy supplying fee for HIV pre-exposure prophylaxis (PrEP) FDA-approved prescription oral drug, per 60-days
Q0518	Pharmacy supplying fee for HIV pre-exposure prophylaxis (PrEP) FDA-approved prescription oral drug, per 90-days
Q5131	Injection, adalimumab-aacf (Idacio), biosimilar, 20 mg
Q5132	Injection, adalimumab-afzb (Abrilada), biosimilar, 10 mg

101 CMR 317.00: Medicine – Crosswalk

Deleted Code	Crosswalk to Newly Added Codes	Crosswalk to Existing Codes
90630	90662, 90686, 90688	90653, 90655, 90656, 90657, 90658, 90660, 90661, 90664, 90666, 90667, 90668, 90672, 90673, 90674, 90682, 90685, 90687, 90689, 90694, 90756
90654	90662, 90686, 90688	90653, 90655, 90656, 90657, 90658, 90660, 90661, 90664, 90666, 90667, 90668, 90672,

Deleted Code	Crosswalk to Newly Added Codes	Crosswalk to Existing Codes
		90673, 90674, 90682, 90685, 90687, 90689, 90694, 90756
93890	93896	
96040	96041	
99441	98008, 98009, 98010, 98011, 98012, 98013, 98014, 98015, 98016	
99442	98008, 98009, 98010, 98011, 98012, 98013, 98014, 98015, 98016	
99443	98008, 98009, 98010, 98011, 98012, 98013, 98014, 98015, 98016	

101 CMR 317.00: Medicine Rates

Code	Non-Facility Fee	Facility Fee	Global	Professional Component Fee	Technical Component Fee
90593	-	-	I.C.	-	-
90611	-	-	I.C.	-	-
90662	-	-	I.C.	-	-
90684	-	-	I.C.	-	-
90686	-	-	I.C.	-	-
90688	-	-	I.C.	-	-
90695	-	-	I.C.	-	-
92137	-	-	\$45.43	\$26.24	\$19.19
93896	-	-	\$220.00	\$37.07	\$182.93
93897	-	-	\$177.83	\$27.43	\$150.39
93898	-	-	\$186.10	\$32.17	\$153.94
96041	-	-	\$38.83	-	-
98000	\$38.66	\$33.58	-	-	-
98001	\$63.50	\$57.88	-	-	-

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Code	Non-Facility Fee	Facility Fee	Global	Professional Component Fee	Technical Component Fee
98002	\$101.13	\$93.90	-	-	-
98003	\$133.98	\$126.22	-	-	-
98004	\$29.91	\$25.10	-	-	-
98005	\$52.10	\$46.75	-	-	-
98006	\$76.72	\$69.49	-	-	-
98007	\$101.66	\$93.90	-	-	-
98008	\$36.66	\$32.11	-	-	-
98009	\$60.54	\$55.72	-	-	-
98010	\$94.06	\$87.64	-	-	-
98011	\$122.31	\$115.36	-	-	-
98012	\$27.35	\$23.61	-	-	-
98013	\$47.59	\$43.04	-	-	-
98014	\$69.43	\$63.54	-	-	-
98015	\$100.86	\$93.90	-	-	-
98016	\$12.26	\$11.19	-	-	-
J0139	-	-	I.C.	-	-
J0175	-	-	I.C.	-	-
J0601	-	-	I.C.	-	-
J0602	-	-	I.C.	-	-
J0603	-	-	I.C.	-	-
J0605	-	-	I.C.	-	-
J0607	-	-	I.C.	-	-
J0608	-	-	I.C.	-	-
J0609	-	-	I.C.	-	-
J0615	-	-	I.C.	-	-
J0666	-	-	I.C.	-	-
J0870	-	-	I.C.	-	-
J0901	-	-	I.C.	-	-
J0911	-	-	I.C.	-	-
J1171	-	-	I.C.	-	-

EOHHS
Administrative Bulletin 25-03
Effective January 1, 2025

Code	Non-Facility Fee	Facility Fee	Global	Professional Component Fee	Technical Component Fee
J1307	-	-	I.C.	-	-
J1414	-	-	I.C.	-	-
J1434	-	-	I.C.	-	-
J1552	-	-	I.C.	-	-
J1597	-	-	I.C.	-	-
J1748	-	-	I.C.	-	-
J2002	-	-	I.C.	-	-
J2003	-	-	I.C.	-	-
J2004	-	-	I.C.	-	-
J2252	-	-	I.C.	-	-
J2267	-	-	I.C.	-	-
J2290	-	-	I.C.	-	-
J2472	-	-	I.C.	-	-
J2802	-	-	I.C.	-	-
J3247	-	-	I.C.	-	-
J3392	-	-	I.C.	-	-
J7171	-	-	I.C.	-	-
J7355	-	-	I.C.	-	-
J7514	-	-	I.C.	-	-
J7601	-	-	I.C.	-	-
J8522	-	-	I.C.	-	-
J8541	-	-	I.C.	-	-
J9026	-	-	I.C.	-	-
J9028	-	-	I.C.	-	-
J9076	-	-	I.C.	-	-
J9292	-	-	I.C.	-	-
J9329	-	-	I.C.	-	-
Q0155	-	-	I.C.	-	-
Q0521	-	-	I.C.	-	-
Q4346	-	-	I.C.	-	-

Code	Non-Facility Fee	Facility Fee	Global	Professional Component Fee	Technical Component Fee
Q4347	-	-	I.C.	-	-
Q4348	-	-	I.C.	-	-
Q4349	-	-	I.C.	-	-
Q4350	-	-	I.C.	-	-
Q4351	-	-	I.C.	-	-
Q4352	-	-	I.C.	-	-
Q4353	-	-	I.C.	-	-
Q5133	-	-	I.C.	-	-
Q5135	-	-	I.C.	-	-
Q5139	-	-	I.C.	-	-
Q5140	-	-	I.C.	-	-
Q5141	-	-	I.C.	-	-
Q5142	-	-	I.C.	-	-
Q5143	-	-	I.C.	-	-
Q5144	-	-	I.C.	-	-
Q5145	-	-	I.C.	-	-
Q5146	-	-	I.C.	-	-
Q9996	-	-	I.C.	-	-
Q9997	-	-	I.C.	-	-
Q9998	-	-	I.C.	-	-

101 CMR 318.00: Radiology – Added Codes

Code	Description
76014	MR safety implant and/or foreign body assessment by trained clinical staff, including identification and verification of implant components from appropriate sources (eg, surgical reports, imaging reports, medical device databases, device vendors, review of prior imaging), analyzing current MR conditional status of individual components and systems, and consulting published professional guidance with written report; initial 15 minutes
76015	MR safety implant and/or foreign body assessment by trained clinical staff, including identification and verification of implant components from appropriate sources (eg, surgical reports, imaging reports, medical device databases, device vendors, review of

	prior imaging), analyzing current MR conditional status of individual components and systems, and consulting published professional guidance with written report; each additional 30 minutes (List separately in addition to code for primary procedure)
76016	MR safety determination by a physician or other qualified health care professional responsible for the safety of the MR procedure, including review of implant MR conditions for indicated MR examination, analysis of risk vs clinical benefit of performing MR examination, and determination of MR equipment, accessory equipment, and expertise required to perform examination, with written report
76017	MR safety medical physics examination customization, planning and performance monitoring by medical physicist or MR safety expert, with review and analysis by physician or other qualified health care professional to prioritize and select views and imaging sequences, to tailor MR acquisition specific to restrictive requirements or artifacts associated with MR conditional implants or to mitigate risk of non-conditional implants or foreign bodies, with written report
76018	MR safety implant electronics preparation under supervision of physician or other qualified health care professional, including MR-specific programming of pulse generator and/or transmitter to verify device integrity, protection of device internal circuitry from MR electromagnetic fields, and protection of patient from risks of unintended stimulation or heating while in the MR room, with written report
76019	MR safety implant positioning and/or immobilization under supervision of physician or other qualified health care professional, including application of physical protections to secure implanted medical device from MR-induced translational or vibrational forces, magnetically induced functional changes, and/or prevention of radiofrequency burns from inadvertent tissue contact while in the MR room, with written report

101 CMR 318.00: Radiology Rates

Code	Non-Facility Fee	Facility Fee		Global	Professional Component Fee	Technical Component Fee
76014	-	-		\$8.76	-	-
76015	-	-		\$42.19	-	-
76016	-	-		\$57.10	\$20.85	\$36.24
76017	-	-		\$179.09	\$26.12	\$152.53
76018	-	-		\$90.25	\$26.12	\$64.13
76019	-	-		\$118.55	\$20.45	\$98.10



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Administrative Bulletin 25-04

101 CMR 322.00: Rates for Durable Medical Equipment, Oxygen and Respiratory Therapy Equipment

Effective October 1, 2024

Coding Updates for Certain Durable Medical Equipment, Oxygen, and Respiratory Therapy Equipment

Summary

In accordance with 101 CMR 322.01(6): *Coding Updates and Corrections*, the Executive Office of Health and Human Services (EOHHS) is adding new procedure codes, deleting outdated codes, updating narratives for certain codes, and adopting a pre-existing code, effective for dates of service on or after October 1, 2024. The following lists specify codes that have been added, deleted, adopted, or have revised code descriptions.

For entirely new codes with associated Medicare fees, payment rates are set at a percentage of prevailing Medicare fees as described in 101 CMR 322.03(16)(a). For entirely new codes without associated Medicare fees, individual consideration (IC) is applied to establish payment as described in 101 CMR 322.03(16)(b). Rates listed in this administrative bulletin are applicable until revised rates are issued by EOHHS.

The appearance of a code in the tables below does not constitute authorization for, or approval of, the procedures or services for which rates are determined pursuant to 101 CMR 322.00. Governmental units that purchase care are responsible for the definition, authorization, and approval of care to publicly aided individuals.

Added Codes

Code	Modifier	Description	Rate
A4543		Supplies for transcutaneous electrical nerve stimulator, for nerves in the auricular region, per month	AAC + 20%
A4544		Electrode for external lower extremity nerve stimulator for restless legs syndrome	\$5.16

Code	Modifier	Description	Rate
A4545		Supplies and accessories for external tibial nerve stimulator (e.g., socks, gel pads, electrodes, etc.), needed for one month	\$31.37
A7021	NU	Supplies and accessories for lung expansion airway clearance, continuous high frequency oscillation, and nebulization device (e.g., handset, nebulizer kit, biofilter)	\$116.27
E0469	NU	Lung expansion airway clearance, continuous high frequency oscillation, and nebulization device	\$15,006.80
E0469	UE	Lung expansion airway clearance, continuous high frequency oscillation, and nebulization device	\$11,255.10
E0469	KH	Lung expansion airway clearance, continuous high frequency oscillation, and nebulization device	\$1,500.68
E0469	KI	Lung expansion airway clearance, continuous high frequency oscillation, and nebulization device	\$1,500.68
E0469	KJ	Lung expansion airway clearance, continuous high frequency oscillation, and nebulization device	\$1,125.51
E0683	NU	Non-pneumatic, non-sequential, peristaltic wave compression pump	\$780.60
E0683	UE	Non-pneumatic, non-sequential, peristaltic wave compression pump	\$585.45
E0683	KH	Non-pneumatic, non-sequential, peristaltic wave compression pump	\$78.06
E0683	KI	Non-pneumatic, non-sequential, peristaltic wave compression pump	\$78.06
E0683	KJ	Non-pneumatic, non-sequential, peristaltic wave compression pump	\$58.55
E0715		Intravaginal device intended to strengthen pelvic floor muscles during kegel exercises	AAC + 30%
E0716		Supplies and accessories for intravaginal device intended to strengthen pelvic floor muscles during kegel exercises	AAC + 20%
E0721		Transcutaneous electrical nerve stimulator for nerves in the auricular region	AAC + 30%
E0737		Transcutaneous tibial nerve stimulator, controlled by phone application	AAC + 30%
E0743	NU	External lower extremity nerve stimulator for restless legs syndrome, each	\$2,318.80
E0743	UE	External lower extremity nerve stimulator for restless legs syndrome, each	\$1,739.10
E0743	KH	External lower extremity nerve stimulator for restless legs syndrome, each	\$231.88
E0743	KI	External lower extremity nerve stimulator for restless legs syndrome, each	\$231.88
E0743	KJ	External lower extremity nerve stimulator for restless legs syndrome, each	\$173.91
E0767		Intrabuccal, systemic delivery of amplitude-modulated, radiofrequency electromagnetic field device, for cancer treatment, includes all accessories	AAC + 30%
E2513	NU	Accessory for speech generating device, electromyographic sensor	\$3,654.79

Code	Modifier	Description	Rate
E2513	UE	Accessory for speech generating device, electromyographic sensor	\$2,741.10
E2513	RR	Accessory for speech generating device, electromyographic sensor	\$365.49
E3200		Gait modulation system, rhythmic auditory stimulation, including restricted therapy software, all components and accessories, prescription only	AAC + 30%
J0138		Injection, acetaminophen 10 mg and ibuprofen 3 mg	I.C.
J1171		Injection, hydromorphone, 0.1 mg	\$0.072
J1749		Injection, iloprost, 0.1 mcg	I.C.
J2002		Injection, lidocaine hcl in 5% dextrose, 1 mg	\$0.0026
J2003		Injection, lidocaine hydrochloride, 1 mg	I.C.
J2004		Injection, lidocaine hcl with epinephrine, 1 mg	I.C.
J2251		Injection, midazolam in 0.9% sodium chloride, intravenous, not therapeutically equivalent to j2250, 1 mg	\$0.15
J2252		Injection, midazolam in 0.8% sodium chloride, intravenous, not therapeutically equivalent to j2250, 1 mg	I.C.
J2253		Injection, midazolam (seizalam), 1 mg	I.C.
J2601		Injection, vasopressin (baxter), 1 unit	I.C.
J8522		Capecitabine, oral, 50 mg	\$0.0544
J8541		Dexamethasone (hemady), oral, 0.25 mg	I.C.
J9172		Injection, docetaxel (docivyx), 1 mg	I.C.
J9329		Injection, tislelizumab-jsgr, 1mg	I.C.
Q0519		Pharmacy supplying fee for hiv pre-exposure prophylaxis fda approved prescription injectable drug, per 30-days	\$20.40
Q0520		Pharmacy supplying fee for hiv pre-exposure prophylaxis fda approved prescription injectable drug, per 60-days	\$20.40
Q5135		Injection, tocilizumab-aazg (tyenne), biosimilar, 1 mg	I.C.
Q5136		Injection, denosumab-bbdz (jubbonti/wyost), biosimilar, 1 mg	I.C.

Deleted Codes:

Code	Description
J1170	Injection, hydromorphone, up to 4 mg
J2001	Injection, lidocaine hcl for intravenous infusion, 10 mg
J8520	Capecitabine, oral, 150 mg
J8521	Capecitabine, oral, 500 mg
J9258	Injection, paclitaxel protein-bound particles (teva), not therapeutically equivalent to j9264, 1 mg

Revised Code Descriptions:

Code	Description
A4271	Integrated lancing and blood sample testing cartridges for home blood glucose monitor, per 50 tests
E0739	Rehabilitation system with interactive interface providing active assistance in rehabilitation therapy, includes all components and accessories, motors, microprocessors, sensors



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Administrative Bulletin 25-05

101 CMR 334.00: Rates for Prostheses, Prosthetic Devices, and Orthotic Devices

Effective October 1, 2024

Code Updates for Certain Prostheses and Orthotic Devices

Summary

Under the authority of 101 CMR 334.01(5): *Coding Updates and Corrections*, the Executive Office of Health and Human Services (EOHHS) is adding new service codes and revising code descriptions, effective for dates of service on or after October 1, 2024.

In accordance with 101 CMR 334.03(2): *Rates for new codes*, for new codes for which there are Medicare fees, payment rates will be set at a percentage of prevailing Medicare fees. For new codes for which there are no Medicare fees available, rates are set at individual consideration (IC), pursuant to 101 CMR 334.03(2)(d) and as defined in 101 CMR 334.02. Rates listed in this administrative bulletin are applicable until revised rates are issued by EOHHS.

The appearance of a code in the tables below does not constitute authorization for, or approval of, the procedures or services for which rates are determined pursuant to 101 CMR 334.00. Governmental units that purchase care are responsible for the definition, authorization, and approval of care to publicly aided individuals.

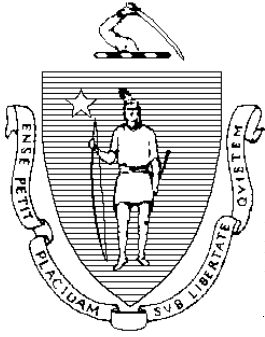
Added Codes

Code	Description	Rate
L1006	Scoliosis orthosis, sagittal-coronal control provided by a rigid lateral frame, extends from axilla to trochanter, includes all accessory pads, straps and interface, prefabricated item that has been trimmed, bent, molded,	\$1,027.74

Code	Description	Rate
	assembled, or otherwise customized to fit a specific patient by an individual with expertise	
L1653	Hip orthosis, bilateral thigh cuffs with adjustable abductor spreader bar, adult size, prefabricated, off the shelf	\$289.66
L1821	Knee Orthosis, elastic with condylar pads and joints, with or without patellar control, prefabricated, off the shelf	\$118.50
L8720	External lower extremity sensory prosthesis, cutaneous stimulation of mechanoreceptors proximal to the ankle, per leg	AAC + 50%
L8721	Receptor sole for use with L8720, replacement, each	AAC + 50%

Revised Code Descriptions

Code	Description
L1652	Hip orthosis, bilateral thigh cuffs with adjustable abductor spreader bar, adult size, prefabricated, includes fitting and adjustment, prefabricated item that has been trimmed, bent, molded, assembled, or otherwise customized to fit a specific patient by an individual with expertise
L1820	Knee orthosis, elastic with condylar pads and joints, with or without patellar control, prefabricated item that has been trimmed, bent, molded, assembled, or otherwise customized to fit a specific patient by an individual with expertise



THE COMMONWEALTH OF MASSACHUSETTS

Secretary of the Commonwealth - William Francis Galvin

NOTICES OF PUBLIC REVIEW OF PROSPECTIVE REGULATIONS PUBLISHED IN COMPLIANCE WITH M.G.L. c. 30A, §§ 2 AND 3

April 11, 2025

Elementary and Secondary Education, Department of	603 CMR 18.00	Public comment accepted until 5/2/25 by 5:00 P.M.
	603 CMR 46.00	Public comment accepted until 5/2/25 by 5:00 P.M.
Fisheries & Wildlife, Division of	321 CMR 3.00	4/29/25 @ 1:00 P.M. Written public comments accepted until 4/28/25 by 4:00 P.M.
Health and Human Services, Executive Office of	101 CMR 352.00	4/22/25 @ 10:00 A.M. Written testimony accepted until 4/22/25 by 5:00 P.M.
	101 CMR 430.00	4/22/25 @ 1:00 P.M. Written testimony accepted until 4/22/25 by 5:00 P.M.



NOTICE OF PUBLIC COMMENT

Pursuant to its authority under MGL c. 69, §1B, and in accordance with the Administrative Procedure Act, M.G.L. c. 30A, § 3, the Massachusetts Board of Elementary and Secondary Education (Board) is soliciting public comment on proposed amendments to 603 CMR 18.00, Regulations for Program and Safety Standards for Approved Public or Private Day and Residential Special Education School Programs.

In general, the proposed amendments seek to: require approved special education day programs, including the day component of special education residential programs, to comply with the updated version of 603 CMR 46; and more closely align documentation requirements currently applicable to special education programs to the proposed documentation requirements in 603 CMR 46. The proposed regulations would take effect on September 2, 2025.

Copies of the proposed amendments are available on the Department's website at <https://www.doe.mass.edu/bese/regs-comments/default.html>, or at <http://www.doe.mass.edu/lawsregs/>, or by calling 781-338-3375. Public comments may be submitted online by completing this form <https://survey.alchemer.com/s3/8224530/Proposed-Amendments-to-Regulations-on-Safety-Standards-and-Physical-Restraint-2025>, or by email to specialeducation@mass.gov or by mail to: Regulations Public Comment, c/o Commissioner's Office, Department of Elementary and Secondary Education, 135 Santilli Highway, Everett, MA 02149. The deadline to submit public comment is **May 2, 2025 at 5:00 pm**. The Board is expected to vote on the proposed amendments at its regular monthly meeting scheduled for **June 24, 2025**.



Small Business Impact Statement Pursuant to M.G.L. c. 30A, §2

This statement accompanies the filing by the Department of Elementary and Secondary Education of the proposed amendments to 603 CMR 18.00, Regulations for Program and Safety Standards for Approved Public or Private Day and Residential Special Education School Programs.

In general, the proposed amendments seek to: require approved special education day programs, including the day component of special education residential programs, to comply with the updated version of 603 CMR 46; and more closely align documentation requirements currently applicable to special education programs to the proposed documentation requirements in 603 CMR 46. The proposed regulations would take effect on September 2, 2025.

1. The proposed amendments do not affect small businesses.
2. Since the proposed amendments do not affect small businesses, the following considerations are not applicable:
 - a. Reporting, record keeping or other administrative costs required of small businesses for compliance associated with the amendments.
 - b. Appropriateness of performance standards vs. design standards.
 - c. Regulations of this agency or any other state agency, which may duplicate or conflict with the proposed amendments.
 - d. Analysis of whether the proposed amendments are likely to deter or encourage the formation of new business in the state.

Submitted by:

Rhoda E. Schneider

Rhoda E. Schneider, on behalf of the Department of Elementary and Secondary Education

Date: 3/26/25



NOTICE OF PUBLIC COMMENT

Pursuant to its authority under M.G.L. c. 69, §1B, and in accordance with the Administrative Procedure Act, M.G.L. c. 30A, § 3, the Massachusetts Board of Elementary and Secondary Education (Board) is soliciting public comment on proposed amendments to 603 CMR 46.00, Regulations for Prevention of Physical Restraint and Requirements If Used.

The proposed amendments would:

- Update the definition of seclusion in 603 CMR 46.02 to align it more closely with the definition used by the U.S. Department of Education's Office for Civil Rights for data collection purposes.
- Update the definition of time-out to specifically include "in an unlocked setting from which the student is permitted to leave."
- Add requirements for any room or area that is used for time-out to specify that it must be of appropriate size for the age and the needs of the student; appropriately lighted, ventilated, and heated or cooled, consistent with the remainder of the building; free of objects or fixtures that are inherently dangerous to the student; in compliance with any applicable local fire and building code requirements; and in compliance with any other standards listed by DESE in guidance.
- Add emergency circumstances under which a type of seclusion, where an adult is present and monitoring the student, may be used as a last resort and list specific conditions that must be met before its use.
- The proposed amendments build in various safeguards when such an emergency intervention is used, such as parental notification, conducting weekly and monthly review of data relating to the use of such an emergency intervention, and documenting and reporting such use to DESE.
- Any schools or programs that utilize such an emergency intervention must examine alternatives and strategies for reducing and eliminating its use no later than 3 years from the effective date of the proposed regulations.
- The proposed regulations would take effect on September 2, 2025.

Copies of the proposed amendments are available on the Department's website at <https://www.doe.mass.edu/bese/regs-comments/default.html>, or at <http://www.doe.mass.edu/lawsregs/>, or by calling 781-338-3375. Public comments may be submitted online by completing this form <https://survey.alchemer.com/s3/8224530/Proposed-Amendments-to-Regulations-on-Safety-Standards-and-Physical-Restraint-2025>, or by email to specialeducation@mass.gov or by mail to: Regulations Public Comment, c/o Commissioner's Office, Department of Elementary and Secondary Education, 135 Santilli Highway, Everett, MA 02149. The deadline to submit public comment is **May 2, 2025 at 5:00 pm**. The Board is expected to vote on the proposed amendments at its regular monthly meeting scheduled for **June 24, 2025**.



