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Massachusetts Public Health Council Approves Hospital Occupancy Reporting Requirements

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On Friday, May 3, 2024, Massachusetts's Public Health Council (PHC) approved emergency amendments to 105 CMR 130.000 requiring hospitals to report occupancy data to the Department of Public Health. This requirement extends data reporting that began during the COVID-19 pandemic.

In April 2020, the United States Department of Health and Human Services began collecting data daily to understand healthcare system stress, capacity, and the number of patients hospitalized due to COVID-19. On September 2, 2020, the Centers for Medicare and Medicaid Services made the reporting part of its Conditions of Participation. In order to streamline data reporting requirements for hospitals, the Massachusetts Department of Public Health was certified to collect the federal data and report it on the hospitals' behalf. In so doing, the department was able to make one daily request that fulfilled both the state data needs and federal reporting requirements.

These data were used to inform the department's COVID-19 response and also gave the department data that it used to perform planning and coordination in the Massachusetts healthcare system. The department asserts that the data help the department monitor trends in overall hospital capacity, identify and designate the appropriate hospital capacity tier for each region, and respond to emergency capacity needs within the hospital system.

The federal government ended the reporting requirement for hospitals as of April 30, 2024. The department is promulgating a new section of the hospital licensure regulation to require ongoing state reporting requirements to assist the department in monitoring hospital capacity in the Commonwealth.

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The COVID-19 reporting requirements included more than 100 data elements. The new regulation eliminates a majority of those required data elements and focuses on data related to bed capacity at Massachusetts hospitals.

The regulation requires that hospitals report:

Staffed beds by licensed bed type;

Occupied beds by licensed bed type; and

Patient demographics for the patients in these beds.

Through guidance, the department identified the specific elements and how hospitals must report the data. The regulation requires acute hospitals, defined as a "hospital with a majority of medical-surgical, pediatric, obstetric, and maternity beds," to submit data for each day, with the data submitted at least weekly. This definition of acute hospital includes rehabilitation hospitals. Non-acute hospitals, which are all licensed hospitals that are not acute hospitals, must submit data at least once annually (in November). For acute hospitals, the first data transmission is due Tuesday, May 7, 2024, to include capacity data for Sunday, April 28, 2024, through Saturday, May 4, 2024.

As an emergency amendment, the regulation is effective immediately upon filing with the Secretary of State. The regulation remains in effect for a three-month period while the department completes the regulatory process. During that time, there will be a public hearing and comment period. The public hearing will be held on June 10, 2024, at 1:00 PM, through a moderated conference call. Individuals who wish to comment or listen to the hearing may call 800-369-1170 and enter the passcode 6410428. Comments can also be sent to reg.testimony@mas.gov with the subject line "105 CMR 130.000: Hospital Licensure – Data Reporting." Written comments should be submitted no later than 5:00 PM on June 10, 2024. The department may make changes based on the comments received and must finalize the regulation no later than three months from the date it was first issued.

Contact us

If you have questions relating to these new amendments, please contact Crystal Bloom, Rebecca Rodman, or your Husch Blackwell attorney.

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