

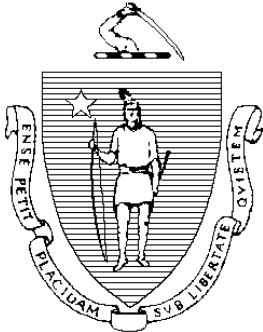
The

Massachusetts

Register

Published by:
The Secretary of the Commonwealth,
William Francis Galvin, Secretary

\$15.00



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

The Massachusetts Register
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Notice of Expiration of Emergency Regulation

There are no Emergency Expiration in this *Massachusetts Register*.

Emergency Regulations

101 CMR	Executive Office of Health and Human Services	
206.00	Standard Payments to Nursing Facilities - <i>Correction</i>	25
205 CMR	Massachusetts Gaming Commission	
146.00	Gaming Equipment	27
	<i>Outlines the standards applicable to the various types of equipment used in the table games offered for play in a gaming establishment. Makes the language uniform throughout with respect to the number of seats permitted at gaming tables.</i>	
310 CMR	Environmental Protection, Department of	
7.00	Air Pollution Control	29
	<i>Amends 310 CMR 7.40 by adopting the California Motor Vehicle Greenhouse Gas (GHG) Standards for model years (MYs) 2021 through 2025 passenger cars, light-duty trucks, and medium-duty passenger vehicles.</i>	

Permanent Regulations

101 CMR	Health and Human Services, Executive Office of	
206.00	Standard Payments to Nursing Facilities - <i>Compliance</i>	31
304.00	Rates for Community Health Centers	33
	<i>Governs the payment rates to be used by governmental units and purchasers under M.G.L. c. 152 (the Worker's Compensation Act) for community health center (CHC) services.</i>	
318.00	Radiology	35
	<i>Governs the payment rates used by all governmental units for radiology care and services provided to publicly aided patients.</i>	
334.00	Prostheses, Prosthetic Devices, and Orthotic Devices	37
	<i>EOHHS is statutorily required to periodically review the rates of payment for health care services, including Prostheses, Prosthetic Devices, and Orthotics Devices. These amendments, are the product of that review. The amendments re-base payment rates to 2017 Medicare fees and update components of the rate methodology by reducing the percentage of the Medicare rates for less complex items; updates terminology; and clarifies definitions to reduce ambiguity.</i>	

346.00	Rates for Certain Substance-related and Addictive Disorders Programs <i>Governs the payment rates for certain substance-related and addictive disorders programs provided to publicly aided individuals by governmental units.</i>	39
105 CMR	Public Health, Department of	
100.000	Determination of Need <i>Sets forth the requirements and process to obtain a Determination of Need, when required, for projects involving health care construction or substantial changes in service.</i>	41
205 CMR	Massachusetts Gaming Commission	
138.00	Uniform Standards of Accounting Procedures and Internal Controls - <i>Correction</i>	43
146.00	Gaming Equipment - <i>Correction</i>	45
225 CMR	Energy Resources, Department of	
13.00	DOER CO₂ Budget Trading Program Auction Regulation <i>Establishes rules for the conduct of auctions of CO₂ allowances to be administered by the Department of Energy Resources or its agent as part of the Massachusetts component of the CO₂ Budget Trading Program, which is designed to stabilize and then reduce anthropogenic emissions of CO₂, a greenhouse gas, from CO₂ budget sources in an economically efficient manner that minimizes costs to electricity consumers. Complements the provisions of the Department of Environmental Protection regulation, 310 CMR 7.70.</i>	47
301 CMR	Energy and Environmental Affairs, Executive Office of	
41.00	Toxic or Hazardous Substance List <i>Companies that use large quantities of toxic and hazardous chemicals annually report the use of these chemicals to MassDEP. Defines the list of reportable chemicals and their reporting threshold.</i>	49