Small Business Impact Statement Pursuant to M.G.L. c. 30A, §2

This statement accompanies the filing by the Department of Elementary and Secondary Education of the proposed amendments to 603 CMR 46.00, Regulations for Prevention of Physical Restraint and Requirements If Used.

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- Update the definition of time-out to specifically include "in an unlocked setting from which the student is permitted to leave."
- Add requirements for any room or area that is used for time-out to specify that it must be of appropriate size for the age and the needs of the student; appropriately lighted, ventilated, and heated or cooled, consistent with the remainder of the building; free of objects or fixtures that are inherently dangerous to the student; in compliance with any applicable local fire and building code requirements; and in compliance with any other standards listed by DESE in guidance.
- Add emergency circumstances under which a type of seclusion, where an adult is present and monitoring the student, may be used as a last resort and list specific conditions that must be met before its use.
- The proposed amendments build in various safeguards when such an emergency intervention is used, such as parental notification, conducting weekly and monthly review of data relating to the use of such an emergency intervention, and documenting and reporting such use to DESE.
- Any schools or programs that utilize such an emergency intervention must examine alternatives and strategies for reducing and eliminating its use no later than 3 years from the effective date of the proposed regulations.
- The proposed regulations would take effect on September 2, 2025.
 1. The proposed amendments do not affect small businesses.
 2. Since the proposed amendments do not affect small businesses, the following considerations are not applicable:
 - a. Reporting, record keeping or other administrative costs required of small businesses for compliance associated with the amendments.
 - b. Appropriateness of performance standards vs. design standards.
 - c. Regulations of this agency or any other state agency, which may duplicate or

conflict with the proposed amendments.

- d. Analysis of whether the proposed amendments are likely to deter or encourage the formation of new business in the state.

Submitted by:

Rhoda E. Schneider

Rhoda E. Schneider, on behalf of the Department of Elementary and Secondary Education

Date: 3/26/25



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

p: (508) 389-6300 | f: (508) 389-7890

MASS.GOV/MASSWILDLIFE

COMMONWEALTH OF MASSACHUSETTS DIVISION OF FISHERIES AND WILDLIFE PUBLIC HEARING NOTICE 321 CMR 3.02(2)

In accordance with M.G.L., Ch. 131, Sec. 5 and 63, and Ch. 30A, Sec. 2, NOTICE is hereby given that the Division of Fisheries and Wildlife will hold a public hearing on proposed regulatory amendments to 321 CMR 3.02(2) Migratory Game Bird Regulations in Massachusetts on Tuesday, April 29, 2025, at 1:00 p.m., via a Zoom video webinar with the Hearing Officer and MassWildlife staff, with the public joining via computer or phone line. The proposed amendments will set the dates and bag limits for the 2025-2026 migratory game bird seasons.

Join from PC, Mac, iPad, or Android:

<https://us02web.zoom.us/j/85910998891?pwd=VFPOurdZcePHf0MoxNwk3qXKtUZ9sT.1>

Passcode: 879978

Join by phone: [\(929\) 205-6099](tel:9292056099)

Webinar ID: 859 1099 8891

Passcode: 879978

The proposed regulatory amendments relative to 321 CMR 3.02 and the link to join the Zoom webinar are also posted at [Mass.gov/MassWildlife/Hearings](https://mass.gov/MassWildlife/Hearings), so that interested persons can review the proposed regulations and provide written comments prior to the hearing or oral comments during the virtual hearing.

Written public comments will be accepted only before the hearing, until Monday, April 28, 2025, at 4:00 p.m., via an [online comment form](#); a link to the form can also be found in the notice on the public hearings page above. Written comments may also be submitted by mail, to MassWildlife, Attn: Susan Sacco, 1 Rabbit Hill Road, Westborough, MA 01581. Please note that, due to the U.S. Fish and Wildlife Service's requirements for filing these regulations, the Fisheries and Wildlife Board must vote immediately following the close of the hearing. Therefore, there will be no written comment period after this public hearing.

MassWildlife is committed to providing equitable access to its public meetings, hearings, and events. American Sign Language (ASL) and Communication Access Realtime Translation (CART) captioning, as well as live interpretation, including in Español, Português, 中文, Kreyòl Ayisyen, and Tiếng Việt, will be provided automatically for attendees who wish to use it. We will also make every effort to provide other languages as requested. Please contact Susan Sacco at susan.sacco@mass.gov to request interpretation in another language by 12:00 p.m. on Thursday, April 24, 2025.

Mark S. Tisa, Ph.D., M.B.A.,
Director

MASSWILDLIFE

Small Business Impact Statement
(As required by M.G.L. c. 30A, §§ 2, 3 & 5)

CMR No.: 321 CMR 3.00: Hunting
321 CMR 3.02(2): Migratory Game Bird Regulations

Estimate of the Number of Small Businesses Impacted by the Regulation: 0

Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses?

**Commonwealth of Massachusetts
Executive Office of Health and Human Services**

NOTICE OF PUBLIC HEARING

Under the authority of M.G.L. c. 118E and in accordance with M.G.L. c. 30A, the Executive Office of Health and Human Services (EOHHS) will hold a remote public hearing on Tuesday, April 22, 2025, at 10 a.m. relative to the adoption of amendments to the following regulation.

101 CMR 352.00: Rates for Certain Children’s Behavioral Health Services

Summary of Proposed Regulation

Pursuant to M.G.L. Chapter 118E, Section 13D, EOHHS is required to establish and periodically review the rates to be paid by governmental units to providers of noninstitutional healthcare services, including certain children’s behavioral health services provided under the MassHealth program.

Effective for dates of service on or after August 1, 2025, the proposed amendments increase the rates for seven existing children’s behavioral health services established in 101 CMR 352.00 by updating the corresponding rate models utilizing appropriate inputs from two data sources: provider salaries from May 2023 Bureau of Labor Statistics (BLS) salary data for Massachusetts, and other expenses primarily from FY 2023 Uniform Financial Reports (UFRs). EOHHS also proposes to establish a new service, Family-based Intensive Treatment (FIT), and set its weekly rate at \$1,115.05, which is calculated based on a model budget patterned after the intensive care coordination (ICC)-family support and training (FS&T) model budget, with appropriate adjustments. In addition, EOHHS proposes to remove the current rates established in 101 CMR 352.00 for mobile crisis intervention services provided in a hospital emergency department (H2011-HN and H2011-HO), as these services are now provided by acute hospitals and paid for by MassHealth directly to acute hospitals.

EOHHS is proposing these amendments, subject to federal approval, to ensure that payment rates are consistent with efficiency, economy, and quality of care, and to satisfy the requirements of M.G.L. 118E, sections 13C and 13D. There is no anticipated fiscal impact on fee-for-service (FFS) MassHealth spending for the proposed amendments as there is no current FFS utilization of the services receiving increases or being established. There is no fiscal impact on cities and towns.

To register to testify at the hearing and to get instructions on how to join the hearing online, go to www.mass.gov/info-details/executive-office-of-health-and-human-services-

[public-hearings](#). To join the hearing by phone, call (646) 558-8656 and enter meeting ID 935 397 8200# when prompted.

You may also submit written testimony instead of, or in addition to, live testimony. To submit written testimony, please email your testimony to ehs-regulations@mass.gov as an attached Word or PDF document or as text within the body of the email with the name of the regulation in the subject line. All written testimony must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit testimony by email should mail written testimony to EOHHS, c/o D. Briggs, 100 Hancock Street, 6th Floor, Quincy, MA 02171. Written testimony will be accepted through 5 p.m. on Tuesday, April 22, 2025. EOHHS specifically invites comments as to how the amendments may affect beneficiary access to care for MassHealth-covered services.

To review the current draft of the proposed regulation, go to www.mass.gov/info-details/executive-office-of-health-and-human-services-public-hearings or request a copy in writing from MassHealth Publications, 100 Hancock Street, 6th Floor, Quincy, MA 02171.

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by email at ADAAccommodations@mass.gov or by phone at (617) 847-3468 (TTY: (617) 847-3788 for people who are deaf, hard of hearing, or speech disabled). Please allow two weeks to schedule sign language interpreters.

EOHHS may adopt a revised version of the proposed regulation taking into account relevant comments and any other practical alternatives that come to its attention.

In case of inclement weather or other emergency, hearing cancellation announcements will be posted on the MassHealth website at www.mass.gov/info-details/executive-office-of-health-and-human-services-public-hearings.

March 28, 2025

Small Business Impact Statement
(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No.: 101 CMR 352.00: Rates for Certain Children’s Behavioral Health Services

Estimate of the Number of Small Businesses Impacted by the Regulation: There are 45 providers governed by the proposed regulation.

Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. Small businesses will not have to create, file, or issue additional reports as a result of the proposed amendments to 101 CMR 352.00.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. Small businesses will not have to implement additional recordkeeping procedures as a result of the proposed amendments to 101 CMR 352.00.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. Small businesses are not required by 101 CMR 352.00 to provide additional administrative oversight. The proposed regulation establishes the rates to be paid by governmental units for certain children’s behavioral health services.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No. 101 CMR 352.00 does not require small businesses to hire additional employees to remain in compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? No. Small businesses are not required by 101 CMR 352.00 to hire other employees to remain in compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? No. 101 CMR 352.00 does not require small businesses to purchase any particular product or make any capital investments.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Performance standards are not more appropriate than design or operational standards to accomplish the regulatory objective of establishing rates for EOHHS health care services as the proposed regulation is required by statute under M.G.L. Chapter 118E, Section 13C.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No. There are no other regulations that duplicate or conflict with the proposed regulation.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? Yes. This regulation uniformly requires all providers to periodically file cost data.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No. 101 CMR 352.00 does not require small businesses to provide educational services to keep up to date with regulatory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The proposed regulation is not likely to deter or encourage the formation of small businesses as this proposed regulation establishes uniform governmental rates of payment certain children’s behavioral health services.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The proposed regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this proposed regulation establishes uniform governmental rates of payment for certain children’s behavioral health services.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? No. The proposed regulation does not distinguish between small and other businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? No. The proposed regulation does not distinguish between small and other businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. The proposed regulation does not distinguish between small and other businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Distinguishing between small and other businesses would not be practicable to implement the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. The proposed regulation does not have an adverse impact on small businesses.

**Commonwealth of Massachusetts
Executive Office of Health and Human Services**

NOTICE OF PUBLIC HEARING

Under the authority of M.G.L. c. 118E and in accordance with M.G.L. c. 30A, the Executive Office of Health and Human Services (EOHHS) will hold a remote public hearing on Tuesday, April 22, 2025, at 1:00 p.m. relative to the adoption of amendments to the following regulation.

101 CMR 430.00: Rates for Program of Assertive Community Treatment Services

The proposed regulation contains rates effective for dates of service on or after July 1, 2025. There is no fiscal impact on cities and towns.

101 CMR 430.00 governs the payment rates paid by governmental units for the Program of Assertive Community Treatment services provided to publicly aided individuals. Services with rates established by this regulation are purchased by the Department of Mental Health (DMH).

Pursuant to M.G.L. Chapter 118E, Section 13D (f/k/a Chapter 257 of the Acts of 2008), EOHHS is required to establish the rates to be paid by governmental units for social service programs. In accordance with this statutory requirement, the rates in 101 CMR 430.00 are being updated to include an increase by a cost adjustment factor (CAF) of 3.25%. The CAF was determined by using baseline and prospective Massachusetts Economic Indicator data from IHS Economics – Fall 2024 Forecast, baseline scenario data. The CAF reflects the period between the rates' base period (fiscal year 2025 Q4) and the prospective period of fiscal years 2026 and 2027.

The rates for this DMH service have been updated with the programmatic cost benchmarks to either similar services' programmatic expenses, the Uniform Financial Statements and Independent Auditor's Report (UFR), or the purchasing agency's recommendation. The staff salaries have been benchmarked to the Massachusetts Bureau of Labor Statistics (BLS) wages at the 53rd percentile as dated May 2023. The tax and fringe rate has been benchmarked to 24.97%. This benchmark is derived from the MA Comptroller's FY25 approved rate less terminal leave and retirement. The language in the Severability section has also been updated for consistency across EOHHS rate regulations.

The total projected annualized cost to state government from the increase in rates effective July 1, 2025, is approximately \$1.36 million, which represents an increase of 8.37% over FY24 spending of approximately \$16.3 million. The increase in spending in FY26 will be covered through the Chapter 257 Reserve Account.

To register to testify at the hearing and to get instructions on how to join the hearing online, go to www.mass.gov/info-details/executive-office-of-health-and-human-services-public-hearings. To join the hearing by phone, call (646) 558-8656 and enter meeting ID 935 397 8200# when prompted.

You may also submit written testimony instead of, or in addition to, live testimony. To submit written testimony, please email your testimony to ehs-regulations@mass.gov as an attached Word or PDF document or as text within the body of the email with the name of the regulation in the subject line. All written testimony must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit testimony by email should mail written testimony to EOHHS, c/o D. Briggs, 100 Hancock Street, 6th Floor, Quincy, MA 02171. Written testimony will be accepted through 5:00 p.m. on Tuesday, April 22, 2025. EOHHS specifically invites comments as to how the amendments may affect beneficiary access to care for MassHealth-covered services.

To review the current draft of the proposed regulation, go to www.mass.gov/info-details/executive-office-of-health-and-human-services-public-hearings or request a copy in writing from MassHealth Publications, 100 Hancock Street, 6th Floor, Quincy, MA 02171. To view or download related supporting materials, go to www.mass.gov/info-details/proposed-regulations-supporting-materials.

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by email at ADAaccommodations@mass.gov or by phone at (617) 847-3468 (TTY: (617) 847-3788 for people who are deaf, hard of hearing, or speech disabled). Please allow two weeks to schedule sign language interpreters.

EOHHS may adopt a revised version of the proposed regulation taking into account relevant comments and any other practical alternatives that come to its attention.

In case of inclement weather or other emergency, hearing cancellation announcements will be posted on the MassHealth website at www.mass.gov/info-details/executive-office-of-health-and-human-services-public-hearings.

March 29, 2025

Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No: 101 CMR 430.00

Estimate of the Number of Small Businesses Impacted by the Regulation: 17

Select Yes or No and Briefly Explain

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? Yes. Providers of certain social service program services, including those that are small businesses, will have to create, file, and issue reports as a result of the proposed regulation. The reporting requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? Yes. Providers of certain social service program services, including those that are small businesses, will have responsibilities to keep records as a result of the proposed regulation. The recordkeeping requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. Small businesses are not required by this proposed regulation to provide additional administrative oversight. The proposed regulation establishes the rates to be paid by governmental units for certain social service program services.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No. This proposed regulation does not require small businesses to hire additional employees to remain in compliance. The proposed regulation establishes the rates to be paid by governmental units for certain social service program services.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? No. Small businesses are not required by this proposed regulation to hire other professionals. The proposed regulation establishes the rates to be paid by governmental units for certain social service program services.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? No. This proposed regulation does not require small businesses to purchase any particular product or make any capital investments. The proposed regulation establishes the rates to be paid by governmental units for certain social service program services.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. The proposed regulation is required by statute under M.G.L. Chapter 118E, Section 13D to establish the specific rates to be paid by governmental units for certain social service programs.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No regulations duplicate or conflict with this regulation.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? This proposed regulation requires that providers of certain social service program services, including those that are small businesses, periodically file financial statements, cost reports, and additional information as required to ensure compliance with the rates as set by this proposed regulation. This cost reporting requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No. This proposed regulation does not require small businesses to provide educational services to keep up to date with the proposed regulatory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The proposed regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this proposed regulation establishes rates by which providers of certain social service programs are to be paid when purchased by governmental units.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The proposed regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this proposed regulation establishes rates by which providers of certain social service programs are to be paid when purchased by governmental units.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? No. The proposed regulation contains requirements to report cost data to EOHHS to enable EOHHS to develop rates that are reasonable and adequate to meet the costs incurred by efficiently and economically operated social service program providers. This cost reporting requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? No. The proposed regulation contains requirements to report cost data to EOHHS to enable EOHHS to develop rates that are reasonable and adequate to meet the costs that are incurred by efficiently and economically operated social service program providers. This time frame for cost reporting is applied uniformly to all providers to enable EOHHS to timely develop accurate rates that reflect cost data from all providers.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. The compliance and reporting requirements are applied uniformly to all providers to enable EOHHS to timely develop accurate rates that reflect cost data from all providers.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A. This proposed regulation satisfies EOHHS's statutory obligation under M.G.L. Chapter 118E, Section 13D to establish, by regulation, the rates to be paid by governmental units to providers of certain social service program services.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. The proposed regulation does not have an adverse impact on small businesses. The proposed regulation establishes rates paid to certain social service providers when their services are purchased by governmental units. The establishment of rates for these social services by regulation is a statutory requirement under M.G.L. Chapter 118E, Section 13D.



THE COMMONWEALTH OF MASSACHUSETTS
Secretary of the Commonwealth - William Francis Galvin

2025 CUMULATIVE TABLE TO THE MASSACHUSETTS REGISTER
1538 - 1545

The Cumulative Tables lists all regulations and amendments thereto published in the Massachusetts Register during the current year. The Table is published in each Register.

State agencies are listed in the Table as they appear in the Code of Massachusetts Regulations (CMR or Code) in CMR numerical order which is based on the cabinet structure. For example, all Human Service agencies are prefaced by the number "1" and are designated as 101 CMR through 130 CMR.

The Cumulative Tables published in the last issue of previous years will have a listing of all regulations published for that year. These Registers are:

April 6, 1976 - 1977	Register: # 88	Date: 2001	Register: #937
1978	138	2002	963
1979	193	2003	989
1980	241	2004	1016
1981	292	2005	1042
1982	344	2006	1068
1983	396	2007	1094
1984	448	2008	1120
1985	500	2009	1146
1986	546	2010	1172
1987	572	2011	1198
1988	598	2012	1224
1989	624	2013	1250
1990	650	2014	1276
1991	676	2015	1302
1992	702	2016	1329
1993	729	2017	1355
1994	755	2018	1381
1995	871	2019	1407
1996	Supp. # 2 807	2020	1433
1997	833	2021	1459
1998	859	2022	1485
1999	885	2023	1511
2000	911	2024	1537

		<u>Issue</u>	<u>Effective Date</u>
101 CMR	Executive Office of Health and Human Services		
204.00	Rates of Payment to Resident Care Facilities - <i>Emergency</i>	1539	12/31/24
	- <i>Compliance</i> (MA Reg. # 1539)	1545	12/31/24
206.00	Standard Payments to Nursing Facilities		
	- <i>Emergency Refile</i> (MA Reg. # 1532)	1538	10/1/24
	- <i>Compliance</i> (MA Reg. # 1538)	1544	10/1/24
315.00	Rates for Vision Care Services and Ophthalmic Materials	1541	2/14/25
316.00	Rates for Surgery and Anesthesia Services		
	- <i>Correction</i> (MA Reg. # 1520)	1539	4/26/24
321.00	Rates for Homeless Medical Respite Services	1538	1/3/25
322.00	Rates for Durable Medical Equipment, Oxygen and Respiratory Therapy Equipment - <i>Emergency Refile</i> (MA Reg. # 1532)	1538	10/1/24
	- <i>Compliance</i> (MA Reg. # 1538)	1543	10/1/24
327.00	Rates for Ambulance and Wheelchair Van Services	1544	4/1/25
346.00	Rates for Certain Substance-related and Addictive Disorders Programs	1538	1/3/25
362.00	Rates for Community Support Program Services	1544	4/1/25
417.00	Rates for Certain Elder Care Services - <i>Emergency</i>	1543	2/20/25
418.00	Payments for Youth Short-term Stabilization and Emergency Placement Services	1539	1/17/25
444.00	Rates for Certain Substance Use Disorder Services	1544	3/28/25
514.00	Hospital Assessment - <i>Emergency</i>	1542	2/7/25
515.00	Managed Care Organization Services Payor Assessment - <i>Emergency</i> . 1543		2/26/25
105 CMR	Department of Public Health		
130.000	Hospital Licensure	1542	2/28/25
140.000	Licensure of Clinics	1542	2/28/25
142.000	Operations and Maintenance of Birth Centers	1542	2/28/25
108 CMR	Executive Office of Veterans' Services		
17.00	Veterans Equality Review Board	1544	3/28/25
130 CMR	Division of Medical Assistance		
409.000	Durable Medical Equipment Services		
	- <i>Emergency Refile</i> (MA Reg. # 1532)	1538	10/1/24
	- <i>Compliance</i> (MA Reg. # 1538)	1543	10/1/24
411.000	Psychologist Services	1544	4/1/25
418.000	Substance Use Disorder Treatment Services	1544	3/28/25
450.000	Administrative and Billing Regulations	1538	1/3/25
458.000	Homeless Medical Respite Services	1538	1/3/25
462.000	Licensed Independent Clinical Social Worker Services	1544	4/1/25
463.000	Doula Services - <i>Compliance</i> (MA Reg. # 1535)	1538	11/8/24
	- <i>Correction</i> (MA Reg. # 1538)	1540	11/8/24
630.000	Home- and Community-Based Services Waiver Services		
	- <i>Correction</i> (MA Reg. # 1537)	1540	1/1/25

		<u>Issue</u>	<u>Effective Date</u>
205 CMR	Massachusetts Gaming Commission		
238.00	Additional Uniform Standards of Accounting Procedures and Internal Controls for Sports Wagering - <i>Correction</i> (MA Reg. # 1494)	1543	3/9/23
248.00	Sports Wagering Account Management - <i>Correction</i> (MA Reg. # 1503)	1545	9/1/23
257.00	Sports Wagering Data Privacy	1541	2/14/25
225 CMR	Department of Energy Resources		
21.00	Clean Peak Energy Portfolio Standard (CPS) - <i>Compliance</i> (MA Reg. # 1533)	1538	10/11/24
22.00	Massachusetts Stretch Code and Specialized Code for Low-rise Residential - 2025 Residential Low-rise Amendments to IECC2021 and IRC 2021 Chapter 11: Energy Efficiency	1541	2/14/25
23.00	Massachusetts Stretch Code and Specialized Code for Commercial, Multi-family and All Other Construction – 2025 Amendments to IECC2021 and ASHRAE Standard 90.1-2019	1541	2/14/25
27.00	Building Energy Reporting	1542	2/28/25
243 CMR	Board of Registration in Medicine		
1.00	Disciplinary Proceedings for Physicians - <i>Emergency</i>	1540	1/9/25
	- <i>Compliance</i> (MA Reg. # 1540)	1545	1/9/25
2.00	Licensing and the Practice of Medicine - <i>Emergency</i>	1540	1/9/25
	- <i>Compliance</i> (MA Reg. # 1540)	1545	1/9/25
244 CMR	Board of Registration in Nursing		
7.00	Investigations, Complaints, and Board Actions - <i>Emergency</i>	1540	1/8/25
8.00	Licensure Requirements - <i>Emergency</i>	1540	1/8/25
247 CMR	Board of Registration in Pharmacy		
3.00	Pharmacist Licensure Requirements - <i>Emergency</i>	1540	1/9/25
6.00	Licensure of Pharmacies - <i>Emergency</i>	1540	1/9/25
8.00	Pharmacy Interns and Technicians - <i>Emergency</i>	1540	1/9/25
10.00	Disciplinary Proceedings - <i>Emergency</i>	1540	1/9/25
251 CMR	Board of Registration of Psychologists		
1.00	Ethical Standards, Professional Conduct, and Disciplinary Procedures - <i>Emergency</i>	1540	1/10/25
3.00	Registration of Psychologists - <i>Emergency</i>	1540	1/10/25
258 CMR	Board of Registration of Social Workers		
9.00	Licensure Requirements and Procedures - <i>Emergency</i>	1542	2/5/25
30.00	Complaint Procedures and Grounds for Disciplinary Action - <i>Emergency</i>	1542	2/5/25

		<u>Issue</u>	<u>Effective Date</u>
260 CMR	Board of Registration in Speech-language Pathology and Audiology		
1.00	Definitions, Standards, Complaint and Grievance Procedure	1541	2/14/25
2.00	Application and Licensing Requirements.	1541	2/14/25
263 CMR	Board of Registration of Physician Assistants		
3.00	Licensure of Individual Physician Assistants - <i>Emergency</i>	1540	1/9/25
6.00	Investigations, Complaints and Board Actions - <i>Emergency</i>	1540	1/9/25
270 CMR	Board of Registration of Genetic Counselors		
3.00	Licensure Requirements, Procedures, ABD Professional and Ethical Standards of Conduct - <i>Emergency</i>	1542	2/7/25
4.00	Investigations, Complaints and Board Actions - <i>Emergency</i>	1542	2/7/25
310 CMR	Department of Environmental Protection		
7.00	Air Pollution Control - <i>Compliance</i> (MA Reg. # 1535).	1541	11/4/24
322 CMR	Division of Marine Fisheries		
6.00	Regulation of Catches.	1538	1/3/25
12.00	Protected Species	1538	1/3/25
501 CMR	Executive Office of Public Safety and Security		
14.00	Testing, Certification, Marking, and Enforcement of Massachusetts' Fire Standard Compliant Cigarettes.	1540	1/31/25
503 CMR	Underground Storage Tank Petroleum Product Cleanup Fund Administrative Review Board		
2.00	Underground Storage Tank Petroleum Product Cleanup Fund Regulations Implementing M.G.L. c. 21J.	1538	1/3/25
515 CMR	Department of State Police		
10.00	Promotional Process for Rank of Captain	1539	1/17/25
522 CMR	Board of Boiler Rules		
1.00	General Provisions	1539	1/17/25
2.00	Power Boilers	1539	1/17/25
3.00	Power Reactor Vessels and Unfired Pressure Vessels as Used in Atomic Energy Installations	1539	1/17/25
4.00	Heating Boilers and Other Heat Storage Sources.	1539	1/17/25
7.00	Air Tanks	1539	1/17/25
9.00	Refrigeration and Air Conditioning Systems	1539	1/17/25
10.00	Material Specifications.	1539	1/17/25
11.00	Welding Specifications.	1539	1/17/25
12.00	Fiberglass-reinforced Plastic Pressure Vessels.	1239	1/17/25
15.00	National Board Inspection Code.	1539	1/17/25

		<u>Issue</u>	<u>Effective Date</u>
16.00	Controls and Safety Devices for Automatically Fired Boilers (ASME CODE CSD-1) PART CG, General, PART CM - Testing and Maintenance, PART CW, Steam and Waterside Control.	1539	1/17/25
17.00	Piping	1539	1/17/25
18.00	Continuing Education	1539	1/17/25
19.00	Portable Boilers	1539	1/17/25
540 CMR	Registry of Motor Vehicles		
4.00	Annual Safety and Combined Safety and Emissions Inspection of All Motor Vehicles, Trailers, Semi-trailers and Converter Dollies; Certification of Special Safety Requirements	1538	1/3/25
560 CMR	State 911 Department		
3.00	Regulations Establishing an Equitable and Reasonable Method for the Remittance and Collection of a Surcharge on Prepaid Wireless Telephones	1538	1/1/25
760 CMR	Executive Office of Housing and Livable Communities		
67.00	Eligibility of Emergency Assistance (EA) - <i>Emergency</i>	1544	3/14/25
70.00	Veterans Supportive Housing Program (VSHP) - <i>Compliance</i> (MA Reg. # 1535)	1538	11/4/24
71.00	Protected Use Accessory Dwelling Units.	1540	1/31/25
72.00	Multi-family Zoning Requirement for MBTA Communities - <i>Emergency</i>	1540	1/14/25
	1545	4/11/25
780 CMR	State Board of Building Regulations and Standards		
1.00	Scope and Administration - <i>Compliance</i> (MA Reg. # 1535)	1540	11/6/24
51.00	Massachusetts Residential Code - <i>Compliance</i> (MA Reg. # 1535) . . .	1540	11/6/24
801 CMR	Executive Office for Administration and Finance		
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4.00	Rates (4.02(520) and (527))	1541	2/14/25
8.00	Collection of Personal Identifying Information by Government Agencies	1538	1/3/25
830 CMR	Department of Revenue		
62.00	Taxation of Incomes (c. 62.3.2)	1538	1/3/25
62.00	Taxation of Incomes (c. 62.5A.1)	1538	1/3/25
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		<i>Issue</i>	<i>Effective Date</i>
970 CMR	Office of Campaign and Political Finance		
2.00	Political Expenditures - <i>Emergency</i>	1540	1/6/25
	- <i>Compliance</i> (MA Reg. # 1540)	1545	1/6/25



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Notice of Compliance

Regulation Filing To be completed by filing agency

CHAPTER NUMBER: 101 CMR 204.00

CHAPTER TITLE: Rates of Payment to Resident Care Facilities

AGENCY: Executive Office of Health and Human Services

THIS REGULATION WAS ORIGINALLY FILED AS AN EMERGENCY:

Published in Massachusetts Register Number: 1539 Date: 1/17/25

PRIOR NOTIFICATION AND/OR APPROVAL - If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.

Executive Order 145 notifications: 12/30/24
Regulatory Review approval: 3/18/25

PUBLIC REVIEW - M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.

Date of public hearing or comment period: 1/24/25

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: N/A

AGENCY CONTACT: Deborah Briggs, MassHealth Publications PHONE: 617-847-3302

ADDRESS: 100 Hancock Street, 6th Floor, Quincy, MA 02171

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Mar 28 2025

MASSACHUSETTS REGISTER NUMBER: 1545 DATE: 4/11/25

EFFECTIVE DATE: 1/17/25

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these Pages:</i>	<i>Insert these Pages:</i>
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301 & 302	301 & 302
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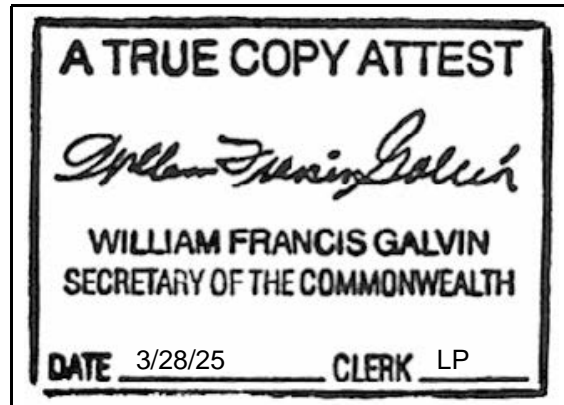


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101 CMR 204.00: RATES OF PAYMENT TO RESIDENT CARE FACILITIES

Section

- 204.01: General Provisions
- 204.02: General Definitions
- 204.03: General Rate Provisions
- 204.04: Variable Cost Allowance
- 204.05: Capital and Other Fixed Costs
- 204.07: Reporting Requirements
- 204.08: Other Provisions
- 204.10: Resident Care Cost Quotient

204.01: General Provisions

(1) Scope. 101 CMR 204.00 governs the payment rates for services provided by resident care facilities to publicly aided and industrial accident residents, including certain COVID-19 related costs as described in 101 CMR 204.00, and for services provided to publicly aided and industrial accident residents by residential care units in nursing facilities that do not have established rates for nursing facility services pursuant to 101 CMR 206.00: *Standard Payments to Nursing Facilities*. For those nursing facilities with established rates for nursing facility services pursuant to 101 CMR 206.00, payment rates for services provided by residential care units of those nursing facilities are governed by 101 CMR 206.00.

(2) Applicable Dates of Service. Rates contained in 101 CMR 204.00 apply for services provided on or after January 1, 2025.

(3) Disclaimer of Authorization of Services. 101 CMR 204.00 is not authorization for or approval of the substantive services or the time period for which rates are determined pursuant to 101 CMR 204.00. Governmental units and insurers that purchase services from eligible providers are responsible for the definition, authorization, and approval of services provided to publicly aided or industrial accident residents.

204.02: General Definitions

As used in 101 CMR 204.00, unless the context requires otherwise, terms have the meanings in 101 CMR 204.02.

Actual Utilization Rate. The percentage of occupancy of a resident care facility. It is calculated by dividing total resident days by maximum available bed days.

Additions. New units or enlargements of existing units that may or may not be accompanied by an increase in licensed bed capacity.

Base Year. The calendar year or portion of the calendar year that is used to compute the prospective rates as defined in 101 CMR 204.04. The base year for rates effective January 1, 2025, is 2022.

Building. The structure that houses residents. Building costs include the direct cost of construction of the shell and expenditures for service equipment and fixtures such as elevators, plumbing, and electrical fixtures that are made a permanent part of the structure. Building costs also include the cost of bringing the building to productive use, such as permits, engineering and architect's fees, and certain legal fees. Building costs include interest paid during construction, but not mortgage acquisition costs. When the fixed assets of a facility are sold, the allowable book value of all improvements will become part of the allowable basis of the building for the buyer.

Center. The Center for Health Information and Analysis (CHIA), established under M.G.L. c. 12C.

204.02: continued

Change of Ownership. A *bona fide* transfer, for reasonable consideration, of all the powers and *indicia* of ownership. A change of ownership may not occur between related parties and must be a sale of assets of the facility rather than a method of financing. A change in the legal form of the provider does not constitute a change of ownership, unless the other criteria are met.

Community Support Facility. A resident care facility licensed by the Department in compliance with 105 CMR 150.000: *Standards for Long-term Care Facilities* that provides or makes arrangements to provide appropriate mental health services in addition to the minimum basic care and services required by 105 CMR 150.000 for residents who do not routinely require nursing or other medically related services.

Community Support Resident. An individual in need of resident care facility services, who is 50 years of age or older, and who, upon the written consent of the individual (if he or she is competent to give such consent) or guardian (if he or she is not competent), and a physical evaluation by a psychiatrist or other physician, and a psychiatric evaluation by a psychiatrist, is deemed appropriate by both for residency and services provided by a community support facility pursuant to 105 CMR 150.000: *Licensing of Long Term Care Facilities* or its most recent applicable regulation. Any exceptions and additional factors used to determine whether a resident is a community support facility resident will be in accordance with 105 CMR 150.000.

Community Support Resident Days. The number of days of occupancy by community support residents in a community support facility or a resident care facility with community support residents. Community support resident days include the day of admission, but not the day of discharge. Where admission and discharge occur on the same day, one community support resident day will be used. Those days a bed is held vacant for a publicly aided community support resident temporarily placed in a different care situation, pursuant to an agreement between the provider and the Department of Transitional Assistance in accordance with duly established policies of said Department, are included as community support resident days. Those days a bed is held vacant for a non-publicly aided resident, whether or not there is a charge for such reservation by the facility, are included as community support resident days.

Constructed Bed Capacity. A resident care facility's bed capacity (or clinical bed capacity) as defined in 105 CMR 100.100: *Definitions*, which states: the capacity of a building to accommodate a bed and the necessary physical appurtenances in accordance with the applicable standards imposed as a condition of operation under state law. It includes a room designed or able to accommodate a bed and necessary physical appurtenances, whether or not a bed and all such appurtenances are actually in place, with any necessary utilities (*e.g.*, drinking water, sprinkler lines, oxygen, electric current, electric signals, *etc.*), with either outlets or capped lines within the room.

Deferred Charges. Expenditures, such as prepaid insurance, rent or licenses, not recognized as a cost of operations for the period in which they were incurred, but carried forward to be written off in one or more future periods. Deferred charges are not expenditures that can be identified with and justified as relating to physical assets that will contribute services to future operations.

Department. The Massachusetts Department of Public Health.

Department of Transitional Assistance Days (DTA Days). Days of resident care facility services provided to residents who are recipients of Emergency Assistance for the Elderly, Disabled and Children (EAEDC) or Supplemental Security Income/State Supplemental Payments (SSI/SSP) funded by DTA.

Desk Audit. A comprehensive audit performed at the Center's offices in which the auditor evaluates the accuracy of the information in the cost reports and supporting documentation in accordance with an audit program.

Direct Restorative Therapy. Services of physical therapists, occupational therapists, and speech, hearing, and language therapists provided directly to individual residents to reduce physical or mental disability and to restore the resident to maximum functional level. Direct restorative therapy services are provided only upon written order of a physician, physician assistant, or nurse practitioner who has indicated anticipated goals and frequency of treatment to the individual resident.

204.02: continued

Resident Care Facility (Facility). A facility licensed by the Department in compliance with 105 CMR 150.000: *Standards for Long-term Care Facilities* or exempt from licensure under M.G.L. c. 111, § 73B providing protective supervision in addition to the minimum basic care required by 105 CMR 150.000 for residents who do not routinely require nursing or other medically related services, and for purposes of 101 CMR 204.00, residential care units in nursing facilities that do not have established rates for nursing facility services pursuant to 101 CMR 206.00: *Standard Payments to Nursing Facilities*.

Resident Days. The number of days of occupancy by residents in a facility. Included in the computation of resident days is the day of admission, but not the day of discharge. Where admission and discharge occur on the same day, one resident day is used. Those days in which a bed is held vacant and reserved for a publicly aided resident temporarily placed in a different care situation, are included as resident days. Those days on which a bed is held vacant and reserved for a non-publicly aided resident, whether or not there is a charge for such reservation by the facility, are included as resident days.

Responsible Person. A person 21 years of age or older who has received a high school diploma, is of good moral character, and has the ability to communicate orally and in writing in English or the primary language used by residents of the facility, and who will make mature and accurate judgments regarding the care needs of the residents as required by 105 CMR 150.000: *Standards for Long-term Care Facilities*.

Sole Proprietor. A business enterprise other than a corporation or partnership in which the net worth belongs entirely to one individual.

Support Service Coordinator. A person who has received a BA or BS degree in a human service field of study such as psychology, nursing, or social work and who is employed by a community support facility to identify, monitor, and meet the support service needs of community support residents.

Support Services. Those services provided for the benefit of community support resident(s) in order to enhance psycho-social and physical functioning as defined by the Department in 105 CMR 150.000: *Standards for Long-term Care Facilities*.

Unit. Unit has the same definition as in 105 CMR 150.000: *Standards for Long-term Care Facilities*.

Variable Costs. Costs that change depending on the volume of occupancy. Variable costs include the allowable amounts reported in the following accounts from the cost report: administrator/responsible person salaries and benefits; clerical salaries; EDP/payroll/bookkeeping services; office supplies; telephone, except directory advertising; motor vehicle expense; conventions and meetings; advertising, help wanted; licenses and dues, resident care related; total education and training; total employee benefits, except officers, profit sharing and other benefits; accounting services not related to appeals; total payroll taxes, except officer; nonprofit DES claims; malpractice and general liability insurance; total Workers' Compensation, except officer; total group life/health, except officer; total plant operations; total dietary; total laundry; total housekeeping; total nursing; quality assurance professional; community support coordinator; total physician services; house supplies, not resold; pharmacy consultant; social service worker; indirect therapy salaries; indirect therapy consultants; total recreation, except transportation; realty company variable add-back; management company variable and fixed cost add-back, less non-allowable self-disallowances; vending machine income; and other operating cost recoverable income.

204.03: General Rate Provisions

(1) General. EOHHS will determine a payment rate for dates of service on or after January 1, 2025, for each facility as follows.

- (a) Preliminary Rate. The facility's preliminary rate is equal to the sum of
1. allowable variable costs determined under 101 CMR 204.04; and
 2. allowable capital and other fixed costs as determined under 101 CMR 204.05.

204.03: continued

(b) Rate Adjustments. The preliminary rate as calculated in 101 CMR 204.03(1)(a) will be adjusted as follows.

1. DTA Days Percentage Adjustment.

a. For each facility, calculate its DTA days percentage by dividing its DTA days by the facility's total resident days, as reported on the Resident Days schedule of the 2022 HCF-4.

b. Each facility will receive a DTA days percentage adjustment equal to \$24.65 multiplied by the percentage calculated in 101 CMR 204.03(1)(b)1.a.

(c) Payment Rate. Subject to the Payment Rate Maximum Increase as described in 101 CMR 204.03(1)(d) and the Resident Care Cost Quotient as described in 101 CMR 204.03(1)(e), the facility's January 1, 2025, payment rate is equal to the greater of

1. the sum of the preliminary rate as determined in 101 CMR 204.03(1)(a) and the payment rate adjustments as determined in 101 CMR 204.03(1)(b), plus \$4.60;
2. the facility's certified rate in effect on December 31, 2024; or
3. \$105.

(d) Payment Rate Maximum Increase. If the facility's payment rate as calculated in 101 CMR 204.03(1)(c) is greater than the facility's certified rate in effect on December 31, 2024, plus \$70, the facility will receive a downward adjustment such that the total payment rate effective January 1, 2025, is equal to the facility's certified rate in effect on December 31, 2024, plus \$70.

(e) Resident Care Cost Quotient (RCC-Q). If the facility's RCC-Q score is less than the RCC-Q threshold established pursuant to 101 CMR 204.10(1), the facility will receive a downward adjustment as described in 101 CMR 204.10.

(f) Annualization Adjustment. For the period from January 1, 2025, through January 31, 2025, EOHHS will apply an annualization adjustment of 296.77% of the difference between the facility's January 1, 2025, rate as determined in 101 CMR 204.03(1)(c), (d), and (e) and its certified rate in effect on December 31, 2024, which accounts for the period October 1, 2024 through December 31, 2024.

(2) Other Provisions.

(a) Audits. EOHHS will establish rates after a comprehensive desk audit of the base year cost report. The Center may also, whenever possible, conduct on-site field audits to ensure the accuracy of the claims for reimbursement and consistency in reporting. EOHHS will disallow any cost for which the provider does not produce adequate documentation requested by the Center during a desk or field audit.

(b) General Cost Principles. In order to be reimbursed, a cost must

1. be ordinary, necessary, and directly related to the care of publicly aided residents;
2. be consistent with the prudent buyer concept;
3. be for goods and services actually provided in the resident care facility;
4. not have the transaction effect of circumventing 101 CMR 204.00 under the principle that the substance of the transaction must prevail over form;
5. actually be paid by the provider. Examples of costs that are not considered paid for purposes of reimbursement include, but are not limited to, costs that are discharged in bankruptcy; forgiven; converted to a promissory note; and accruals of self-insured costs based on actuarial estimates; and
6. not be paid to a related party that has not been identified on the reports.

(c) Non-allowable Costs. Rates will not include those costs that are not reimbursable, as defined at 101 CMR 204.03(2)(c), are reimbursed through an allowance, or are for services that are billed directly.

1. Costs that are not reimbursable include

- a. bad debts, refunds, charity and courtesy allowances, and contractual adjustments to the Commonwealth and other third parties;
- b. recovery of expense items, that is, expenses that are reduced or eliminated by applicable income including, but not limited to, rental of quarters to employees and others, income from meals sold to persons other than residents, telephone income, vending machine income, and medical records income. Vending machine income will be recovered against the variable cost, included in the variable cost allowance;
- c. federal and state income taxes, except the non-income related portion of the Massachusetts corporate excise tax;

204.03: continued

- d. expenses that are not directly related to the provision of resident care including, but not limited to, expenses related to other business activities and fundraising, gift shop expenses, research expenses, rental expense for space not required by the Department and expenditure of funds received under federal grants for compensation paid for training personnel, and expenses related to grants or contracts for special projects;
 - e. compensation and fringe benefits for residents on a provider's payroll;
 - f. any amounts in excess of any schedule or limitation contained in 101 CMR 204.00;
 - g. penalties and interest incurred because of late payment of loans or other indebtedness, late filing of federal and state tax returns, or from late payment of municipal taxes;
 - h. any increase in compensation or fringe benefits granted as an unfair labor practice after a final adjudication by the court of last resort;
 - i. accrued expenses that remain unpaid more than 120 days after the close of the reporting year, excluding vacation and sick time accruals, are not included in the prospective rates. When the Center receives satisfactory evidence of payment, EOHHS may reverse the adjustment and include that cost, if otherwise allowable, in the applicable prospective rates. Except for costs that are not allowable as described at 101 CMR 204.03(2)(c), a cost must actually be paid by the provider in order to be reimbursable. Examples of costs that are not considered paid for purposes of reimbursement include, but are not limited to, costs that are discharged in bankruptcy; costs that are forgiven; costs that are converted to a promissory note; and accruals of self-insured costs that are based on actuarial estimates;
 - j. expenses for purchased service nursing services purchased from temporary nursing agencies that are not registered with the Department under 105 CMR 157.000: *The Registration and Operation of Temporary Nursing Service Agencies*;
 - k. any expense or amortization of a capitalized cost relating to costs incurred prior to the opening of the facility;
 - l. expenses relating to the financing of or otherwise supporting political or lobbying activities regarding legislation to affect reimbursement methods; campaign contributions; and advertising to create goodwill or otherwise affect payments made by governmental units;
 - m. all legal expenses; and those accounting expenses and filing fees associated with any appeal process;
 - n. additional rental payments or charges based upon receipts or income will not be considered as additional rental expense;
 - o. interest payments and charges based upon the provider's receipts or income will not be considered as allowable interest expense;
 - p. any costs that were incurred in periods other than the base year;
 - q. an adjustment to base year costs to reflect the difference between the rates charged to private residents in the base year if those rates are less than the public rates certified in the base year. EOHHS will multiply the difference between the base year rate for publicly aided residents and the average rate charged private residents corresponding to the base year above. The adjustment is calculated as follows:

$$[(\text{private income/resident private patient days}) - \text{public base year rate per diem}] \times (\text{base year resident private patient days}/\text{base year patient days}) = \text{the per diem amount by which the publicly aided rate will be reduced.}$$
 In no instances will the certified rate be lower than the lowest private rate assigned to an individual for that period;
 - r. any costs, including rental and leasehold expenses, for buildings and equipment that are not located at the site of the resident care facility will not be allowable as fixed costs; and
 - s. costs of ancillary services that are required to be billed on a direct basis to the purchasing government agency.
2. Other Recoverable Income. Costs reimbursed through an allowance or other specified methodology include other recoverable income. Other recoverable income will be recovered against an account in the appropriate cost group category, such as variable cost allowance and fixed costs.
 3. Costs for Services Billed Directly. The following supplies or services must be billed directly to the purchaser in accordance with the purchaser's regulations or policies.

204.03: continued

- a. Physician. Direct physician services to individual residents, including emergency physician services required by 105 CMR 150.000: *Standards for Long-term Care Facilities*.
- b. Medical Supplies. Direct medical services or supplies in accordance with the regulations or written policy of the governmental unit responsible for paying for such services or supplies in the *per diem* rates.
- c. Prescriptions. Pharmacy costs related to legend drug prescriptions and prescribed legend drugs for individual residents.
- d. Therapy. Direct restorative services provided upon written order of a physician.