Acts 2018

CHAPTER NUMBER	BILL NUMBER	TITLE	DATE
305	H 4547	Authorizing the Town of Whately to Continue the Employment of John Hannum.	11/20/2018
306	H 4621	Authorizing the City of Marlborough to Grant an Additional License for the Sale of Alcoholic Beverages Not to be Drunk on the Premises.	11/20/2018
307	H 4569	Designating a Certain Bridge in the Town of Burlington as the Lance Corporal Gregory E. MacDonald Memorial Bridge.	11/20/2018
308	S 2514	Allowing the City Council of the City of Everett to Set the Salary for the Clerk of the City Council.	11/27/2018
309	H 4705	Authorizing the Appointment of Retired Salem Police Officers as Special Police Officers Within the City of Salem.	11/27/2018
310	H 4892	Authorizing the Board of Selectmen of the Town of Arlington to Place Upon a Town Ballot a Question to Authorize the Board of Selectmen to Issue 1 Additional License for the Sale of All Alcoholic Beverages Not to be Drunk on the Premises.	11/27/2018
311	S 2668	Establishing a Sick Leave Bank for Richard Maynard, an Employee of the Trial Court.	11/27/2018
312	H 4916	Relative to Real Property Tax Deferrals in the Town of Arlington.	11/27/2018
313	H 4945	Establishing a Sick Leave Bank for Katelyn Giliberti, an Employee of the Department of Public Health.	11/27/2018
314	S 2516	Amending the Charter of the City of Everett to Reduce the Amount of Time that a Former City Councilor is Required to Wait Before Holding Other Compensated City Employment.	11/27/2018
315	H 3691	Authorizing the Merger of the Salvation Army of Massachusetts, Incorporated, Into the Salvation Army, a New York Corporation.	11/27/2018
316	S 2658	Adding a Fifth Member to the Board of Elections Commission in the City of Everett.	12/6/2018
317	H 4900	Establishing a Sick Leave Bank for Heather Tavares, an Employee of the Department of Children and Families.	12/6/2018
318	H 4645	Relative to the Orleans Affordable Housing Trust Fund.	12/6/2018
319	H 4914	Authorizing the City of Chicopee to Establish a Water and Sewer Department.	12/6/2018
320	H 4912	Designating a Certain Exit on State Route 18 as the Giammalvo Family Memorial Exit.	12/6/2018
321	H 4904	Designating a Certain Bridge in the Town of West Boylston as the Specialist Kyle A. Little Memorial Bridge.	12/10/2018

Acts 2018

CHAPTER NUMBER	BILL NUMBER	TITLE	DATE
322	H 4115	For a Law Relative to Establishing a Citizens Commission Concerning a Constitutional Amendment to Secure Government of the People. <i>This law was approved by the people at the November 6, 2018 election under the provisions of Article XLVIII of the Amendments to the Constitution, The Initiative, Part V, section 1, as amended, and was thereby approved by voters equal in number to at least thirty percent of the total number of ballots cast at such state election and also by a majority of the voters voting on such law, according to the determination of the Governor and Council dated November 28, 2018.</i>	12/13/2018

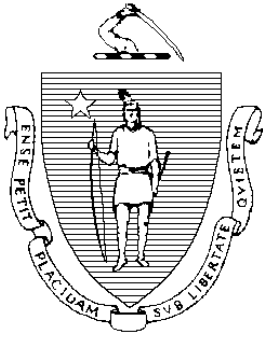
STATE REGISTER OF HISTORIC PLACES

WEEKS OF: November 19, 2018 – December 7, 2018

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

ACTIONS TAKEN UNDER 950 CMR 71.00			
Town/Property/Agency	Finding	Date	
NONE			

ADDITIONAL LISTINGS UNDER 950 CMR 71.00			
Town/Name/Address	Designation	Date	Number of Properties
Concord Hubbardville Historic District (Expansion) 387 Sudbury Rd	LHD	04/10/2018	1
Pembroke Magoun, Recompense House 290 Elm St	PR	05/04/2018	5
Wilmington Butters-Avery House 165 Chestnut St	PR	05/23/2017	1



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**

December 28, 2018

Marine Fisheries, Division of

322 CMR 6.00 & 12.00

1/19/19 @ 11:00 A.M.;
1/23/19 @ 6:00 P.M.
Written comments
accepted until 2/1/19 @
5:00 P.M.