204.04: Variable Cost Allowance

- (1) Scope. EOHHS will include in each provider's rate a variable cost allowance to compensate for variable costs.
- (2) Base Year Variable Cost Per Diem. EOHHS will calculate the base year variable cost *per diem* for each provider by dividing the total allowable base year variable costs by the greater of base year resident days or 90% of the mean licensed bed capacity in the base year times the days in the base year. For providers that are organized as sole proprietors, EOHHS will include an imputed amount of \$121,380 for the personal services of an owner.
- (3) Cost Adjustment Factor. EOHHS will apply a cost adjustment factor of 6.98% to 2022 base year costs. If there has been a change of ownership in the base year, and the rates are based on the new owner's reported base year costs, EOHHS will modify the cost adjustment factor to reflect the number of months from the midpoint of the new owner's reporting period to the midpoint of the prospective rate period.
- (4) Variable Cost Allowance. The variable cost allowance equals the lower of base year variable cost *per diem* or \$165.93, which is further adjusted by the cost adjustment factor.
- (5) Special Provisions.
 - (a) Accrued Expenses. EOHHS will not allow accrued expenses that remain unpaid for more than 120 days after the close of the reporting year, excluding vacation and sick time accruals. If the provider submits evidence of satisfactory payment to the Center, EOHHS may reverse the adjustment and include that cost, if otherwise allowable, in the applicable rates.
 - (b) Accounting and Auditing Expenses. Reasonable and necessary accounting and auditing expenses in matters directly related to providing adequate care to publicly aided residents are included, provided that the books and records of the provider are maintained in accordance with generally accepted accounting principles.
 - (c) Staff Training Expenses. The net cost, which is the cost of required staff training activities less any reimbursement from grants, tuition, specific donations, employee contributions, or other sources is included, only if the training is
 - 1. conducted within the Commonwealth of Massachusetts;
 - 2. directly related to improving resident care to publicly aided residents; and
 - 3. conducted by a recognized school, other authorized organization, or a qualified professional as required in 105 CMR 150.000: *Standards for Long-term Care Facilities*.
 - (d) Advertising Expenses. The reasonable and necessary expense of newspaper or other public media advertisements for the purpose of hiring necessary employees.
 - (e) Generally Available Employee Benefits. The extent of the facility's contribution to the cost of generally available fringe benefits are included so long as they are nondiscriminatory.
 - (f) Membership Dues. Reasonable and necessary membership dues are included if the organization's function and purpose are directly related to the development and operation of the facility and providing adequate resident care.
 - (g) Services of Volunteer Workers. Services performed under an agreement between the organization and the provider for the performance of the services without direct payment. The value of services normally provided on a voluntary basis, such as distribution of magazines and newspapers to residents, does not constitute a reasonable variable cost. The net value of services for unpaid persons in positions customarily held by paid employees, performing such services on a regular basis as unpaid members of religious or other organizations, is allowable as a variable cost if

204.08: continued

2. New Governmental Requirements. A provider may petition for an administrative adjustment if it has incurred, or presents satisfactory evidence of a commitment to incur, substantially different costs necessary to satisfy new requirements of a governmental unit of the Commonwealth or the federal government. Such requirements must be related to provision of resident care. An increase in existing government requirements is not considered a new government requirement. EOHHS will not approve a petition for costs incurred to correct Department of Public Health resident care deficiencies.
 3. Certain Increases in Operating Costs. A provider may petition for an adjustment if it has experienced unusual or unforeseen increases in operating costs that are not reflected in the rate. Unusual and unforeseen circumstances are events of a catastrophic nature (for example, fire, flood, or earthquake). The cost increases must gravely threaten the financial stability of the provider. In measuring the financial stability of the provider, EOHHS will consider all of the provider's expenditures and revenues.
 4. Receiver Fees. A receiver appointed under M.G.L. c. 111, § 72N may petition for a rate adjustment to reimburse reasonable receiver compensation and payment of his or her bond.
 - a. The receiver must submit detailed invoices that document the hours expended, a brief description of each activity, and the hourly rate. EOHHS will limit the reimbursement to the reasonable and necessary cost to safeguard the health, safety, and continuity of care to residents and to protect them from adverse health effects of unsuitable transfer.
 - b. EOHHS will limit reasonable receiver compensation to the lower of actual receiver fees or \$10,000 for the first 30 days, \$7,500 for the second 30 days, \$2,500 for the third 30 days, and \$1,500 for each 30-day period thereafter. EOHHS may include additional receiver compensation if both the Department of Public Health and the Department of Transitional Assistance approve additional compensation to the receiver due to unique circumstances. EOHHS, the Department, and the Department of Transitional Assistance will evaluate such requests for additional compensation for reasonableness.
 5. Transfer of a Facility. If a facility is transferred during the first six months of the year subsequent to the base year, the buyer may file a petition requesting that EOHHS use the buyer's cost report to determine its rate. The buyer must demonstrate that use of the seller's base year cost report is not appropriate to project rate year costs. The Center will determine whether use of the buyer's cost report is appropriate to reflect reasonable and necessary patient care costs. EOHHS will make the appropriate adjustments to reflect the use of a non-base year cost report.
- (b) General. A petition for an administrative adjustment must contain the following.
1. A petition must include the provider's name, address, a detailed explanation, under oath, of the basis of the petition and documentation supporting the amount requested including, but not limited to, invoices, canceled checks, loan documents, any construction contracts, and the project beginning and ending dates.
 2. The provider must submit any other information that EOHHS requires within 30 days of the request. EOHHS will not allow the petition if the provider fails to timely submit the requested information.
 3. EOHHS will suspend review of any petition if the provider has failed to submit reports or other information required by 101 CMR 204.00 in a timely manner. If the provider fails to file the required information within 60 days after notification by EOHHS, EOHHS will dismiss the petition for administrative adjustment.
 4. EOHHS will suspend review of any petition if the Department notifies the provider that it has identified a quality of care problem.
 5. The Center may require that the provider demonstrate that the changes in costs have actually occurred and that the year-end cost report substantiates the financial condition stated in the petition. If the provider fails to provide evidence of such costs within 45 days of the Center request, EOHHS may retroactively reverse the adjustment.
- (c) Effective Date. An administrative adjustment will be effective on the later of the date the petition is filed with EOHHS or the date on which the event that is the basis of the petition is completed.
- (d) Standard of Review.
1. In reviewing the petition, EOHHS will consider the following:
 - a. whether the adjustment would result in a significant difference in the rate;

204.08: continued

- b. the costs of other providers offering the same or comparable level of care; and
 - c. the ability of the Department of Transitional Assistance to collect any overpayments that may result from the petition. EOHHS will notify the Department of Transitional Assistance of the petition.
 2. EOHHS will review petitions in accordance with the criteria set forth in 101 CMR 204.00 in effect in the year in which they are received by EOHHS, notwithstanding the effective date.
- (3) Notice of Proposed Rate. EOHHS will send the provider a notice of the proposed rate as follows.
 - (a) Desk Audit. Prior to certification of a prospective rate based upon a desk audit, EOHHS will send the provider a notice of the proposed rate and a copy of adjustments at least ten calendar days prior to the scheduled date of certification. The provider may comment, in writing, on the proposed rate and adjustments during the period between the notice and scheduled date of EOHHS action. Providers requiring additional time to respond may request that EOHHS postpone the scheduled certification.
 - (b) Field Audit. EOHHS will not send a notice prior to certification of a proposed rate that is based upon a field audit if the rate is amended solely to incorporate field audit adjustments that have been discussed at an exit conference. The Center will provide a copy of the field audit adjustments to the provider following the exit conference.
- (4) Rate Filings. EOHHS will file certified rates of payment for resident care facilities with the Secretary of the Commonwealth.
- (5) Appeals. Any provider aggrieved by a rate of payment established pursuant to 101 CMR 204.00 may file an appeal with the Division of Administrative Law Appeals, established under M.G.L. c. 7, § 4H within 30 days of the filing of any such rate with the Secretary of the Commonwealth.
- (6) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify provisions of 101 CMR 204.00, which will be deemed to be incorporated in 101 CMR 204.00. EOHHS will file with the Secretary of the Commonwealth, distribute copies to providers, and make the bulletins accessible to the public at EOHHS's offices during business hours.
- (7) Severability. The provisions of 101 CMR 204.00 are severable. If any provision of 101 CMR 204.00 or the application of any provision of 101 CMR 204.00 is held invalid or unconstitutional, such provision will not be construed to affect the validity or constitutionality of any other provision of 101 CMR 204.00 or the application of any other provision.

204.10: Resident Care Cost Quotient

- (1) Beginning July 1, 2022, residential care facilities must have a Resident Care Cost Quotient (RCC-Q) that meets or exceeds a threshold of 80%. For the rate year beginning in SFY2024, a residential care facility's rate may be subject to a downward adjustment if the facility fails to be at or above the specified RCC-Q threshold in the previous state fiscal year.
- (2) The RCC-Q will be calculated by dividing certain resident care expenses by the facility's total revenue, excluding the revenue for non-residential care facility lines of business, and excluding endowment income. EOHHS may further identify or clarify these certain resident care expenses by administrative bulletin or other written issuance. A multiplier may be applied to certain resident care expenses related to one or more resident care workforce position types. EOHHS may establish the workforce position types eligible for any multiplier, details related to application of such multiplier, and the magnitude of such multiplier in calculating the RCC-Q, by administrative bulletin or other written issuance.

204.10: continued

(3) All resident care facilities, including facilities described in 101 CMR 204.10(5), will be required to submit an interim compliance report by March 1st of each year and a final compliance report by September 1st of each year. The interim report will be used to inform facilities if they are on track to meet the RCC-Q threshold in the reporting period. The final compliance report will be used for determining whether the facility met that threshold and whether a downward adjustment will be applied to the facility's rate in the following rate year.

(4) The downward adjustment to the rate will be applied in the following rate year to facilities that failed to meet the RCC-Q threshold or failed to submit the final report by the final compliance report due date. Such downward adjustment will be applied as follows.

(a) For every 1% below the 80% RCC-Q threshold, a 0.5% downward adjustment will be applied to the facility's rate.

(b) The maximum downward adjustment calculated in accordance with 101 CMR 204.10(4)(a) may be no more than 5% of the facility's rate. EOHHS may apply the maximum downward adjustment of 5% in the following rate year for facilities that fail to submit the final report by the due date established in 101 CMR 204.10(3).

(5) Residential care facilities that have fewer than 1,700 SSI/SSP and EAEDC days (also known as DTA days), based on the most recent cost report data available to CHIA, for a particular state fiscal year, starting the state fiscal year of July 1, 2022, through June 30, 2023, except for the facilities that failed to submit the final compliance report by September 1st in accordance with 101 CMR 204.10(3) immediately following the end of the particular state fiscal year, will be exempt from the downward adjustment established at 101 CMR 204.10(4). For purposes of 101 CMR 204.10(5), the RCC-Q minimum paid DTA days will be established by EOHHS by administrative bulletin or other written issuance.

(6) EOHHS may issue an administrative bulletin or other written issuance to clarify provisions of 101 CMR 204.10, and as otherwise provided at 101 CMR 204.10.

(7) EOHHS or the Center may audit facilities or otherwise require the provider to submit data, documentation, or other materials to support or otherwise demonstrate costs as an audit of the RCC-Q reporting that a facility submitted, or failed to submit, in accordance 101 CMR 204.10(3), or to confirm the validity of the RCC-Q determined pursuant to 101 CMR 204.10. In addition, EOHHS may request additional information and data relating to the operations of the facility and any related party concerning the RCC-Q in accordance with 101 CMR 204.10. After this audit, if EOHHS determines that the facility did not meet the RCC-Q threshold established pursuant to 101 CMR 204.10(1), but the full and appropriate downward adjustment was not applied to the applicable facility rates pursuant to 101 CMR 204.10(4), EOHHS, in its sole authority and discretion, may apply one or more of the following actions, as appropriate:

(a) apply the downward adjustment for the full or partial period of the rate year to which the downward adjustment should have been applied pursuant to 101 CMR 204.10(4);

(b) apply a negative annualization adjustment to one or more prospective payments to account for the period the facility was paid at a rate to which the downward adjustment should have been applied pursuant to 101 CMR 204.10(4);

(c) notwithstanding the maximum downward adjustment described in 101 CMR 204.10(4), apply the downward adjustment that should have been applied to the applicable rate year to the rate for the subsequent rate year in accordance with the parameters described at 101 CMR 204.10(4) in addition to any applicable downward adjustment pursuant to 101 CMR 204.10(4) that would otherwise be applicable for the subsequent rate year;

(d) require the facility to refund the overpayments that account for the difference between the rate paid and the rate that should have been paid after application of the downward adjustment that should have been applied pursuant to 101 CMR 204.10(4); or

(e) take another appropriate action.

REGULATORY AUTHORITY

101 CMR 204.00: M.G.L. c. 118E.

NON-TEXT PAGE



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Notice of Correction

Regulation Filing To be completed by filing agency

CHAPTER NUMBER: 205 CMR 248.00

CHAPTER TITLE: SPORTS WAGERING ACCOUNT MANAGEMENT

AGENCY: Massachusetts Gaming Commission

ORIGINAL PUBLICATION REFERENCE: 1503 Date: 9/1/23

SUMMARY OF CORRECTION:

205 CMR 248.04(1) incorrectly references 205 CMR 238.49 as the definition of prohibited person and 205 CMR 238.48 as the definition of restricted patrons. The correct regulation is referenced, but the incorrect subsections are cited. Neither 205 CMR 238.49 nor 205 CMR 238.48 contain definitions. The reference to the definition of prohibited person should read as 205 CMR 238.33(1) and the reference to the definition of restricted patron should read as 205 CMR 238.32. This regulation was published in MA Register 1503 on 9/1/2023

AGENCY CONTACT: Autumn Birarelli PHONE: (617) 533-9716 x8716

ADDRESS: 101 Federal St. Boston MA 02110

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Mar 26 2025

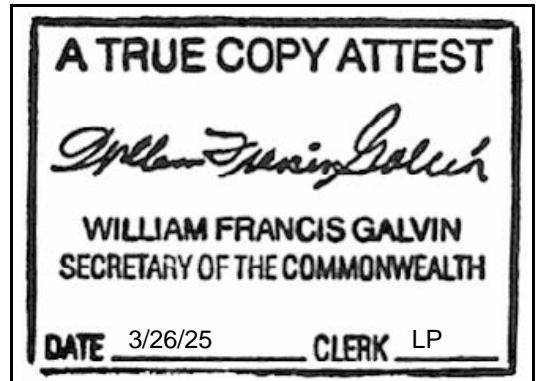
Publication - To be completed by the regulations Division

MASSACHUSETTS REGISTER NUMBER: 1545 DATE: 4/11/25

EFFECTIVE DATE: 9/1/23

CODE OF MASSACHUSETTS REGULATIONS

Table with 2 columns: Remove these Pages: (823 & 824) and Insert these Pages: (823 & 824)



205 CMR 248.00: SPORTS WAGERING ACCOUNT MANAGEMENT

Section

- 248.01: General Account Wagering
- 248.02: Account Refusals
- 248.03: Account Registration
- 248.04: Age and Identity Verification
- 248.05: Limitation to One Account per Patron
- 248.06: Terms and Conditions and Privacy Policies
- 248.07: Account Access
- 248.08: Sufficient Account Balance
- 248.09: Financial Transactions
- 248.10: Account Deposits
- 248.11: Failed Electronic Funds Transfers (EFTs)
- 248.12: Account Withdrawals
- 248.13: Account Adjustments
- 248.14: Account Credits
- 248.15: Account Records and Statements
- 248.16: Responsible Gaming Limits
- 248.17: Account Suspension and Restoration
- 248.18: Account Closure
- 248.19: Abandoned Funds and Dormant Accounts

248.01: General Account Wagering

- (1) A Sports Wagering Operator may offer a system of account wagering to its patrons whereby Wagers are debited from and pay outs credited to a sum of money, deposited in a Sports Wagering Account by the patron held by the Sports Wagering Operator.
- (2) A Sports Wagering Account may only be established in the name of a patron and is not transferable.
- (3) A Person may only place a Wager through a mobile application or other digital platform using funds from a Sports Wagering Account.
- (4) No Sports Wagering Operator may charge any fee to maintain or administer any Sports Wagering Account.

248.02: Account Refusals

A Sports Wagering Operator may reserve the right to, at any time, refuse to open a Sports Wagering Account, accept a wager, or accept a deposit. The Sports Wagering Operator shall not establish or maintain an account for any Person who has self-excluded or otherwise been excluded from Sports Wagering pursuant to M.G.L. c. 23N, § 13(e) or 205 CMR.

248.03: Account Registration

- (1) Any Person registering for a Sports Wagering Account shall provide Personally Identifiable Information to the Sports Wagering Operator. That information shall include, at a minimum, the following:
 - (a) Full legal name;
 - (b) Date of birth;
 - (c) Physical address of the Person's principal residence, which address shall not be a post office box;
 - (d) Social Security Number, or the last four digits of the Social Security Number, or an equivalent Federal Identification Number for a noncitizen patron, such as a passport or taxpayer identification number;
 - (e) A telephone number for the patron; and
 - (f) Any other information sufficient to verify the registrant's identity and to prove the registrant is at least 21 years old.

248.03: continued

- (2) During the registration process, the registrant shall:
- (a) Not be permitted to register for a Sports Wagering Account if they submit a birth date which indicates that they are younger than 21 years old;
 - (b) Be informed on the account application which information fields are "required," which are not, and the consequences of not filling in the "required" fields;
 - (c) Be required to agree to the terms and conditions and privacy policies of the Sports Wagering Operator;
 - (d) Be required to acknowledge that they are prohibited from allowing any other person to access or use their Sports Wagering Account;
 - (e) Be required to consent to the monitoring and recording of the use of their Sports Wagering Account by the Sports Wagering Operator and the Commission; and
 - (f) Be required to affirm that the Personally Identifiable Information provided in accordance with 205 CMR 248.03(1) is accurate.
- (3) For each Sports Wagering Account, the Sports Wagering Operator must establish and maintain an electronic patron file, which must, at a minimum, include the following for each patron:
- (a) Unique patron ID and, if different from the patron ID, the patron's username;
 - (b) The information provided in accordance with 205 CMR 248.03(1) to register the patron and create the Sports Wagering Account;
 - (c) The date and method of identity verification, including, where applicable, the document number of the government issued identification credential examined and its date of expiration, if applicable, or, if a government issued identification credential is not required for registration, the electronic record documenting the process used to confirm the patron's identity;
 - (d) The date of the patron's agreements to the terms and conditions and privacy policies, including those in 205 CMR 248.06, and the date of the patron's agreement, acknowledgment, consent, and affirmation in accordance with 205 CMR 248.03(2)(c) through (f);
 - (e) Account details and current balance, including any incentive credits, provided, that all restricted wagering credits and unrestricted funds that may expire shall be maintained separately;
 - (f) The date on, and method by which, the Sports Wagering Account was registered;
 - (g) Every date on, time at which, and IP address from which the Sports Wagering Account is accessed;
 - (h) If the account is active, the debit instrument used to fund the account, the accountholder's name, and whether the debit instrument accountholder's name matches that of the patron, unless impossible; and
 - (i) The current status of the Sports Wagering Account (*e.g.*, active, dormant, closed, suspended, excluded, *etc.*).
- (4) The following information maintained as part of the electronic patron file shall be stored in encrypted form and protected in accordance with all provisions of 205 CMR regarding data privacy and security:
- (a) The patron's social security number, taxpayer identification number, passport number, other government identification number(s), or portion(s) thereof;
 - (b) The patron's password(s), PIN(s), or other authentication credential(s); and
 - (c) The patron's debit instrument number(s), debit card number(s), bank account number(s) or other personal financial information.

248.04: Age and Identity Verification

- (1) No Sports Wagering Operator shall allow any individual who is either younger than 21 years old, or is a prohibited person, as defined in 205 CMR 238.33(1), to create a Sports Wagering Account. 205 CMR 248.04 shall not be construed to prevent a restricted patron, as defined in 205 CMR 238.32, from creating a Sports Wagering Account and depositing funds to such an account.



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Notice of ComplianceRegulation Filing *To be completed by filing agency*CHAPTER NUMBER: **243 CMR 1.00**CHAPTER TITLE: **Disciplinary Proceedings for Physicians**AGENCY: **Board of Registration in Medicine**

THIS REGULATION WAS ORIGINALLY FILED AS AN EMERGENCY:

*Published in Massachusetts Register
Number:***1540**

Date:

1/31/25

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Executive Order 145 notifications: 1/9/25**Final regulatory review approval: 3/27/25**

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **3/21/25**

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **3/27/25**AGENCY CONTACT: **George Zachos** PHONE: **781-876-8200**ADDRESS: **Board of Registration in Medicine, 178 Albion Street, Suite 330, Wakefield, MA
01880**

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.*
ATTEST:

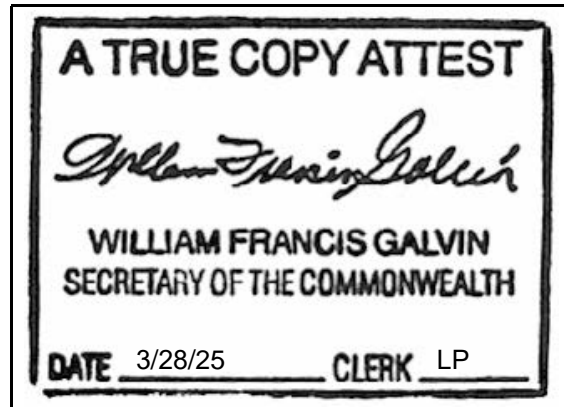
SIGNATURE: **SIGNATURE ON FILE** DATE: **Mar 28 2025**

MASSACHUSETTS REGISTER NUMBER: 1545 DATE: 4/11/25

EFFECTIVE DATE: 1/9/25

CODE OF MASSACHUSETTS REGULATIONS

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1.03: Disposition of Complaints and Statutory Reports

- (1) Initiation. Any person, organization, or member of the Board may make a complaint to the Board which charges a licensee with misconduct. A complaint may be filed in any form. The Board, in its discretion, may investigate anonymous complaints.
- (2) Complaint Committee. The Board may establish a committee known as the Complaint Committee to review complaints charging a licensee with misconduct. If the Committee or a Board Investigator determines that a communication does not relate to any of the matters set forth in 243 CMR 1.03(5), the committee or the investigator may refer the communication to the proper authority or regulatory agency.
- (3) (a) Preliminary Investigation. A Board Investigator shall conduct such preliminary investigation, including a request for an answer from the licensee, as is necessary to allow the Complaint Committee to determine whether a complaint is frivolous or lacking in either merit or factual basis. If, after a preliminary investigation of an anonymous complaint, the investigator determines that the anonymous complaint is frivolous or lacking in either merit or factual basis, the anonymous complaint shall not be docketed, shall be filed in a general correspondence file, and shall remain confidential.
- (b) Subsequent Inquiry, Investigation. After receipt and review of a complaint, if the Complaint Committee determines that the complaint is frivolous or lacking in either legal merit or factual basis, it may close the complaint. The Committee shall notify the person who made the communication of its determination and the reasons for it. As to other complaints, the Committee shall conduct, or cause to be conducted, any reasonable inquiry or investigation it deems necessary to determine the truth and validity of the allegations set forth in the complaint.
- (4) Conference. To facilitate disposition, the Board or the Complaint Committee may request any person to attend a conference at any time prior to the commencement of an adjudicatory proceeding. The Board or Committee shall give timely notice of the conference, and this notice must include either a reference to the complaint or a statement of the nature of the issues to be discussed.
- (5) Grounds for Complaint.
- (a) Specific Grounds for Complaints Against Physicians. A complaint against a physician must allege that a licensee is practicing medicine in violation of law, regulations, or good and accepted medical practice and may be founded on any of the following:
1. Fraudulent procurement of his or her certificate of registration or its renewal;
 2. Commitment of an offense against any provision of the laws of the Commonwealth relating to the practice of medicine, or any rule or regulation adopted thereunder;
 3. Conduct which places into question the physician's competence to practice medicine, including but not limited to gross misconduct in the practice of medicine, or practicing medicine fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions;
 4. Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
 5. Being habitually drunk or being or having been addicted to, dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
 6. Knowingly permitting, aiding or abetting an unlicensed person to perform activities requiring a license.
 7. Conviction of any crime;
 8. Continuing to practice while his or her registration is lapsed, suspended, or revoked;
 9. Being insane;
 10. Practicing medicine deceitfully, or engaging in conduct which has the capacity to deceive or defraud.
 11. Violation of any rule or regulation of the Board;

1.03: continued

12. Having been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in M.G.L. c. 112, § 5 or 243 CMR 1.03(5);

13. Violation of 243 CMR 2.07(15): *Medicare Payments*;

14. Cheating on or attempting to compromise the integrity of any medical licensing examination;

15. Failure to report to the Board, within the time period provided by law or regulation, any disciplinary action taken against the licensee by another licensing jurisdiction (United States or foreign), by any health care institution, by any professional or medical society or association, by any governmental agency, by any law enforcement agency, or by any court for acts or conduct substantially the same as acts or conduct which would constitute grounds for complaint as defined in 243 CMR 1.03(5);

16. Failure to respond to a subpoena or to furnish the Board, its investigators or representatives, documents, information or testimony to which the Board is legally entitled;

17. Malpractice within the meaning of M.G.L. c. 112, § 61;

18. Misconduct in the practice of medicine.

(b) Other Grounds for Complaints Against Physicians. Nothing in 243 CMR 1.00 shall limit the Board's adoption of policies and grounds for discipline through adjudication as well as through rule-making.

(c) Notwithstanding the grounds for complaints specified in 243 CMR 1.03(5)(a) or adopted pursuant to 243 CMR 1.03(5)(b), no complaint shall be docketed, and no physician shall be subject to discipline, for providing or assisting in providing reproductive health care services or gender-affirming health care services, as defined at M.G.L. c. 12, § 11½, so long as the services provided would have been lawful in Massachusetts and are consistent with standards for good professional practice in Massachusetts.

(6) Docket. The Board shall assign a docket number to all complaints and shall mark the complaint with this number and the date filed. All subsequent papers relating to the particular complaint shall be marked with the same docket number and shall be placed in a file (the docket) with all other papers bearing the same number.

(7) Order for Answering and Answer. The Committee may order that the licensee complained of answer the complaint within ten days. The Committee shall attach a copy of the complaint to the order for answering or shall describe the acts alleged in the complaint. A licensee shall respond to an order for answering either personally or through his or her attorney, in compliance with 243 CMR 1.02(6). An answer must address the substantive allegations set forth in the complaint or order.

(8) Dismissal by Complaint Committee. Upon receipt of a licensee's answer or at any point during the course of investigation or inquiry into a complaint, the Committee may determine that there is not and will not be sufficient evidence to warrant further proceedings or that the complaint fails to allege misconduct for which a licensee may be sanctioned by the Board. In such event, the Committee shall close the complaint. The Committee shall retain a file of all complaints.

(9) Board Action Required. If a licensee fails to answer within the ten-day period or if the Committee determines that there is reason to believe that the acts alleged occurred and constitute a violation for which a licensee may be sanctioned by the Board, the Committee may recommend to the Board that it issue a Statement of Allegations.

(10) Disposition by the Board. The Board shall review each recommendation which the Committee forwards to it within a reasonable time and shall require an adjudicatory hearing if it determines that there is reason to believe that the acts alleged occurred and constitute a violation of any provision of 243 CMR 1.03(5) or M.G.L. c. 112, § 5. The Board may take such informal action as it deems a complaint warrants. If the Board requires an adjudicatory hearing, it may refer the matter to a hearing officer.

(11) Suspension Prior to Hearing. The Board may suspend or refuse to renew a license pending a hearing on the question of revocation if the health, safety or welfare of the public necessitates such summary action. The procedure for summary suspension is as follows:



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Notice of Compliance

Regulation Filing To be completed by filing agency

CHAPTER NUMBER: 243 CMR 2.00

CHAPTER TITLE: Licensing and the Practice of Medicine

AGENCY: Board of Registration in Medicine

THIS REGULATION WAS ORIGINALLY FILED AS AN EMERGENCY:

Published in Massachusetts Register Number: 1540 Date: 1/31/25

PRIOR NOTIFICATION AND/OR APPROVAL - If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.

Executive Order 145 notifications: 1/9/25
Final regulatory review approval: 3/27/25

PUBLIC REVIEW - M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.

Date of public hearing or comment period: 3/21/25

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: 3/27/25

AGENCY CONTACT: George Zachos PHONE: 781-876-8200

ADDRESS: Board of Registration in Medicine, 178 Albion Street, Suite 330, Wakefield, MA 01880

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

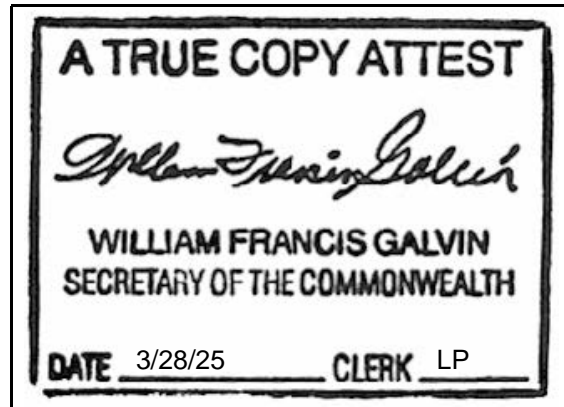
SIGNATURE: SIGNATURE ON FILE DATE: Mar 28 2025

MASSACHUSETTS REGISTER NUMBER: 1545 DATE: 4/11/25

EFFECTIVE DATE: 1/9/25

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these Pages:</i>	<i>Insert these Pages:</i>
31 & 32	31 & 32
56.1 & 56.2	56.1 & 56.2
56.5 & 56.6	56.5 & 56.6



2.04: continued

- (d) All supplemental information required by the Board has been supplied.
- (5) Good Moral Character. Pursuant to M.G.L. c. 112, § 2, all applicants for licensure and all licensees shall have good moral character.
- (a) Initial License. An applicant for initial licensure shall submit to the Board a written statement attesting to his or her good moral character. The statement shall be executed by a physician, other than a relative, who has known the applicant for a substantial period of time. The Board especially seeks statements from physicians licensed to practice in the Commonwealth.
- (b) Renewal License. A renewing licensee shall certify that he or she is of good moral character biennially, when signing the renewal application.
- (6) Examination Requirements. Each applicant for licensure shall fulfill the examination and other requirements for a license as set forth in 243 CMR 2.00 or as required by the Board.
- (7) NPI. Each applicant for licensure or renewal shall provide the Board with his or her NPI number or certify that he or she has applied for an NPI number and will provide it to the Board upon receipt.
- (8) CORI. Each applicant for licensure or renewal shall authorize the Board to access information held by the Massachusetts Criminal History Systems Board and other law enforcement agencies.
- (9) Malpractice History. Each applicant for licensure shall provide information and documentation on any malpractice claim in which he or she was a named defendant, as required by the Board.
- (10) Criminal History. Each applicant shall provide information and documentation on any criminal proceeding in which he or she was a defendant, in accordance with M.G.L. c. 6, § 172(a)(3) and other applicable state and federal laws. An applicant should not report minor traffic violations.
- (11) Premedical Education. Each applicant for licensure shall have completed a minimum of two years in a college or university program acceptable to the Board.
- (12) Postgraduate Medical Training. Each applicant for licensure shall satisfy the postgraduate training requirements as set forth in 243 CMR 2.00.
- (13) Applicants for Licensure or Renewal Who Have Changed Their Names. Each applicant for licensure or renewal who has been known by a name other than that used on his or her application shall complete the name change forms used by the Board to verify name changes, and shall submit the completed forms along with the documentation required therein.
- (14) Duty to Update Registration Information.
- (a) During the Application Process. During the initial or renewal application process, an applicant and a licensee have a duty to report to the Board in writing any change in the registration information supplied to the Board in support of his or her application. For an initial application, the process begins on the date the Board receives the first application submission, and ends on the date the license is effective. For a renewal application, the process begins 60 days prior to the anticipated effective date of the license and ends on the date the license is effective. When the applicant or licensee is in the application process, the applicant or licensee shall notify the Licensing Division of the Board as soon as he or she becomes aware of the change in information, but in no event later than 72 hours.
- (b) During the Licensing Term. From the day after the effective date of a license or renewal, until the day the next renewal application process begins, a licensee has a duty to timely report in writing any change in the registration information that was supplied to the Board in support of his or her application for licensure or renewal. However, information required under 243 CMR 2.07(8), must be reported to the Board within 30 days of the date the change occurred, or the date that the licensee became aware of the change, whichever is later. If no time period is specified, a report to the Board should be filed within 30 days from the date of the precipitating event.

2.04: continued

(c) Exception for Certain Health Information. At all times, physicians who are eligible for the exception to the Mandated Reporting law under M.G.L. c. 112, § 5F, and 243 CMR 2.07(23) are exempt from reporting a change in certain health conditions to the Board.

(15) Withdrawal of Application. An applicant may withdraw his or her application prior to review by the Licensing Committee. When a license application is placed on the agenda of a scheduled meeting of the Licensing Committee or the Board, an applicant may not withdraw the application, except in extraordinary circumstances and with the unanimous vote of the full Board. 243 CMR 2.04(15) does not apply to applicants who cannot comply with the Board's medical education requirements for graduates of international medical schools and graduates of Fifth Pathway programs, and who have submitted a waiver request pursuant to 243 CMR 2.03(4).

(16) Preliminary Denial of Licensure.

(a) The Board may preliminarily deny a license application upon a determination that the applicant does not meet the requirements for licensure as set forth in 243 CMR and M.G.L. c. 112 or because of acts which, were they engaged in by a licensee, would violate M.G.L. c. 112, § 5 or 243 CMR 1.03(5), provided however, that no person shall be disqualified from licensure or denied licensure by the Board for providing or assisting in providing reproductive health care services or gender-affirming health care services, as defined at M.G.L. c. 12, § 11I½, so long as the services provided would have been lawful in Massachusetts and are consistent with standards for good professional practice in Massachusetts.

(b) If the Board preliminarily denies a license application pursuant to 243 CMR 2.04(14), the Board will notify the applicant in writing of the following:

1. The facts relied upon as the basis for the preliminary denial;
2. The statutes or regulations which enable the Board to preliminarily deny a license application; and
3. The applicant's right to request a hearing, in writing, within 21 days of such notification from the Board. The hearing referred to in 243 CMR 2.04(14) is a licensing hearing conducted by the Board and is not a disciplinary proceeding.

(c) Upon receipt of an applicant's request for a hearing which meets the requirements of 243 CMR 2.04(14), the Board shall grant such request if:

1. The applicant has specified a factual or legal basis for overturning the preliminary denial; and
2. The Board determines that specific factual or legal issues, if further developed at a hearing, would be sufficient to overturn the preliminary denial.

(d) If, after the expiration of the time in which to request a hearing, or after the Board's decision not to grant a hearing, or after a hearing, the Board decides that the applicant should not be licensed, the Board may vote to deny the license application. If, after a hearing, the applicant has demonstrated to the Board's satisfaction that a license should be issued, the Board shall vote to issue a license. The Board may issue policies or guidelines on the procedures relating to the preliminary denial of a license.

2.05: Miscellaneous Licensing Provisions

(1) License Fees. Fees payable to the Board in the amount of \$5.00 or more may be paid by personal check or money order drawn on a U.S. bank in U.S. funds. Fees payable in the amount of \$5.00 or less may be paid by personal check. However, the Board may require any fee to be paid by certified check, money order, credit card or electronic fund transfer.

The Board's fee schedule for processing various documents is set by the secretary of administration and finance pursuant to M.G.L. c. 7, § 3B. Board licensing fees are located at 801 CMR 4.02(243). The application fee is nonrefundable.

(2) Board Approval of Health Care Facility Affiliations. The Board must approve by a majority vote the affiliations between health care facilities and physician training programs, if one of the affiliations is not an ACGME or AOA accredited program. In order to approve an affiliation, the Board must determine, among other factors, that the supervision available for training purposes is adequate. Limited licensees may rotate between teaching hospitals with three or more ACGME or AOA accredited programs without prior approval of the Board.

(3) Procedure for Approval of Health Care Facility Affiliations. The directors of the health care facilities and the physician training program seeking to affiliate must submit a written joint request to the Board for approval of the affiliation, at least 30 days in advance of when affiliation is sought. If the physician training program is ACGME or AOA accredited, a health care facilities affiliation agreement is not necessary.

2.12: continued

6. Limited Prescribing Authority. A pharmacist currently registered by the Department, pursuant to M.G.L. c. 94C, §§ 7 and 9 and 105 CMR 700.00: *Implementation of M.G.L. c. 94C*, to prescribe and possess controlled substances, who practices in a community pharmacy pursuant to a collaborative practice agreement that includes individually developed prescriptive practice guidelines pursuant to which the supervising physician has authorized the pharmacist to prescribe, may:

- a. extend current drug therapy by 30 days for not more than two 30 day periods or as may otherwise be specifically authorized by the supervising physician in the referral of the patient and as provided in the CDTM agreement;
- b. initiate, modify or discontinue dosages of medications prescribed by the supervising physician for:
 - i. asthma;
 - ii. chronic obstructive pulmonary disease;
 - iii. diabetes;
 - iv. hypertension;
 - v. hyperlipidemia;
 - vi. congestive heart failure;
 - vii. HIV or AIDS;
 - viii. osteoporosis; and
 - ix. comorbidities, listed in 243 CMR 2.12(4)(e)6.b.i. through viii., and identified by the supervising physician along with the primary diagnosis on the physician's referral of the patient.
- c. The authorized pharmacist must provide a copy of an initial prescription, a modification or a discontinuation of a prescription to the supervising physician within 24 hours of its issuance, unless more urgent notification is required under the circumstances and must note the action taken in the patient's chart. A copy of all prescriptions must be included in the patient's medical record in the custody of the supervising physician.

7. No authorized pharmacist in a community pharmacy may prescribe or be authorized to prescribe Schedule II through V controlled substances, as defined in M.G.L. c. 94C, § 3(2) through (5).

8. An authorized pharmacist in a community pharmacy may be authorized by a supervising physician to issue prescriptions for Schedule VI controlled substances, as defined in M.G.L. c. 94C, § 3(6), for the diagnoses specified in the supervising physician's patient referral.

(5) Collaborative Practice Agreements.

(a) Required Agreement Terms for All Practice Settings. In addition to specific practice setting collaborative practice agreement requirements, pursuant to 247 CMR 16.03: *Practice Setting Requirements*, and in accordance with M.G.L. c. 112, § 24B¾, all collaborative practice agreements must also include:

1. the specific disease state(s) being co managed, with each disease state identified as either primary or co morbid;
2. the specific pharmacist prescribing authority pursuant to the agreement;
3. detailed practice protocols;
4. the description of risk management activities;
5. documentation of any initiation, modification or discontinuation of a patient's medication in the patient's medical record in the custody of the supervising physician;
6. the description of outcome measurements;
7. detailed informed consent procedures that are appropriate to the practice setting;
8. detailed procedures and periods by which time any test results, copies of initial prescriptions, modifications or discontinuances, copies of the patient consent and the CDTM agreement, and other patient information will be forwarded from the authorized pharmacist to the supervising physician, and a specific procedure for the pharmacist to identify and transmit any urgent communications; and description of the nature and form of the supervision of the authorized pharmacist by the supervising physician, and a description of the procedure to follow when either the authorized pharmacist or the supervising physician is unavailable or absent;
9. the authorized pharmacist's attestation of satisfaction of the qualifications listed in 247 CMR 16.02(1) for participating in collaborative drug therapy management; and

2.12: continued

10. the supervising physician's attestation of satisfaction of the qualifications listed in 243 CMR 2.12 for participating in collaborative drug therapy management.
- (b) Duties. A collaborative practice agreement shall specify those duties of the authorized pharmacist that may be delegated to other appropriately trained and authorized staff and those duties under the agreement that shall not be delegated. A collaborative practice agreement shall specify when and how a supervising physician may delegate duties under the agreement, and the duration and scope of the delegation.
- (c) Biennial Renewal. A collaborative practice agreement must be reviewed and renewed by the authorized pharmacist and supervising physician at least every two years.
- (d) Termination. Prior to the termination or nonrenewal of a CDTM agreement, the supervising physician and the authorized pharmacist shall arrange for an uninterrupted continuation of the patient's drug therapy, in accordance with the terms of the CDTM agreement. When a CDTM agreement is not renewed or CDTM is otherwise terminated, the authorized pharmacist and the supervising physician shall inform the patient in writing of the termination and of the procedures in place for continuation of the patient's drug therapy, in accordance with the terms of the CDTM agreement. The supervising physician has an ongoing responsibility for patient care unless and until the physician patient relationship is terminated.
- (e) Agreement to Be Filed in Primary Practice Setting. An authorized pharmacist must maintain a copy of the current CDTM agreement, including copies of the current patient referral and patient consent, in the primary practice setting, readily retrievable at the request of the Board of Registration in Medicine and the Board of Registration in Pharmacy. The supervising physician must maintain the original of the current CDTM agreement, including the original patient referral and patient consent, in the patient's medical record in the custody of the supervising physician. The supervising physician must maintain the patient's medical record in his or her custody and make it available upon request during an investigation by the Board of Registration in Medicine.
- (f) Employment Relationships. In accordance with M.G.L. c. 112, § 24B½(e):
1. A qualified pharmacist may be hired by a physician or group of physicians for the purpose of practicing collaborative drug therapy management under an agreement for the benefit of the patient of that physician or physician group;
 2. A community pharmacy may hire a physician or licensed medical practitioner to conduct quality assurance reviews of pharmacists engaged in collaborative drug therapy management; and
 3. No community pharmacy may employ a physician for the purpose of maintaining, establishing or entering into an agreement.

2.13: The Data Repository

(1) The Data Repository, Defined. Pursuant to M.G.L. c. 112, § 5, the Board shall maintain a Data Repository to compile all reports filed under M.G.L. c. 112, §§ 5A through 5M, and reports filed under any other state or federal law or regulation requiring that information be reported to the Board, excluding Safety and Quality Reviews filed pursuant to M.G.L. c. 111 § 20. Mandated reports received in the Data Repository are confidential, unless otherwise required by law. The term Data Repository refers to the compilation of all mandated reports received by the Board. Data Repository Unit includes Board staff working with the Data Repository.

(3) Referral to the Enforcement Division. The Data Repository Unit shall oversee the referral of mandated reports received in the Data Repository. The Licensing Committee or its staff shall oversee the review of licensing materials filed under M.G.L. c. 112, § 2 through 9B and shall oversee the referral to the Enforcement Division when appropriate, except for information that meets the exemption in 243 CMR 2.15(2). Mandated reports shall be reviewed according to the policies and procedures set by the Board. Upon receipt of a mandated report, the Data Repository Unit shall record the date the report was received. Upon receipt of a mandated report, the Data Repository shall refer the report immediately to the Enforcement Division for docketing and review, except for information that meets the exemption in 243 CMR 2.15(2).

(a) Physician Profiles. The Data Repository Unit may assist the Board in its duty, pursuant to M.G.L. c. 112, § 5, to collect certain information referred to as the Physician Profile, and to release this information to the public. The contents of a Physician Profile are determined by M.G.L. c. 112, § 5 and are set forth in 243 CMR 2.15.

2.14: continued

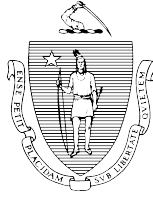
1. Notice of Termination or Suspension. If the disciplinary action taken is a suspension or termination of privileges, notice must be filed with the Board within two business days of the occurrence of the reportable action. The nursing home giving notice of a suspension or termination to the Board may do so initially by telephone or by facsimile transmission, to be followed by a written report within 30 days of the occurrence of the reportable action.
 2. Initial Reports. Whenever a report is required pursuant to M.G.L. c. 111, § 203, the person or entity reporting shall use the Board's form prescribed for that purpose, Form HCFD-1. The report shall be filed within 30 days of actual imposition of the disciplinary action, regardless of whether further appellate remedies are available to the licensee. However, at any time after making an initial report, if the reporting entity reverses its disciplinary action, the reporting entity shall notify the board and file a subsequent Form HCFD-2 report within 30 days.
 3. Subsequent Reports. The disciplinary action reporting requirement under M.G.L. c. 111, § 203 does not end until the disciplinary action upon which it is based is complete. The reporting entity shall submit to the Board a status report at the end of every 60-day period about the ongoing disciplinary action. When the nursing home has completed its disciplinary action, it shall file a Subsequent HCFD-2 Report within 30 days of the date of the final action.
 4. Annual Summary of Disciplinary Actions. Under M.G.L. c. 111, § 203(e), a nursing home shall file an annual disciplinary summary, no later than January 31st for each previous calendar year, on a Form HCFD-3. The cumulative, de-identified data compiled by the Data Repository Unit from the total Annual Summary of Disciplinary Actions filed in a calendar year shall be a public record, except that information that is deemed confidential pursuant to M.G.L. c. 112, § 5 shall not be disclosed by the Board.
- (c) Professional Organizations. A professional medical association disciplinary action report filed under M.G.L. c. 112, § 5B is a mandated report. The reporting entity shall use the definition of Disciplinary Action set forth in 243 CMR 1.01(2): *Definitions*. The mandated reporter is a professional medical association, society, body, professional standards review organization, or similarly constituted professional organization, whether local, regional, state, national, or international in scope. This mandated report shall be filed within 30 days of the disciplinary action.
- (d) Healthcare Agency Employee. When an officer or employee of a state agency, engaged in the provision or oversight of medical or health services, has a reasonable basis to believe that a physician may have violated the provisions of M.G.L. c. 112, § 5 or any Board regulation, he or she shall report this to the Board under M.G.L. c. 112, § 5D as a mandated report. Mandated reporters are officers or employees of an agency, executive office, department, board, commission, bureau, division or authority of the Commonwealth or, of, any political subdivision thereof, that provides medical or health services, or oversees the delivery of healthcare services.
- (e) Peer Reports. A health care provider, as defined in M.G.L. c. 111, § 1, must report to the Board when he or she has a reasonable basis to believe that a physician may have violated the provisions of M.G.L. c. 112, § 5 or any regulation of the Board. This report is filed under M.G.L. c. 112, § 5F and is sometimes referred to as a “peer report”, although the health care provider need not be a peer of the licensee. A health care provider may be exempt from this reporting requirement when the limited exemption provisions of M.G.L. c. 112, § 5F, and 243 CMR 2.07(23) apply.
- (f) Secondary Remedial Action by Insurer. A report of a secondary remedial action, as defined in M.G.L. c. 175A, § 5C(a)(3)(vi) and (vii), and imposed by the experience review committee, as defined in M.G.L. c.175A, § 5C(a)(6), is a mandated report. The mandated reporter is the medical professional mutual insurance company approved by the commissioner of insurance in M.G.L. c. 175A.
- (g) Insurer's Disposition of a Malpractice Claim. A report of the final judgment, settlement, or disposition of a medical malpractice claim or action, filed under M.G.L. c. 112, § 5C, is a mandated report. The mandated reporters are insurers or risk management organizations providing professional liability insurance to a licensee. The report shall be filed with the Board within 30 days of the date of the final judgment, settlement or disposition.
- (h) Criminal Conviction. A clerk of courts shall report a physician's conviction of a crime, or a physician's plea of *nolo contendere* or admission to sufficient facts to a crime, within one week of the date of conviction or plea. This report, filed under M.G.L. c. 221, § 26, is a mandated report.

2.14: continued

- (i) Medical Malpractice Tribunal Findings. The clerk of the Superior Court shall report the findings of a medical malpractice tribunal, as defined in M.G.L. c. 231, § 60B. This mandated report shall be filed with the Board within 15 days of the date of the finding.
- (j) Final Disposition by Court of Malpractice Claim. A clerk of the superior court shall file with the Board a report of a final judgment, settlement or disposition of a medical malpractice claim or action. This mandated report, filed under M.G.L. c. 231, § 60B, shall be filed within 15 days of the date of the final judgment, settlement or disposition.
- (k) Report from the Health Care Services Board. A report by the Worker's Compensation Health Care Services Board (HCSB) filed under M.G.L. c. 152, § 13(3), and received from an employee, an employer or an insurer, regarding licensees serving as health care providers under the Worker's Compensation Law is a mandated report. The HCSB shall report to the Board when the HCSB finds that a licensee may have engaged in a pattern of abuse such as:
1. Discrimination against compensation claimants;
 2. Overutilization of procedures;
 3. Unnecessary surgery or other procedures; or
 4. Other inappropriate treatment of compensation recipients.
- (l) Additional Reporting Requirements. A report made to the Board of Registration in Medicine about a licensee, filed pursuant to a state or federal statute or regulation or filed under 243 CMR 2.07(8), 2.13 or 2.14, shall be a mandated report, unless otherwise specifically required by law. Statutes or regulations requiring a mandated report to the Board should be read as consistent with 243 CMR 2.07(8), 2.13 and 2.14.