David E. Pierce, PhD
Director

Commonwealth of Massachusetts

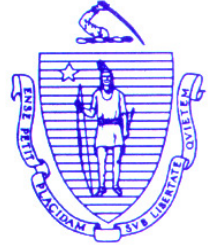
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Secretary

Ronald S. Amidon
Commissioner

Mary-Lee King
Deputy Commissioner

December 14, 2018

Public Hearing Notice Right Whale Protections and Whelk Gauge Size

Under the provisions of M.G.L. c. 30A and pursuant to the authority found at M.G.L. c. 130 §§ 2, 17(10), 17A, 80 and 104, the Division of Marine Fisheries (DMF) is proposing draft regulatory amendments to 322 CMR §§6.00 and 12.00 to protect right whales and increase the minimum whelk gauge size.

1. **Right Whale Protections (322 CMR 12.04 and 12.05).**

- a. **Small Vessel Speed Limit:** DMF is proposing to implement a 10 knot speed limit for vessels smaller than 65' within those waters of Cape Cod Bay south of 42°08' N and west of 70°10' W during the period of March 1 – April 30.
- b. **Process to Adjust Speed Limit and Large Whale Seasonal Trap Gear Closure:** DMF is proposing to establish a declaratory process whereby the DMF may adjust the duration of the above proposed speed limit rule or extend the duration of the existing seasonal trap gear closure in response to the presence of right whales in Massachusetts' waters.

2. **Whelk Gauge Increase (322 CMR 6.21).** DMF is proposing to increase the whelk gauge width by 1/8" biennially beginning in 2019 with an increase to a 3" gauge width and concluding in 2019 at a terminal 3 5/8" gauge width.

Public Hearing Schedule

The Division of Marine Fisheries has scheduled two public hearings to take comment on these proposals. The public hearings will be held on:

11AM
January 19, 2019
Resort and Conference Center
35 Scudder Avenue
Hyannis, MA 02601

6PM
January 23, 2019
Hotel 1620
180 Water Street
Plymouth, MA 02360

Public Comment Instructions

The Division of Marine Fisheries will also accept public comment through 5PM on Friday, February 1, 2019. Please address all written comments to Director Pierce and submit to DMF by e-mail at marine.fish@state.ma.us or by post to 251 Causeway Street, Suite 400, Boston, MA 02114.

Initial Small Business Impact Statement

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

CMR No: 322 CMR 6.00

Estimate of the Number of Small Businesses Impacted by the Regulation: Whelk fishermen and the seafood dealers who purchase this whelk will be affected by this regulation. In 2017, 169 commercial fishermen permit holders harvested knobbed and channeled whelks and 24 seafood dealers purchased them from these commercial fishermen.

Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Will small businesses have to create, file, or issue additional reports?</p> <p>The regulation establishes a schedule for gauge increases in the whelk fishery to bring the size of whelks harvested to 50% size at maturity to protect spawning stock biomass; it does not impact existing reporting requirements pursuant to G.L. c. 130 s. 21.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Will small businesses have to implement additional recordkeeping procedures?</p> <p>The regulation establishes a schedule for gauge increases in the whelk fishery to bring the size of whelks harvested to 50% size at maturity to protect spawning stock biomass; it does not require additional record keeping procedures.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Will small businesses have to provide additional administrative oversight?</p> <p>The regulation establishes a schedule for gauge increases in the whelk fishery to bring the size of whelks harvested to 50% size at maturity to protect spawning stock biomass; it does not require additional administrative oversight.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</p> <p>The regulation establishes a schedule for gauge increases in the whelk fishery to bring the size of whelks harvested to 50% size at maturity to protect spawning stock biomass; it does not require additional employees be hired for the purpose of compliance.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</p> <p>The regulation establishes a schedule for gauge increases in the whelk fishery to bring the size of whelks harvested to 50% size at maturity to protect spawning stock biomass; it does not require professional services be contracted for the purpose of compliance.</p>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</p> <p>This regulation will require fishermen and seafood dealers to make small biennial investments in new gauges. DMF anticipates the cost of each new gauge will be up to approximately \$40.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective?</p> <p>(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.)</p> <p>Performance standards are not more appropriate; these standards are necessary to protect spawning stock biomass.</p>