2.15: The Physician Profile Program

- (1) Purpose of the Program. The Physician Profile Program, established by St. 1996, c. 307, provides for public access to information about physicians. This law, codified at M.G.L. c. 112, § 5, is also referred to as the Physician Profile Law. The Profiles Program is intended to give patients and consumers access to information on the education, training and clinical experience of all physicians holding or having held a full license.
- (2) Exemption. Information that arises from a person providing or assisting in providing reproductive health care services or gender-affirming health care services, as defined at M.G.L. c. 12, § 11I½, shall not be published on a physician's public profile, so long as the services provided would have been lawful in Massachusetts and are consistent with standards for good professional practice in Massachusetts.
- (3) Content of a Profile. Pursuant to M.G.L. c. 112, § 5, the Board shall collect and maintain a public profile on each physician with a full, active or inactive license under M.G.L. c. 112, § 2. The Board shall create individual physician profiles on licensees and disseminate this information to the public. Pursuant to M.G.L. c. 112, § 5, the following information shall be on a public profile, except for information that meets the exemption in 243 CMR 2.15(2):
- (a) for any criminal convictions for felonies and serious misdemeanors in all jurisdictions;
 1. The Board shall determine what constitutes a "serious misdemeanor";
 2. For the purposes of 243 CMR 2.15, a person shall be considered to be convicted of a crime if the person pleaded guilty or was found or adjudged guilty by a court of competent jurisdiction; and
 - (b) any charges for felonies and serious misdemeanors to which a physician pleads *nolo contendere* or where sufficient facts of guilt were found and the matter was continued without a finding by a court of competent jurisdiction;
 - (c) any final Board disciplinary actions;
 - (d) any final disciplinary actions by licensing boards in other states;
 - (e) any revocation or involuntary restriction of privileges by a hospital, clinic or nursing home under chapter 111, or of any employer who employs physicians licensed by the Board for the purpose of engaging in the practice of medicine in the commonwealth, for reasons related to competence or character that have been taken by the governing body or any other official of the hospital, clinic or nursing home or employer who employs physicians licensed by the Board for the purpose of engaging in the practice of medicine in the Commonwealth after procedural due process has been afforded, or the resignation from or nonrenewal of medical staff membership or the restriction of privileges at a hospital, clinic or nursing home or employer who employs physicians licensed by the Board for the purpose of engaging in the practice of medicine in the Commonwealth taken in *lieu* of or in settlement of a pending disciplinary case related to competence or character in that hospital, clinic or nursing home or of any employer who employs physicians licensed by the Board for the purpose of engaging in the practice of medicine or employer who employs physicians licensed by the Board for the purpose of engaging in the practice of medicine in the Commonwealth;

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

Regulation Filing*To be completed by filing agency*CHAPTER NUMBER: **760 CMR 72.00**CHAPTER TITLE: **Multi-family Zoning Requirement for MBTA Communities**AGENCY: **Executive Office of Housing and Livable Communities**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.***760 CMR 72.00 is a regulation that implements the MBTA Communities Act, created by M.G.L. c. 40A, § 3A, to require MBTA Communities to have a zoning ordinance or by-law that provides for at least one district of reasonable size in which multi-family housing is permitted as of right.**REGULATORY AUTHORITY: **M.G.L. c. 40A, § 3A, M.G.L. c. 23B**AGENCY CONTACT: **Caitlin Loftus** PHONE: **6175731506**ADDRESS: **EOHLC, 100 Cambridge Street, Suite 300, Boston, MA, 02114****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.***LGAC notice: 1/14/2025****A&F approval: 1/14/2025; 3/28/2025****GOV approval: 1/14/2025; 3/28/2025**PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*Date of public hearing or comment period: **2/21/2025 (end of comment period)**

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: none

For the first five years: none

No fiscal effect: none

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: 3/27/2025

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

Zoning, Multi-Family Zoning, Housing, MBTA Communities, Multi-Family Housing

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Promulgate 760 CMR 72.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ SIGNATURE ON FILE _____ DATE: Mar 28 2025

Publication - To be completed by the regulations Division

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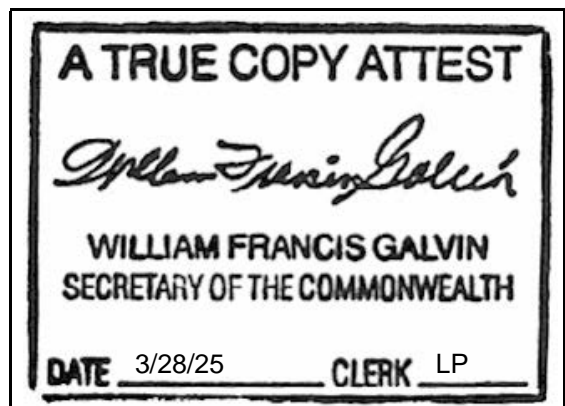


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760 CMR 72.00: MULTI-FAMILY ZONING REQUIREMENT FOR MBTA COMMUNITIES

Section

- 72.01: Background and Purpose
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- 72.12: Table of MBTA Community Categories and Requirements

72.01: Background and Purpose

M.G.L. c. 40A, § 3A provides: An MBTA community shall have a zoning ordinance or by-law that provides for at least one district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of 760 CMR 72.01, a district of reasonable size shall:

- (a) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by M.G.L. c. 131, § 40 and 310 CMR 15.00: *The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage* established pursuant to M.G.L. c. 21A, § 13; and
- (b) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

The purpose of M.G.L. c. 40A, § 3A is to encourage the production of Multi-family housing by requiring MBTA communities to adopt zoning districts where Multi-family housing is allowed As of right, and that meet other requirements set forth in the statute. 760 CMR 72.00 establishes rules, standards, and procedures to set forth how MBTA communities may achieve compliance with M.G.L. c. 40A, § 3A. Pursuant to M.G.L. c. 40A, § 3A(c), the Executive Office of Housing and Livable Communities (EOHLC) is the regulatory agency for the program and is expressly authorized to issue guidelines, in consultation with the Executive Office of Economic Development, the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, to determine if an MBTA community is in compliance with M.G.L. c. 40A, § 3A. EOHLC is adopting 760 CMR 72.00 pursuant to its authority under M.G.L. c. 6A, § 16G ½ and pursuant to the Decision issued by the Supreme Judicial Court in *Attorney General v. Town of Milton, et al.* SJC-13580, slip op. (Jan. 8, 2025), holding that the guidelines issued by EOHLC on August 17, 2023 are unenforceable and must be promulgated in accordance with M.G.L. c. 30A, § 3.

72.02: Definitions

Adjacent Community means an MBTA community that:

- (a) has within its boundaries less than 100 acres of Developable station area; and
- (b) is not an Adjacent small town.

Adjacent Small Town means an MBTA community that:

- (a) has within its boundaries less than 100 acres of Developable station area; and
- (b) either has a population density of less than 500 persons per square mile, or a population of not more than 7,000 year-round residents as determined in the most recently published *United States Decennial Census of Population and Housing*.

72.02: continued

Affordable Unit means a Multi-family housing unit that is subject to a restriction in its chain of title limiting the sale price or rent, or limiting occupancy to an individual or household of a specified income, or both. Affordable units may be, but are not required to be, eligible for inclusion on EOHLC's Subsidized Housing Inventory. Nothing in 760 CMR 72.00 changes the Subsidized Housing Inventory eligibility criteria, and no affordable unit shall be counted on the Subsidized Housing Inventory unless it satisfies the requirements for inclusion under 760 CMR 56.03(2) or any other regulation or guidance issued by EOHLC.

Age-restricted Housing means any housing unit encumbered by a title restriction requiring a minimum age for some or all occupants.

As of Right means development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

Bus Station means a location with a passenger platform and other fixed infrastructure serving as a point of embarkation for the Massachusetts Bay Transportation Authority Silver Line. Upon the request of an MBTA community, EOHLC, in consultation with the Massachusetts Bay Transportation Authority, may determine that other locations qualify as a bus station if:

- (a) such location has a sheltered platform or other fixed infrastructure serving a point of embarkation for a high-capacity Massachusetts Bay Transportation Authority bus line; and
- (b) the area around such fixed infrastructure is highly suitable for Multi-family housing.

Commuter Rail Community means an MBTA community that:

- (a) does not meet the criteria for a Rapid transit community; and
- (b) has within its borders at least 100 acres of Developable station area associated with one or more Commuter rail stations.

Commuter Rail Station means any Massachusetts Bay Transportation Authority Commuter rail station with year-round, rather than intermittent, seasonal, or event-based, service, including stations and any extensions to such lines under construction and scheduled to begin service before the end of 2025.

Compliance Model means the model created by EOHLC to determine compliance with M.G.L. c. 40A, § 3A's reasonable size, gross density, and location requirements. The compliance model is described in further detail in the Compliance Methodology Model, which is a model prescribed by EOHLC.

Determination of Compliance means a determination made by EOHLC as to whether an MBTA community has a Multi-family zoning district that complies with the requirements of M.G.L. c. 40A, § 3A. A Determination of compliance may be a determination of interim compliance or a determination of district compliance, as described in 760 CMR 72.09.

Developable Land means land on which Multi-family housing can be permitted and constructed. For purposes of 760 CMR 72.00, Developable land consists of:

- (a) all privately-owned land except Lots or portions of Lots that meet the definition of Excluded land; and
- (b) Developable public land.

Developable Public Land means any Publicly-owned land that:

- (a) is used by a local housing authority;
- (b) has been identified as a site for housing development in a housing production plan approved by EOHLC; or
- (c) has been designated by the public owner for disposition and redevelopment. Other Publicly-owned land may qualify as Developable public land if EOHLC determines, at the request of an MBTA community and after consultation with the public owner, that such land is the location of obsolete structures or uses, or otherwise is suitable for conversion to Multi-family housing, and will be converted to or made available for Multi-family housing within a reasonable period of time.

72.02: continued

Developable Station Area means Developable land that is within 0.5 miles of a Transit station.

EOED means the Executive Office of Economic Development.

EOHLC means the Executive Office of Housing and Livable Communities.

Excluded Land means land areas on which it is not possible or practical to construct Multi-family housing. For purposes of 760 CMR 72.00, Excluded Land is defined by reference to the ownership, use codes, use restrictions, and hydrological characteristics in MassGIS and consists of the following:

- (a) All Publicly-owned land, except for Lots or portions of Lots determined to be Developable public land.
- (b) All rivers, streams, lakes, ponds and other surface waterbodies.
- (c) All wetland resource areas, together with a buffer zone around wetlands and waterbodies equivalent to the minimum setback required by 310 CMR 15.00: *The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage.*
- (d) Protected open space and recreational land that is legally protected in perpetuity (for example, land owned by a local land trust or subject to a conservation restriction), or that is likely to remain undeveloped due to functional or traditional use (for example, cemeteries).
- (e) All Public rights-of-way and Private rights-of-way.
- (f) Privately-owned land on which development is prohibited to protect private or public water supplies, including, but not limited to, Zone I wellhead protection areas and Zone A surface water supply protection areas.
- (g) Privately-owned land used for educational or institutional uses such as a hospital, prison, electric, water, wastewater or other utility, museum, or private school, college or university. If privately owned land that would otherwise be excluded is no longer being used for such educational or institutional uses, EOHLC may determine that such land no longer being so used is Developable Land.

Ferry Terminal means the location where passengers embark and disembark from regular, year-round Massachusetts Bay Transportation Authority ferry service.

Gross Density means a units-per-acre density measurement that includes land occupied by Public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

Housing Suitable for Families means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no zoning restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

Listed Funding Sources means:

- (a) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017;
- (b) the Local Capital Projects Fund established in M.G.L. c. 29, § 2E(4); and
- (c) the MassWorks infrastructure program established in M.G.L. c. 23A, § 63.

Lot means an area of land with definite boundaries that is used or available for use as the site of a building or buildings.

MassGIS Data means the comprehensive, statewide database of geospatial information and mapping functions maintained by the Commonwealth's Bureau of Geographic Information, within the Executive Office of Technology Services and Security, including the lot boundaries and use codes provided by municipalities.

MBTA Community Categories and Requirements means the table of MBTA communities in Table 760 CMR 72.12, identifying the community category assignment, minimum land area, minimum Multi-family unit capacity, Developable station area, and percentage of the Multi-family zoning district to be located in the Developable station area, applicable to MBTA communities.

72.02: continued

MBTA Community means a city or town that is:

- (a) one of the 51 cities and towns as defined in M.G.L. c. 161A, § 1;
- (b) one of the 14 cities and towns as defined in M.G.L. c. 161A, § 1;
- (c) other served communities as defined in M.G.L. c. 161A, § 1; or
- (d) a municipality that has been added to the Massachusetts Bay Transportation Authority under M.G.L. c. 161A, § 6 or in accordance with any special law relative to the area constituting the authority.

Mixed-use Development means development containing a mix of residential uses and non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.

Mixed-use Development Zoning District means a zoning district where multiple residential units are allowed as of right if, but only if, combined with non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.

Multi-family Housing means a building with three or more Residential dwelling units or two or more buildings on the same Lot with more than one Residential dwelling unit in each building.

Multi-family Unit Capacity means an estimate of the total number of Multi-family housing units that can be developed As of right within a Multi-family zoning district, made in accordance with the requirements of 760 CMR 72.05(1)(b).

Multi-family Zoning District means a zoning district, including a base district or an overlay district, in which Multi-family housing is allowed As of right; provided that the district shall be in a fixed location or locations, and shown on a map that is part of the zoning ordinance or bylaw.

One Stop Application means the single application portal for the Community One Stop for Growth through which:

- (a) EOED considers requests for funding from the MassWorks infrastructure program;
- (b) EOHLIC considers requests for funding from the Housing Choice Initiative;
- (c) EOED, EOHLIC and other state agencies consider requests for funding from other discretionary grant programs.

Private Rights-of-way means land area within which private streets, roads and other ways have been laid out and maintained, to the extent such land areas can be reasonably identified by examination of available tax parcel data.

Publicly-owned Land means:

- (a) any land owned by the United States or a federal agency or authority;
- (b) any land owned by the Commonwealth of Massachusetts or a state agency or authority;
- and
- (c) any land owned by a municipality or municipal board or authority.

Public Rights-of-way means land area within which public streets, roads and other ways have been laid out and maintained, to the extent such land areas can be reasonably identified by examination of available tax parcel data.

Rapid Transit Community means an MBTA community that has within its borders at least 100 acres of Developable station area associated with one or more Subway stations, or Massachusetts Bay Transportation Authority Silver Line bus rapid transit stations.

Residential Dwelling Unit means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

72.02: continued

Sensitive Land means Developable land that, due to its soils, slope, hydrology, or other physical characteristics, has significant conservation values that could be impaired, or vulnerabilities that could be exacerbated, by the development of Multi-family housing. It also includes locations where Multi-family housing would be at increased risk of damage caused by flooding. Sensitive land includes, but is not limited to, wetland buffer zones extending beyond the title 5 setback area; land subject to flooding that is not a wetland resource area; priority habitat for rare or threatened species; Department of Environmental Protection-approved wellhead protection areas in which development may be restricted, but is not prohibited (Zone II and interim wellhead protection areas); and land areas with prime agricultural soils that are in active agricultural use.

Site Plan Review means a process established by local ordinance or by-law by which a local board reviews, and potentially imposes conditions on, the appearance and layout of a specific project prior to the issuance of a building permit.

Subway Station means any of the stops along the Massachusetts Bay Transportation Authority Red Line, Green Line, Orange Line, or Blue Line, including but not limited to the Mattapan High Speed Line and any extensions to such lines.

Transit station means a Massachusetts Bay Transportation Authority Subway station, Commuter rail station, Ferry terminal or Bus station.

Transit Station Area means the land area within 0.5 miles of a Transit station.

72.03: General Principles of Compliance

(1) 760 CMR 72.00 describes how an MBTA community can comply with the requirements of M.G.L. c. 40A, § 3A. 760 CMR 72.00 specifically addresses:

- (a) What it means to allow Multi-family housing "As of right."
- (b) The metrics that determine if a Multi-family zoning district is "of reasonable size."
- (c) How to determine if a Multi-family zoning district has a minimum gross density of 15 units per acre, subject to any further limitations imposed by M.G.L. c. 131, § 40 and 310 CMR 15.000: *The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage* .
- (d) The meaning of M.G.L. c. 40A, § 3A's mandate that "such multi-family housing shall be without age restrictions and shall be suitable for families with children."
- (e) The extent to which MBTA communities have flexibility to choose the location of a Multi-family zoning district.

(2) The following general principles have informed the more specific compliance criteria that follow:

- (a) MBTA communities with Subway stations, Commuter rail stations and other Transit stations benefit from having these assets located within their boundaries and should provide opportunity for Multi-family housing development around these assets. MBTA communities with no Transit stations within their boundaries benefit from proximity to Transit stations in nearby communities.
- (b) The Multi-family zoning districts required by M.G.L. c. 40A, § 3A should encourage the development of Multi-family housing projects of a scale, density and aesthetic that are compatible with existing surrounding uses, and minimize impacts to Sensitive land.
- (c) "Reasonable size" is a relative rather than an absolute determination. Because of the diversity of MBTA communities, a Multi-family zoning district that is "reasonable" in one city or town may not be reasonable in another city or town.
- (d) When possible, Multi-family zoning districts should be in areas that have safe, accessible, and convenient access to Transit stations for pedestrians and bicyclists.

72.04: Allowing Multi-family Housing "As of Right"

(1) To comply with M.G.L. c. 40A, § 3A, a Multi-family zoning district must allow Multi-family housing As of right, meaning that the construction and occupancy of multi-family housing is allowed in that district without the need for a special permit, variance, zoning amendment, waiver, or other discretionary approval. EOHLC will determine whether zoning provisions allow for Multi-family housing as of right consistent with the following requirements.

(a) Site Plan Review. M.G.L. c. 40A does not establish nor recognize Site Plan Review as an independent method of regulating land use. However, the Massachusetts courts have Site Plan Review as a permissible regulatory tool, including for uses that are permitted as of right. The court decisions establish that when Site Plan Review is required for a use permitted As of right, Site Plan Review involves the regulation of a use and not its outright prohibition. The scope of review is therefore limited to imposing reasonable terms and conditions on the proposed use, consistent with applicable case law. 760 CMR 72.00 similarly recognizes that Site Plan Review may be required for Multi-family housing projects that are allowed As of right, within the parameters established by the applicable case law. Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties. Site Plan Review should not unreasonably delay a project nor impose conditions that make it infeasible or impractical to proceed with a project that is allowed As of right and complies with applicable dimensional regulations.

(b) Affordability Requirements. M.G.L. c. 40A, § 3A does not include any express requirement or authorization for an MBTA community to require Affordable units in a Multi-family housing project that is allowed As of right. It is a common practice in many cities and towns to require Affordable units in a Multi-family project that requires a special permit, or as a condition for building at greater densities than the zoning otherwise would allow. These inclusionary zoning requirements serve the policy goal of increasing affordable housing production. If affordability requirements are excessive, however, they can make it economically infeasible to construct new Multi-family housing.

1. For purposes of making compliance determinations with M.G.L. c. 40A, § 3A, EOHLC will consider an affordability requirement to be consistent with As of right zoning as long as the zoning requires not more than 10% of the units in a project to be Affordable units, and the cap on the income of families or individuals who are eligible to occupy the Affordable units is not less than 80% of area median income. Notwithstanding the foregoing, EOHLC may, in its discretion, approve a greater percentage of affordable units, or deeper affordability for some or all of the affordable units, in either of the following circumstances:

a. The affordability requirements applicable in the Multi-family zoning district are reviewed and approved by EOHLC as part of a smart growth district under M.G.L. c. 40R, or under another zoning incentive program administered by EOHLC; or

b. The affordability requirements applicable in the Multi-family zoning district are supported by an economic feasibility analysis, prepared for the municipality by a qualified and independent third party acceptable to EOHLC, and using a methodology and format acceptable to EOHLC. The analysis must demonstrate that a reasonable variety of Multi-family housing types can be feasibly developed at the proposed affordability levels, taking into account the densities allowed As of right in the district, the dimensional requirements applicable within the district, and the minimum number of parking spaces required.

2. In no case will EOHLC approve alternative affordability requirements that require more than 20% of the units in a project to be Affordable units, except in a smart growth zoning district under M.G.L. c. 40R with a 25% affordability requirement approved and adopted prior to August 10, 2022 (the date of issuance by EOHLC of Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act which have been superseded by 760 CMR 72.00), including any such existing district that is expanded or amended to comply with M.G.L. c. 40A, § 3A and 760 CMR 72.00.

(c) Other Requirements That Do Not Apply Uniformly in the Multi-family Zoning District. Zoning will not be deemed compliant with M.G.L. c. 40A, § 3A's requirement that Multi-family housing be allowed As of right if the zoning imposes requirements on Multi-family housing that are not generally applicable to other uses. The following are examples of requirements that would be deemed to be inconsistent with As of right use:

72.04: continued

1. a requirement that Multi-family housing meet higher energy efficiency standards than other uses;
2. a requirement that a Multi-family use achieve a third party certification that is not required for other uses in the district; and
3. a requirement that Multi-family use must be combined with commercial or other uses on the same Lot or as part of a single project. Mixed use projects may be allowed As of right in a Multi-family zoning district, as long as Multi-family housing is separately allowed As of right.

72.05: Determining "Reasonable Size"

(1) In making determinations of "reasonable size," EOHLC will take into consideration both the land area of the Multi-family zoning district, and the Multi-family zoning district's Multi-family unit capacity.

(a) **Minimum Land Area.** A zoning district is a specifically delineated land area with uniform regulations and requirements governing the use of land and the placement, spacing, and size of buildings. For purposes of compliance with M.G.L. c. 40A, § 3A, a Multi family zoning district should be a neighborhood scale district, not a single development site on which the municipality is willing to permit a particular Multi family project. EOHLC will certify compliance with M.G.L. c. 40A, § 3A only if an MBTA community's Multi family zoning district meets the minimum land area applicable to that MBTA community, if any, as set forth in Table 760 CMR 72.12. The minimum land area for each MBTA community has been determined as follows:

1. In Rapid transit communities, Commuter rail communities, and Adjacent communities, the minimum land area of the Multi family zoning district is 50 acres, or 1.5% of the Developable land in an MBTA community, whichever is less. In certain cases, as set forth in Table 760 CMR 72.12 a smaller minimum land area applies.
2. In Adjacent small towns, there is no minimum land area. In these communities, the Multi-family zoning district may comprise as many or as few acres as the community determines is appropriate, as long as the district meets the applicable minimum Multi-family unit capacity and the minimum Gross density requirements.
3. In all cases, at least half of the Multi-family zoning district land areas must comprise contiguous Lots of land. No portion of the district that is less than five contiguous acres land will count toward the minimum size requirement. If the Multi-family unit capacity and Gross density requirements can be achieved in a district of fewer than five acres, then the district must consist entirely of contiguous Lots.

(b) **Minimum Multi-family Unit Capacity.** A reasonably sized Multi-family zoning district must also be able to accommodate a reasonable number of Multi-family housing units As of right. For purposes of determinations of compliance with M.G.L. c. 40A, § 3A, EOHLC will consider a reasonable Multi-family unit capacity for each MBTA community to be a specified percentage of the total number of housing units within the community, with the applicable percentage based on the type of Transit service in the community, as shown on Table 1:

Table 1.

Category	Percentage of Total Housing Units
Rapid transit community	25%
Commuter rail community	15%
Adjacent community	10%
Adjacent small town	5%

1. To be deemed in compliance with M.G.L. c. 40A, § 3A, each MBTA community must have a Multi-family zoning district with a Multi-family unit capacity equal to or greater than the minimum unit capacity as determined by EOHLC in accordance with the Table 760 CMR 72.12. The minimum Multi-family unit capacity for each MBTA community has been determined as follows:

72.05: continued

- a. First, by multiplying the number of housing units in that community by 0.25, 0.15, 0.10, or .05 depending on the MBTA community category. For example, a Rapid transit community with 7,500 housing units is required to have a Multi-family zoning district with a Multi-family unit capacity of $7,500 \times 0.25 = 1,875$ Multi-family units. For purposes of 760 CMR 72.00, the number of total housing units in each MBTA community has been established by reference to the most recently published United States Decennial Census of Population and Housing.
- b. Second, when there is a minimum land area applicable to an MBTA community, by multiplying that minimum land area (up to 50 acres) by M.G.L. c. 40A, § 3A's minimum gross density requirement of 15 units per acre. The product of that multiplication creates a floor on Multi-family unit capacity. For example, an MBTA community with a minimum land area of 40 acres must have a district with a Multi-family unit capacity of at least 600 (40×15) units.
- c. The minimum unit capacity applicable to each MBTA community is the greater of the numbers resulting from steps a. and b. above, but subject to the following limitation: In no case does the minimum Multi-family unit capacity exceed 25% of the total housing units in that MBTA community.

Example: The minimum multi-family unit capacity for an Adjacent community with 1,000 housing units and a minimum land area of 50 acres is determined as follows: (i) first, by multiplying $1,000 \times .1 = 100$ units; (ii) second, by multiplying $50 \times 15 = 750$ units; (iii) by taking the larger number, but adjusting that number down, if necessary, so that unit capacity is no more than 25% of $1,000 = 250$ units. In this case, the adjustment in step (iii) results in a minimum unit capacity of 250 units.

(c) Unit Capacity in Mixed-use Development Districts.

1. In making determinations of whether an MBTA community has a Multi-family zoning district of "reasonable size" under 760 CMR 72.05, EOHLC shall also take into consideration the existence and impact of Mixed-use development zoning districts, subject to the requirements below.
2. EOHLC shall take these Mixed-use development districts into consideration as reducing the unit capacity needed for a Multi-family zoning district to be "reasonable" (in accordance with Table 760 CMR 72.12.) where:
 - a. the Mixed-use development zoning district is in an eligible location where existing village-style or downtown development is essential to preserve pedestrian access to amenities;
 - b. there are no age restrictions or limits on unit size, number of bedrooms, bedroom size or number of occupants and the residential units permitted are suitable for families with children;
 - c. Mixed-used development in the district is allowed As of right as that phrase has been interpreted by EOHLC (for example, in 760 CMR 72.04(1)(b) with respect to affordability requirements);
 - d. the requirement for non-residential uses is limited to the ground floor of buildings, and in no case represents a requirement that more than 33% of the floor area of a building, Lot, or project must be for non-residential uses;
 - e. the requirement for non-residential uses does not preclude a minimum of three residential dwelling units per Lot;
 - f. the requirement for non-residential uses allows a broad mix of non-residential uses As-of-right in keeping with the nature of the area; and
 - g. there are no minimum parking requirements associated with the non-residential uses allowed As of right.
3. An MBTA community asking to reduce the unit capacity requirement for its Multi-family zoning district(s) based on the unit capacity for one or more Mixed-use development districts shall submit to EOHLC, on a form to be provided by EOHLC, a request for a determination that the Mixed-use development district is in an eligible location meeting the requirements of 760 CMR 72.05(1)(c)2.a. This request must be submitted at least 90 days prior to the vote of the MBTA community's legislative body. An MBTA community also may submit a broader inquiry as to M.G.L. c. 40A, § 3A compliance in accordance with 760 CMR 72.09(5). EOHLC shall respond prior to the vote of the MBTA community's legislative body if the request is timely submitted.

72.05: continued

4. In any community with both a Multi-family zoning district and a Mixed-use development district that meets these considerations, the unit capacity requirement for the Multi-family zoning district, as stated in Table 760 CMR 72.12, shall be reduced by the lesser of:
 - a. the unit capacity of Residential dwelling units in the Mixed-use development district or subdistrict (as calculated by EOHLC using a methodology similar to that in 760 CMR 72.05(1)(d) which takes into account the impact of non-residential uses), or
 - b. 25% of the unit capacity requirement as stated in Table 760 CMR 72.12. This consideration shall not affect the minimum land area acreage or contiguity requirements for a Multi-family zoning district otherwise required by 760 CMR 72.00.
- (d) Methodology for Determining a Multi-family Zoning District's Multi-family Unit Capacity.
1. MBTA communities seeking a determination of compliance must use the EOHLC Compliance model to provide an estimate of the number of Multi-family housing units that can be developed As of right within the Multi-family zoning district. The Multi-family unit capacity of an existing or proposed district shall be calculated using the unit capacity worksheet described in the Compliance Methodology Model. This worksheet produces an estimate of a district's Multi-family unit capacity using inputs such as the amount of Developable land in the district, the dimensional requirements applicable to Lots and buildings (including, for example, height limitations, lot coverage limitations, and maximum floor area ratio), and the parking space requirements applicable to Multi-family uses.
 2. Minimum unit capacity is a measure of whether a Multi-family zoning district is of a reasonable size, not a requirement to produce housing units. Nothing in M.G.L. c. 40A, § 3A or 760 CMR 72.00 should be interpreted as a mandate to construct a specified number of housing units, nor as a housing production target. Demonstrating compliance with the minimum multi-family unit capacity requires only that an MBTA community show that the zoning allows multi-family housing as of right and that a sufficient number of multi-family housing units could be added to or replace existing uses and structures over time-even though such additions or replacements may be unlikely to occur soon.
 3. If an MBTA community has two or more zoning districts in which Multi-family housing is allowed As of right, then two or more districts may be considered cumulatively to meet the minimum land area and minimum Multi-family unit capacity requirements, as long as each district independently complies with M.G.L. c. 40A, § 3A's other requirements and 760 CMR 72.00.
- (e) Water and Wastewater Infrastructure within the Multi-family Zoning District.
1. MBTA communities are encouraged to consider the availability of water and wastewater infrastructure when selecting the location of a new Multi-family zoning district. Compliance with M.G.L. c. 40A, § 3A does not require a municipality to install new water or wastewater infrastructure, or add to the capacity of existing infrastructure, to accommodate future Multi-family housing production within the Multi-family zoning district. In most cases, Multi-family housing can be created using private septic and wastewater treatment systems that meet state environmental standards. Where public systems currently exist, but capacity is limited, private developers may be able to support the cost of necessary water and sewer extensions. While the zoning must allow for gross average density of at least 15 units per acre, there may be other legal or practical limitations, including lack of infrastructure or infrastructure capacity, that result in actual housing production at lower density than the zoning allows.
 2. The Multi-family unit capacity analysis does not need to take into consideration limitations on development resulting from existing water or wastewater infrastructure within the Multi-family zoning district, or, in areas not served by public sewer, any applicable limitations under 310 CMR 15.000: *The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the TransPort and Disposal of Septage*. For purposes of the unit capacity analysis, it is assumed that housing developers will design projects that work within existing water and wastewater constraints, and that developers, the municipality, or the Commonwealth will provide funding for infrastructure upgrades as needed for individual projects.

72.06: Minimum Gross Density

(1) M.G.L. c. 40A, § 3A expressly requires that a Multi-family zoning district-not just the individual lots of land within the district-must have a minimum Gross density of 15 units per acre, subject to any further limitations imposed by M.G.L. c. 131 and 310 CMR 15.000: *The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage* established pursuant to M.G.L. c. 21A. M.G.L. c. 40A, § 1A defines "Gross density" as "a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses."

(2) District-wide Gross Density.

(a) To meet the district-wide Gross density requirement, the dimensional restrictions and parking requirements for the Multi-family zoning district must allow for a Gross density of 15 units per acre of land within the district. By way of example, to meet that requirement for a 40-acre Multi-family zoning district, the zoning must allow for at least 15 multi-family units per acre, or a total of at least 600 Multi-family housing units.

(b) For purposes of determining compliance with M.G.L. c. 40A, § 3A's Gross density requirement, the EOHLC Compliance model will not count in the denominator any excluded land located within the Multi-family zoning district, except public rights-of-way, private rights-of-way, and publicly-owned land used for recreational, civic, commercial, and other nonresidential uses. This method of calculating minimum Gross density respects M.G.L. c. 40A, § 1A's definition of Gross density — "a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses" — while making it unnecessary to draw patchwork Multi-family zoning districts that carve out wetlands and other types of excluded land that are not developed or developable.

(3) Achieving District-wide Gross Density by Sub-districts. Zoning ordinances and by-laws typically limit the unit density on individual lots. To comply with M.G.L. c. 40A, § 3A's Gross density requirement, an MBTA community may establish reasonable sub-districts within a Multi-family zoning district, with different density limits for each sub-district, provided that the Gross density for the district as a whole meets the statutory requirement of not less than 15 Multi-family units per acre. EOHLC will review sub-districts to ensure that the density allowed As of right in each sub-district is reasonable and not intended to frustrate the purpose of M.G.L. c. 40A, § 3A by allowing projects of a such high density that they are not likely to be constructed.

(4) Wetland and Septic Considerations Relating to Density. M.G.L. c. 40A, § 3A provides that a district of reasonable size shall have a minimum Gross density of 15 units per acre, "subject to any further limitations imposed by M.G.L. c. 131, § 40 and 310 CMR 15.000: *The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage* pursuant to M.G.L. c. 21A, § 13." This directive means that even though the zoning district must permit 15 units per acre As of right, Multi-family housing produced within the district is subject to, and must comply with, 310 CMR 10.00: *Wetlands Protection* and 310 CMR 15.000 even if such compliance means a proposed project will be less dense than 15 units per acre.

72.07: Determining Suitability for Families with Children

M.G.L. c. 40A, § 3A states that a compliant Multi-family zoning district must allow Multi-family housing As of right, and that such multi-family housing shall be without age restrictions and shall be suitable for families with children. EOHLC will deem a Multi-family zoning district to comply with these requirements as long as the zoning does not require Multi-family uses to include units with age restrictions, and does not limit or restrict the size of the units, cap the number of bedrooms, the size of bedrooms, or the number of occupants, or impose a minimum age of occupants. Limits, if any, on the size of units or number of bedrooms established by state law or regulation are not relevant to M.G.L. c. 40A, § 3A or to determinations of compliance made pursuant to 760 CMR 72.00.

72.08: Location of Districts

(1) General Rule for Determining the Applicability of M.G.L. c. 40A, § 3A's Location Requirement.

(a) A Multi-family zoning district shall "be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable." When an MBTA community has only a small amount of Transit station area within its boundaries, it may not be possible or practical to locate all of the Multi-family zoning district within 0.5 miles of a Transit station. Transit station area may not be a practical location for a Multi-family zoning district if it does not include Developable land where Multi-family housing can actually be constructed. Therefore, for purposes of determining compliance with M.G.L. c. 40A, § 3A and 760 CMR 72.00, EOHLIC will consider the statute's location requirement to be "applicable" to a particular MBTA community only if that community has within its borders at least 100 acres of Developable station area. A Multi-family zoning district shall be located within transit station areas depending on how much total developable station area is in that community, in accordance with Table 2:

Table 2.

<u>Total Developable Station Area Within The MBTA Community (acres)</u>	<u>Portion of the Multi-family Zoning District That must Be Within a Transit Station Area</u>
0-100	0%
101-250	20%
251-400	40%
401-600	50%
601-800	75%
801+	90%

(b) The percentages specified in this table apply to both the minimum land area and the minimum Multi-family unit capacity. For example, in an MBTA community that has a total of 500 acres of Transit station area within its boundaries, a Multi-family zoning district will comply with M.G.L. c. 40A, § 3A's location requirement if at least 50% of the district's minimum land area is located within the Transit station area, and at least 50% of the district's minimum Multi-family unit capacity is located within the Transit station area.

(c) A community with Transit station areas associated with more than one Transit station may locate the Multi-family zoning district in any of the Transit station areas. For example, a Rapid transit community with Transit station area around a Subway station in one part of town, and Transit station area around a Commuter rail station in another part of town, may locate its Multi-family zoning district in either or both Transit station areas.

(d) MBTA Communities with Limited or No Transit Station Area. When an MBTA community has less than 100 acres of Developable station area within its boundaries, the MBTA community may locate the Multi-family zoning district anywhere within its boundaries. To encourage transit-oriented Multi-family housing consistent with the general intent of M.G.L. c. 40A, § 3A, MBTA communities are encouraged to consider locating the Multi-family zoning district in an area with reasonable access to a Transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that qualifies as an "eligible location" as defined in M.G.L. c. 40A — for example, near an existing downtown or village center, near a regional transit authority bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new Multi-family housing.

(2) General Guidance on District Location Applicable to All MBTA Communities. When choosing the location of a new Multi-family zoning district, every MBTA community should consider how much of a proposed district is Sensitive land on which permitting requirements and other considerations could make it challenging or inadvisable to construct Multi-family housing. For example, an MBTA community should avoid including in a Multi-family zoning district areas that are subject to flooding, or are known habitat for rare or threatened species, or have prime agricultural soils in active agricultural use.

72.09: Determinations of Compliance

(1) M.G.L. c. 40A, § 3A provides that any MBTA community that fails to comply with M.G.L. c. 40A, § 3A's requirements will be ineligible for funding from any of the Listed funding sources. EOHLIC will make determinations of compliance with M.G.L. c. 40A, § 3A in accordance with 760 CMR 72.00 to inform state agency decisions on which MBTA communities are eligible to receive funding from the Listed funding sources. The following discretionary grant programs will take compliance with M.G.L. c. 40A, § 3A into consideration when making grant award recommendations:

- (a) Community Planning Grants, EOHLIC;
- (b) Massachusetts Downtown Initiative, EOED;
- (c) Urban Agenda, EOED;
- (d) Rural and Small Town Development Fund, EOED;
- (e) Brownfields Redevelopment Fund, MassDevelopment;
- (f) Site Readiness Program, MassDevelopment;
- (g) Underutilized Properties Program, MassDevelopment;
- (h) Collaborative Workspace Program, MassDevelopment;
- (i) Real Estate Services Technical Assistance, MassDevelopment;
- (j) Commonwealth Places Programs, MassDevelopment;
- (k) Land Use Planning Grants, EOEEA;
- (l) Local Acquisitions for Natural Diversity (LAND) Grants, EOEEA; and
- (m) Municipal Vulnerability Preparedness (MVP) Planning and Project Grants, EOEEA.

(2) Determinations of compliance also may inform other funding decisions by EOED, EOHLIC, the MBTA and other state agencies which consider local housing policies when evaluating applications for discretionary grant programs or making other discretionary funding decisions.

(3) EOHLIC will recognize both interim compliance, which means an MBTA community is taking active steps to enact a Multi-family zoning district that complies with M.L. c. 40A, § 3A, and District compliance is achieved when EOHLIC determines that an MBTA community has a Multi-family zoning district that complies with M.L. c. 40A, § 3A and the requirements set forth below. Table 3 includes deadlines, shown with an asterisk, established under prior guidelines that many municipalities have met, and prospective deadlines for certain categories of municipalities as shown without an asterisk.

Table 3.

Transit Category	Deadline to Submit Action Plan	Deadline to Submit District Compliance Application
Rapid transit community	January 31, 2023*	December 31, 2023*
Commuter rail community	January 31, 2023*	December 31, 2024
Adjacent community	January 31, 2023*	December 31, 2024*
Adjacent small town	January 31, 2023*	December 31, 2025
Rapid transit community that has not submitted a district compliance application to EOHLIC as of December 31, 2023	February 13, 2025	July 14, 2025
Commuter rail community that has not submitted a district compliance application to EOHLIC as of December 31, 2024	February 13, 2025	July 14, 2025
Adjacent community that has not submitted a district compliance application to EOHLIC as of December 31, 2024	February 13, 2025	July 14, 2025

72.09: continued

(4) Process to Achieve Interim Compliance. Prior to achieving district compliance (but no later than the deadlines set forth in Table 3), these MBTA communities can achieve interim compliance by taking the following affirmative steps towards the creation of a compliant Multi-family zoning district.

(a) Creation and Submission of an Action Plan. An MBTA community seeking to achieve interim compliance must first submit an action plan on a form to be provided by EOHLC. An MBTA community action plan must provide information about current zoning, past planning for Multi-family housing, if any, and potential locations for a Multi-family zoning district. The action plan also will require the MBTA community to establish a timeline for various actions needed to create a compliant Multi-family zoning district.

(b) EOHLC Approval of an Action Plan. EOHLC will review each submitted action plan for consistency with 760 CMR 72.00, including but not limited to the timelines in Table 3. If EOHLC determines that the MBTA community's action plan is reasonable and will lead to district compliance in a timely manner, EOHLC will issue a determination of interim compliance. EOHLC may require modifications to a proposed action plan prior to approval.

(c) Implementation of the Action Plan. After EOHLC approves an action plan and issues a determination of interim compliance, an MBTA community must diligently implement the action plan. EOHLC may revoke a determination of interim compliance if an MBTA community has not made sufficient progress in implementing an approved action plan. EOHLC and EOED will review an MBTA community's progress in implementing its action plan prior to making an award of funds under the Housing Choice Initiative and Massworks infrastructure program.

(d) Deadlines for Submitting Action Plans. An MBTA community that does not submit an action plan by the applicable deadline set forth in Table 3 may not receive a EOHLC determination of interim compliance in time to receive an award of funds from the listed funding sources. An MBTA community that does not achieve interim compliance in time for the Community One Stop for Growth Application deadline may submit an action plan to become eligible for a subsequent round of the One Stop Application, provided that an action plan must be submitted by no later than the applicable deadline of the year in which the MBTA community seeks to establish grant eligibility; and provided further that no action plan may be submitted or approved after the applicable district compliance application deadline set forth in Table 3.

(5) Assistance for Communities Implementing an Action Plan. MBTA communities are encouraged to communicate as needed with EOHLC staff throughout the process of implementing an action plan, and may inquire about whether a proposed Multi-family zoning district complies with M.G.L. c. 40A, § 3A prior to a vote by the municipal legislative body to create or modify such a district. Such requests shall be made on a form to be provided by EOHLC. If a request is submitted at least 90 days prior to the vote of the legislative body, EOHLC shall respond prior to the vote.

(6) Requests for Determination of District Compliance. An MBTA community must request a determination of district compliance from EOHLC by submitting an application form required by EOHLC and shall include, at a minimum, the following information:

(a) A certified copy of the municipal zoning ordinance or by-law and zoning map, including all provisions that relate to uses and structures in the multi-family zoning district.

(b) An estimate of multi-family unit capacity using the compliance model.

(c) GIS shapefile for the multi-family zoning district.

(d) In the case of a by-law enacted by a town, evidence that the clerk has submitted a copy of the adopted multi-family zoning district to the office of the Attorney General for approval as required by state law, or evidence of the Attorney General's approval.

(7) After receipt of a request for determination of district compliance, EOHLC will notify the requesting MBTA community within 30 days if additional information is required to process the request. Upon reviewing a complete application, EOHLC will provide the MBTA community a written determination stating one of the following:

(a) that the existing Multi-family zoning district complies with M.G.L. c. 40A, § 3A and 760 CMR 72.00;

72.09: continued

- (b) that the Multi-family zoning district has been determined to be conditionally compliant with M.G.L. c. 40A, § 3A and 760 CMR 72.00, provided that the MBTA community meets the conditions expressed by EOHLC in its determination; or
- (c) that the Multi-family zoning district fails to comply with M.G.L. c. 40A, § 3A and 760 CMR 72.00 and the steps that must be taken to achieve compliance.

(8) An MBTA community that has achieved interim compliance prior to requesting a determination of district compliance shall remain in interim compliance for the period during which a request for determination of district compliance, with all required information, is pending at EOHLC.

72.10: Ongoing Obligations; Rescission of a Determination of Compliance

(1) After receiving a determination of compliance, an MBTA community must notify EOHLC in writing of any zoning amendment or proposed zoning amendment that affects the compliant Multi-family zoning district, or any other by-law, ordinance, rule or regulation that limits the development of Multi-family housing in the Multi-family zoning district.

(2) EOHLC may rescind a determination of district compliance, or require changes to a Multi-family zoning district to remain in compliance, if EOHLC determines that:

- (a) The MBTA community submitted inaccurate information in its application for a determination of compliance;
- (b) The MBTA community failed to notify EOHLC of a zoning amendment that affects the Multi-family zoning district;
- (c) The MBTA community enacts or amends any by-law or ordinance, or other rule or regulation, that materially alters the minimum land area and/or the Multi-family unit capacity in the Multi-family zoning district;
- (d) A board, authority or official in the MBTA community does not issue permits, or otherwise acts or fails to act, to allow construction of a Multi-family housing project that is allowed As of right in the Multi-family zoning district (or any Mixed-use zoning development district taken into account in determining the required Multi-family unit capacity in the Multi-family zoning district);
- (e) The MBTA community takes other action that causes the Multi-family zoning district to no longer comply with M.G.L. c. 40A, § 3A; or
- (f) An MBTA community with an approved Multi-family zoning district has changed transit category as a result of a newly opened or decommissioned Transit station, or the establishment of permanent, regular service at a Transit station where there was formerly intermittent or event-based service.

72.11: Changes to MBTA Service

(1) M.G.L. c. 40A, § 3A applies to the MBTA communities identified in M.G.L. c. 40A, § 1A and M.G.L. c. 161A, § 1. When MBTA service changes, the list of MBTA communities and/or the transit category assignments of those MBTA communities in Table 760 CMR 72.12 may change as well.

(2) The community category assignments identified in Table 760 CMR 72.12 reflect certain MBTA service changes that are expected to result from the South Coast Rail and Green Line Extension projects. Affected MBTA communities are noted in Table 760 CMR 72.12.

(3) Municipalities that are not now identified as MBTA communities and may be identified as such in the future are not addressed in 760 CMR 72.00 or included in Table 760 CMR 72.12. New MBTA communities will be addressed with revisions to Table 760 CMR 72.12, and separate compliance timelines.

72.11: continued

(4) Future changes to Silver Line routes or stations may change district location requirements when expanded high-capacity service combined with new facilities creates a bus station where there was not one before. Changes to other bus routes, including the addition or elimination of bus stops or reductions or expansions of bus service levels, do not affect the transit categories assigned to MBTA communities and will not affect location requirements for Multi-family zoning districts. Any future changes to MBTA transit service, transit routes and transit service levels are determined by the MBTA Board of Directors consistent with the MBTA's Service Delivery Policy.

72.12: Table of MBTA Community Categories and Requirements

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Abington	Commuter Rail	6,811	1,022	50	307	40%
Acton	Commuter Rail	9,219	1,383	50	246	20%
Amesbury	Adjacent Community	7,889	789	50	-	0%
Andover	Commuter Rail	13,541	2,031	50	587	50%
Arlington	Adjacent Community	20,461	2,046	32	58	0%
Ashburnham	Adjacent Small Town	2,730	137	—	—	0%
Ashby	Adjacent Small Town	1,243	62	—	—	0%
Ashland	Commuter Rail	7,495	1,124	50	272	40%
Attleboro	Commuter Rail	19,097	2,865	50	467	50%
Auburn	Adjacent Community	6,999	750	50	—	0%
Ayer	Commuter Rail	3,807	750	50	284	40%
Bedford	Adjacent Community	5,444	750	50	—	0%
Bellingham	Adjacent Community	6,749	750	50	—	0%
Belmont	Commuter Rail	10,882	1,632	27	502	50%
Berkley	Adjacent Small Town	2,360	118	—	80	0%
Beverly	Commuter Rail	17,887	2,683	50	1,095	90%
Billerica	Commuter Rail	15,485	2,323	50	308	40%
Bourne	Adjacent Small Town	11,140	557	—	—	0%
Boxborough	Adjacent Small Town	2,362	118	—	—	0%
Boxford	Adjacent Small Town	2,818	141	—	—	0%
Braintree	Rapid Transit	15,077	3,769	50	485	50%
Bridgewater	Commuter Rail	9,342	1,401	50	181	20%
Brockton	Commuter Rail	37,304	5,596	50	995	90%

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72.12: continued

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Brookline	Rapid Transit	27,961	6,990	41	1,349	90%
Burlington	Adjacent Community	10,431	1,043	50	—	0%
Cambridge	Rapid Transit	53,907	13,477	32	1,392	90%
Canton	Commuter Rail	9,930	1,490	50	451	50%
Carlisle	Adjacent Small Town	1,897	95	—	—	0%
Carver	Adjacent Small Town	4,701	235	—	—	0%
Chelmsford	Adjacent Community	14,769	1,477	50	—	0%
Chelsea	Rapid Transit	14,554	3,639	14	608	75%
Cohasset	Commuter Rail	3,341	638	43	241	20%
Concord	Commuter Rail	7,295	1,094	50	519	50%
Danvers	Adjacent Community	11,763	1,176	50	—	0%
Dedham	Commuter Rail	10,459	1,569	49	507	50%
Dover	Adjacent Small Town	2,046	102	—	—	0%
Dracut	Adjacent Community	12,325	1,233	50	—	0%
Duxbury	Adjacent Community	6,274	750	50	—	0%
East Bridgewater	Adjacent Community	5,211	750	50	—	0%
Easton	Adjacent Community	9,132	913	50	—	0%
Essex	Adjacent Small Town	1,662	83	—	—	0%
Everett	Rapid Transit	18,208	4,552	22	200	20%
Fall River	Commuter Rail	44,346	6,652	50	324	40%
Fitchburg	Commuter Rail	17,452	2,618	50	601	75%
Foxborough	Commuter Rail	7,682	1,152	50	352	40%
Framingham	Commuter Rail	29,033	4,355	50	270	40%
Franklin	Commuter Rail	12,551	1,883	50	643	75%
Freetown	Commuter Rail	3,485	750	50	186	20%
Georgetown	Adjacent Community	3,159	750	50	—	0%
Gloucester	Commuter Rail	15,133	2,270	50	430	50%
Grafton	Adjacent Community	7,760	776	50	82	0%
Groton	Adjacent Small Town	4,153	208	—	—	0%

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72.12: continued

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Groveland	Adjacent Small Town	2,596	130	—	—	0%
Halifax	Commuter Rail	3,107	750	50	300	40%
Hamilton	Commuter Rail	2,925	731	49	184	20%
Hanover	Adjacent Community	5,268	750	50	—	0%
Hanson	Commuter Rail	3,960	750	50	218	20%
Harvard	Adjacent Small Town	2,251	113	—	—	0%
Haverhill	Commuter Rail	27,927	4,189	50	415	50%
Hingham	Commuter Rail	9,930	1,490	50	757	75%
Holbrook	Commuter Rail	4,414	662	41	170	20%
Holden	Adjacent Community	7,439	750	50	—	0%
Holliston	Adjacent Community	5,562	750	50	—	0%
Hopkinton	Adjacent Community	6,645	750	50	79	0%
Hull	Adjacent Community	5,856	586	7	34	0%
Ipswich	Commuter Rail	6,476	971	50	327	40%
Kingston	Commuter Rail	5,364	805	50	345	40%
Lakeville	Adjacent Small Town	4,624	231	—	30	0%
Lancaster	Adjacent Small Town	2,788	139	—	—	0%
Lawrence	Commuter Rail	30,008	4,501	39	271	40%
Leicester	Adjacent Small Town	4,371	219	—	—	0%
Leominster	Commuter Rail	18,732	2,810	50	340	40%
Lexington	Adjacent Community	12,310	1,231	50	—	0%
Lincoln	Commuter Rail	2,771	635	42	102	20%
Littleton	Commuter Rail	3,889	750	50	244	20%
Lowell	Commuter Rail	43,482	6,522	50	274	40%
Lunenburg	Adjacent Small Town	4,805	240	—	—	0%
Lynn	Commuter Rail	36,782	5,517	50	346	40%
Lynnfield	Adjacent Community	4,773	607	40	—	0%
Malden	Rapid Transit	27,721	6,930	31	484	50%
Manchester	Commuter Rail	2,433	559	37	305	40%

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Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Mansfield	Commuter Rail	9,282	1,392	50	327	40%
Marblehead	Adjacent Community	8,965	897	27	—	0%
Marlborough	Adjacent Community	17,547	1,755	50	—	0%
Marshfield	Adjacent Community	11,575	1,158	50	—	0%
Maynard	Adjacent Community	4,741	474	21	—	0%
Medfield	Adjacent Community	4,450	750	50	—	0%
Medford	Rapid Transit	25,770	6,443	35	714	75%
Medway	Adjacent Community	4,826	750	50	—	0%
Melrose	Commuter Rail	12,614	1,892	25	774	75%
Merrimac	Adjacent Small Town	2,761	138	—	—	0%
Methuen	Adjacent Community	20,194	2,019	50	—	0%
Middleborough	Commuter Rail	9,808	1,471	50	260	40%
Middleton	Adjacent Community	3,359	750	50	—	0%
Millbury	Adjacent Community	5,987	750	50	—	0%
Millis	Adjacent Community	3,412	750	50	—	0%
Milton	Rapid Transit	9,844	2,461	50	404	50%
Nahant	Adjacent Small Town	1,680	84	—	—	0%
Natick	Commuter Rail	15,680	2,352	50	680	75%
Needham	Commuter Rail	11,891	1,784	50	1,223	90%
New Bedford	Commuter Rail	44,588	6,688	50	744	75%
Newbury	Adjacent Small Town	3,072	154	—	69	0%
Newburyport	Commuter Rail	8,615	1,292	35	213	20%
Newton	Rapid Transit	33,320	8,330	50	2,833	90%
Norfolk	Commuter Rail	3,601	750	50	333	40%
North Andover	Adjacent Community	11,914	1,191	50	5	0%
North Attleborough	Adjacent Community	12,551	1,255	50	—	0%
North Reading	Adjacent Community	5,875	750	50	—	0%
Northborough	Adjacent Community	5,897	750	50	—	0%

760 CMR: EXECUTIVE OFFICE OF HOUSING AND LIVABLE COMMUNITIES

72.12: continued

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Northbridge	Adjacent Community	6,691	750	50	—	0%
Norton	Adjacent Community	6,971	750	50	—	0%
Norwell	Adjacent Community	3,805	750	50	—	0%
Norwood	Commuter Rail	13,634	2,045	50	861	90%
Paxton	Adjacent Small Town	1,689	84	—	—	0%
Peabody	Adjacent Community	23,191	2,319	50	—	0%
Pembroke	Adjacent Community	7,007	750	50	—	0%
Plymouth	Adjacent Community	28,074	2,807	50	—	0%
Plympton	Adjacent Small Town	1,068	53	—	—	0%
Princeton	Adjacent Small Town	1,383	69	—	—	0%
Quincy	Rapid Transit	47,009	11,752	50	1,222	90%
Randolph	Commuter Rail	12,901	1,935	48	182	20%
Raynham	Adjacent Community	5,749	750	50	—	0%
Reading	Commuter Rail	9,952	1,493	43	317	40%
Rehoboth	Adjacent Small Town	4,611	231	—	—	0%
Revere	Rapid Transit	24,539	6,135	27	457	50%
Rochester	Adjacent Small Town	2,105	105	—	—	0%
Rockland	Adjacent Community	7,263	726	47	—	0%
Rockport	Commuter Rail	4,380	657	32	252	40%
Rowley	Commuter Rail	2,405	601	40	149	20%
Salem	Commuter Rail	20,349	3,052	41	266	40%
Salisbury	Adjacent Community	5,305	750	50	—	0%
Saugus	Adjacent Community	11,303	1,130	50	—	0%
Scituate	Commuter Rail	8,260	1,239	50	373	40%
Seekonk	Adjacent Community	6,057	750	50	—	0%
Sharon	Commuter Rail	6,581	987	50	261	40%
Sherborn	Adjacent Small Town	1,562	78	—	—	0%
Shirley	Commuter Rail	2,599	650	43	338	40%

760 CMR: EXECUTIVE OFFICE OF HOUSING AND LIVABLE COMMUNITIES

72.12: continued

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Shrewsbury	Adjacent Community	14,966	1,497	50	52	0%
Somerville	Rapid Transit	36,269	9,067	24	1,314	90%
Southborough	Commuter Rail	3,763	750	50	167	20%
Sterling	Adjacent Small Town	3,117	156	—	—	0%
Stoneham	Adjacent Community	10,159	1,016	27	12	0%
Stoughton	Commuter Rail	11,739	1,761	50	317	40%
Stow	Adjacent Small Town	2,770	139	—	—	0%
Sudbury	Adjacent Community	6,556	750	50	—	0%
Sutton	Adjacent Small Town	3,612	181	—	—	0%
Swampscott	Commuter Rail	6,362	954	20	236	20%
Taunton	Commuter Rail	24,965	3,745	50	269	40%
Tewksbury	Adjacent Community	12,139	1,214	50	—	0%
Topsfield	Adjacent Small Town	2,358	118	—	—	0%
Townsend	Adjacent Small Town	3,566	178	—	—	0%
Tyngsborough	Adjacent Community	4,669	750	50	—	0%
Upton	Adjacent Small Town	2,995	150	—	—	0%
Wakefield	Commuter Rail	11,305	1,696	36	630	75%
Walpole	Commuter Rail	10,042	1,506	50	395	40%
Waltham	Commuter Rail	26,545	3,982	50	470	50%
Wareham	Adjacent Community	12,967	1,297	50	—	0%
Watertown	Adjacent Community	17,010	1,701	24	27	0%
Wayland	Adjacent Community	5,296	750	50	—	0%
Wellesley	Commuter Rail	9,282	1,392	50	921	90%
Wenham	Commuter Rail	1,460	365	24	111	20%
West Boylston	Adjacent Community	3,052	587	39	—	0%
West Bridgewater	Adjacent Small Town	2,898	145	—	—	0%
West Newbury	Adjacent Small Town	1,740	87	—	—	0%
Westborough	Commuter Rail	8,334	1,250	50	194	20%

760 CMR: EXECUTIVE OFFICE OF HOUSING AND LIVABLE COMMUNITIES

72.12: continued

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Westford	Adjacent Community	9,237	924	50	—	0%
Westminster	Adjacent Small Town	3,301	165	—	30	0%
Weston	Commuter Rail	4,043	750	50	270	40%
Westwood	Commuter Rail	5,801	870	50	470	50%
Weymouth	Commuter Rail	25,419	3,813	50	713	75%
Whitman	Commuter Rail	5,984	898	37	242	20%
Wilmington	Commuter Rail	8,320	1,248	50	538	50%
Winchester	Commuter Rail	8,135	1,220	37	446	50%
Winthrop	Adjacent Community	8,821	882	12	14	0%
Woburn	Commuter Rail	17,540	2,631	50	702	75%
Worcester	Commuter Rail	84,281	12,642	50	290	40%
Wrentham	Adjacent Community	4,620	750	50	—	0%
			297,190			

Minimum multi-family unit capacity for most communities is based on the 2020 housing stock and the applicable percentage for that municipality's community type. In some cases, the minimum unit capacity is derived from an extrapolation of the required minimum land area multiplied by the statutory minimum gross density of 15 dwelling units per acre. In cases where the required unit capacity from these two methods would exceed 25% of the community's housing stock, the required unit capacity has *instead been capped at that 25% level.

Minimum land area is 50 acres for all communities in the rapid transit, commuter rail and adjacent community types. There is no minimum land area requirement for adjacent small towns. Where 50 acres exceeds 1.5% of the developable land area in a municipality, a cap has been instituted that sets **minimum land area to 1.5% of developable land area in the municipality.

Developable station area is derived by taking the area of a half-mile circle around an MBTA commuter ***rail station, rapid transit station, or ferry terminal and removing any excluded land.

REGULATORY AUTHORITY

760 CMR 72.00: M.G.L. c. 23B, M.G.L. c. 40A, § 3A.



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Notice of Compliance

Regulation Filing To be completed by filing agency

CHAPTER NUMBER: 970 CMR 2.00

CHAPTER TITLE: Political Expenditures

AGENCY: Office of Campaign and Political Finance

THIS REGULATION WAS ORIGINALLY FILED AS AN EMERGENCY:

Published in Massachusetts Register Number:

1540

Date:

1/31/25

PRIOR NOTIFICATION AND/OR APPROVAL - If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.

Notice was given to the Local Government Advisory Committee by email and regular mail on January 15, 2025 to the Executive Office of Housing and Livable Communities and to the Massachusetts Municipal Association.

PUBLIC REVIEW - M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.

Date of public hearing or comment period: 03/06/2025

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: 03/26/2025

AGENCY CONTACT: Sarah Hartry, General Counsel PHONE: 617-979-8300

ADDRESS: One Ashburton Place, Room 411, Boston, MA 02108

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

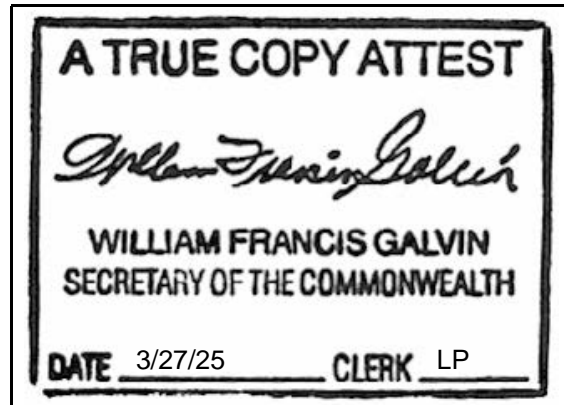
SIGNATURE: SIGNATURE ON FILE DATE: Mar 27 2025

MASSACHUSETTS REGISTER NUMBER: 1545 DATE: 4/11/25

EFFECTIVE DATE: 1/6/25

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these Pages:</i>	<i>Insert these Pages:</i>
18.11 - 18.12.2 18.37 & 18.38	18.11 - 18.12.2 18.37 & 18.38



2.06: continued

9. other travel undertaken primarily to enhance a candidate's political future or the principle for which the committee was organized.

Travel expenses of a family member of a candidate for travel are presumed to be for personal use and not allowed. A committee may, however, rebut the presumption by requesting and obtaining advance approval from OCPF.

10. Several factors may be considered by OCPF in determining whether a travel expenditure may be made primarily for the enhancement of the political future of a candidate or, in contrast, may not be made as it would be primarily for personal use. The factors that may be considered include, but are not limited to, the following:

- a. The Amount of the Expenditure. For example, expenditures for international travel are subject to greater scrutiny since they are generally larger in amount;
 - b. The Nature of the Activity. For example, if the event is educational such as a conference regarding legislation, it is more likely to be considered to be made primarily for the enhancement of the political future of the candidate and not primarily for personal use, in contrast to travel to participate in a recreational event, such as a golf tournament.
 - c. Whether the Expenditure Would Be Made for the Travel of an Incumbent or Active Candidate. If the travel would be for a current office holder or active candidate, the proposed expenditure would more likely be permitted. In contrast, an expenditure made by a former office holder who maintains a political committee for purposes of a possible but undetermined campaign in the future, is more likely to be seen as primarily social or recreational.
- (k) Rental of halls and other space for political activities;
 - (l) Expenses for fundraising, for obtaining votes and for other similar activities, which may include beverages, food, entertainment, decorations, bartenders, security officers and service and maintenance persons;
 - (m) Bumper stickers, signs, placards, brochures, leaflets and other such campaign items;
 - (n) Delivery services and express mail;
 - (o) Paper supplies;
 - (p) Newspaper and magazines, literature, clipping services;
 - (q) Inaugural expenses, which may include room rental, printing, decorations, entertainment, food and beverages;
 - (r) The repayment of loans, if such loans:
 1. were received by the political committee in accordance with the requirements of 970 CMR 1.00: *Campaign Finance Activity* and M.G.L. c. 55;
 2. were used to defray expenditures permitted by 970 CMR 2.00; and
 3. did not exceed the maximum amounts set forth in 970 CMR 1.05(2).
 - (s) Taxes;
 - (t) Charitable contributions, if all of the following requirements are met:
 1. The contribution is made to an entity which is subject to either M.G.L. c. 12, § 8(e), M.G.L. c. 67 or M.G.L. c. 180;
 2. Neither the candidate, treasurer, or any official of the political committee is a trustee, officer, principal or beneficiary or involved in any manner in the operations of said entity;
 3. Neither the candidate, treasurer, nor any official of the political committee is related by consanguinity or affinity to any trustee, officer, principal or beneficiary of said entity;
 4. The candidate or political committee will receive publicity and foster political goodwill as a result of making the contribution.
 - (u) Gifts and Flowers, of reasonable value, if the purpose of the expenditure falls within one of the following categories:
 1. Gifts to campaign workers, if:
 - a. The gift accurately reflects the contribution made by those workers to the efforts of the political campaign of the committee;
 - b. the gift is made in a timely fashion as to clearly indicate its purpose is to express gratitude for work done on behalf of the campaign; and
 - c. no gifts may be made to campaign workers for any other purpose or for any other occasion.
 2. The political committee or candidate will receive publicity and foster political goodwill as a result of making the gift or contribution, if:

2.06: continued

- a. The candidate, treasurer, or other officers of the committee, and in the case of a local party committee, the members of the committee, have no personal relationship with the individual or his or her family;
 - b. the gift is appropriate to the occasion which has prompted the gift; and
 - c. the gift would not be made but for the interest in it enhancing the political future of the candidate or principle for which the committee was organized.
3. No gifts may be made under 970 CMR 2.06(2)(u)1. or 2., unless all the provisions of each subdivision are satisfied.
- (v) Memberships for the candidate in organizations and associations, provided that the candidate would not be participating in the particular organization or association, but for the candidate's interest in it enhancing the candidate's political stature.
- (w) Gifts to Scholarships Funds are permitted, if:
1. the candidate and officers of the committee, and their family members, are not involved in selecting recipients or otherwise administering the scholarship fund; and
 2. the gift would not be made but for the interest in it enhancing the political future of the candidate or the principle for which the committee was organized.
- (x) Scholarships may be awarded to an individual, if:
1. the candidate, treasurer, or other officers of the committee, and in the case of a local party committee, the members of the committee, have no personal relationship with the individual or his or her family;
 2. the scholarship would not be awarded but for the interest in it enhancing the political future of the candidate or the principle for which the committee was organized; and
 3. except in the instance of a political party committee, which may select recipients of a scholarship award, the recipient of the scholarship award may not be selected by a candidate or political committee, but instead must be selected by a separate entity, not comprised of the candidate, or officers of the committee, or their family members.
- (y) Childcare Services.
1. Campaign funds may be used to pay or reimburse a candidate for reasonable and necessary childcare expenses for a child or dependent child resulting directly from the candidate engaging in campaign activities. For purposes of this paragraph, "directly" means that the candidate incurred the childcare expenses because of their attendance at and travel to and from the campaign activities. Reimbursements shall be made in compliance with M.G.L. c. 55, § 19(c) and 970 CMR 2.10.
 2. Campaign activities include fundraisers, galas, block parties, meet and greet events, town days, community events, dinners with supporters, campaign staff and volunteer meetings, canvassing, phone banking, door knocking, get-out-the-vote efforts, voter registration efforts, sign holding, participation in debates, public appearances, and similar events and activities likely to enhance the political future of the candidate.
 3. Campaign activities do not include the performance of the candidate's ordinary and usual duties of their profession or job, including executive, legislative or administrative duties associated with serving in an elected office. This section shall not be construed to limit the use of campaign funds to pay for childcare expenses resulting from an officeholder engaging in campaign activities which also have executive, legislative or administrative purposes.
 4. A candidate may pay a family member for childcare services only if the family member is providing the services in the ordinary course of business at their usual place of employment at a professional daycare or babysitting service, or a non-profit or for-profit organization that provides childcare services.
- (4) Any candidate or political committee subject to 970 CMR 2.06 may request an advisory opinion, pursuant to 970 CMR 2.04, to determine the permissibility of any other expenditure under 970 CMR 2.06.
- (5) The contributions by a candidate committee to another candidate committee shall not exceed \$100 per calendar year;

2.06: continued

(6) Prohibitions.

(a) Personal Use. Notwithstanding any of provisions in 970 CMR 2.06(1) through (5), no political committee may make an expenditure that is primarily for the candidate's or any other person's personal use. Expenditures prohibited under 970 CMR 2.06(6) shall include, but are not limited to the following:

1. The payment of fines, penalties, restitution or damages incurred for a violation of M.G.L. c. 268A or 268B. This prohibition shall apply to payments made pursuant to an agreement to resolve allegations of violations of M.G.L. c. 268A or c. 268B, but shall not apply to payments for legal services in relation to defending against allegations of violations of such chapters of the General Laws;
 2. Any expenditure which acknowledges any guilt as to the violation of any law.
 3. Any expenses relative to alleged violations of law, civil suits or administrative proceedings, other than those expenses relative to legal action undertaken primarily to protect or further the interests of the political committee. However, under no circumstances may funds of a political committee be used for any such expenses incurred after conviction of the incumbent office holder, candidate or treasurer has occurred;
 4. Normal clothing attire which is usual to the ordinary course of everyday living. 970 CMR 2.06(6)(a)4. shall not apply to:
 - a. clothing items such as tuxedos or gowns rented or purchased by a candidate for the candidate's use exclusively at political or governmental functions; and
 - b. novelty clothing items and costumes which are worn primarily to advertise one's candidacy;
 5. Payment of salary to candidate.
- (b) No political committee subject to 970 CMR 2.06 may pay or expend money or any thing of value, unless such transaction will enhance the political future of the candidate or principle on whose behalf the committee was organized and such transaction is not primarily for personal use.

NON-TEXT PAGE

2.22: continued

(10) In-kind Contributions by Traditional PACs. An expenditure by a traditional PAC to support or oppose a candidate is either an independent expenditure or an in-kind contribution. If the PAC has coordinated the activity with the candidate, as defined in 970 CMR 2.21, then the activity by the PAC would be considered an in-kind contribution rather than an independent expenditure. If an in-kind contribution is made by the PAC to a candidate, the PAC must advise the candidate's committee of the value of the in-kind contribution, to ensure that the in-kind contribution is accurately disclosed by the recipient. If a traditional PAC publishes a communication to support or oppose multiple candidates and the communication is coordinated with the candidates, each candidate must be informed of the value that may be apportioned to the candidate, and the PAC's reports must reflect the itemized value of the contribution as received by each committee.

(11) Expenditures Relating to Ballot Questions.

(a) Expenditures by Traditional PACs. Traditional PACs may make expenditures to support or oppose ballot questions subject to the following restrictions:

1. The expenditures must be made to enhance the principle for which the PAC was organized;
2. The expenditures must be disclosed in a timely manner in the PAC's campaign finance reports; and
3. If the expenditures are made in coordination with a ballot question committee, the ballot question committee must disclose the receipt of an in-kind contribution.

(b) Expenditures by Independent Expenditure PACs. Independent expenditure PACs may make expenditures to support or oppose ballot questions, or may contribute to ballot question committees, subject to the following restrictions:

1. The expenditure must be disclosed in the IE PAC's year-end campaign finance report; and
2. If made as an in-kind contribution to a ballot question committee, the recipient ballot question committee must disclose its receipt in the campaign finance report filed for the period in which the contribution was received.

REGULATORY AUTHORITY

970 CMR 2.00: St. 2024, c. 238, § 313; M.G.L. c. 55, §§ 3 and 6.

NON-TEXT PAGE