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No duplicative or conflicting regulations are being filed.
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? The regulation establishes a schedule for gauge increases in the whelk fishery to bring the size of whelks harvested to 50% size at maturity to protect spawning stock biomass; it does not require additional enforcement measures beyond what is set forth at G.L. c. 130.
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? The regulation establishes a schedule for gauge increases in the whelk fishery to bring the size of whelks harvested to 50% size at maturity to protect spawning stock biomass; it does not require industry provide for continuing education to ensure compliance.
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. This should not have an effect on the formation of small businesses in MA. Most commercial harvesters for whelks participate in limited entry fisheries that are already closed to new participants (except through the transfer of active permits). Entry into seafood dealer businesses are limited by factors other than the size availability of whelks.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N No. This should not have an effect on the formation of small businesses in MA. Most commercial harvesters for whelks participate in limited entry fisheries that are already closed to new participants (except through the transfer of active permits). Entry into seafood dealer businesses are limited by factors other than the size availability of whelks.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation establishes a schedule for gauge increases in the whelk fishery to bring the size of whelks harvested to 50% size at maturity to protect spawning stock biomass; it does not impact the compliance and reporting standards set forth at G.L. c. 130.
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? The regulation establishes a schedule for gauge increases in the whelk fishery to bring the size of whelks harvested to 50% size at maturity to protect spawning stock biomass; it does not impact the compliance and reporting standards set forth at G.L. c. 130.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The regulation establishes a schedule for gauge increases in the whelk fishery to bring the size of whelks harvested to 50% size at maturity to protect spawning stock biomass; it does not impact the compliance and reporting standards set forth at G.L. c. 130.
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. These standards are necessary to protect spawning stock biomass.
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small

<input type="checkbox"/>	<input checked="" type="checkbox"/>	businesses? N/A. These measures are necessary to protection spawning stock biomass in order to ensure the long-term sustainability of the resource and the fishery.
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Initial Small Business Impact Statement

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

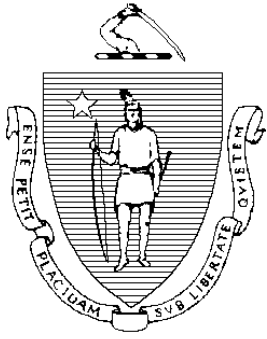
CMR No: 322 CMR 12.00

Estimate of the Number of Small Businesses Impacted by the Regulation: DMF cannot adequately estimate the potential number of affected small businesses at this time. This rule will affect any small business utilizing a vessel measuring less than 65' length within the waters of Cape Cod Bay from March 1- April 30. DMF anticipates that the number of potentially impacted businesses will be minimal.

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? This restricted speed area will not result in the creation, filing or issuance of additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? This restricted speed area will not result in the creation of additional record keeping requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? This restricted speed area will not result in the creation of 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? This restricted speed area will not result in the need to hire additional employees to comply with the 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.)? This restricted speed area will not result in the need to hire professional services to comply with the regulation.
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? This restricted speed area will not result in the need for capital investment.
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.) Not applicable. This restricted speed area is designed to the risk of small vessels ship strikes on the endangered right whale.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No. There are no other duplicative or conflicting state regulations.
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? All audits and inspections are done in accordance with M.G.L. c. 130. No additional inspections are required under this new regulation.
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?

		This restricted speed area will not result in the need to provide educational services.
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. This restricted speed area is not expected to have any impact on the formation of business 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? No. This restricted speed area is not expected to have any impact on the formation of business 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? No. This restricted speed area closure within a portion of Cape Cod Bay. This will not impact reporting requirements required pursuant to G.L. c. 130 s. 21.
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. This restricted speed area closure within a portion of Cape Cod Bay. This will not impact reporting deadlines for fishermen required pursuant to G.L. c. 130 s. 21.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. This regulation is a standalone rule affecting only the speed of small vessels within a portion of Cape Cod Bay.
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. This regulation is a standalone rule affecting only the speed of small vessels within a portion of Cape Cod Bay to reduce the risk of ship strikes on the endangered right whale.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? DMF previously issued voluntary advisories notifying mariners to reduce their vessel speed in Cape Cod Bay during the winter and spring. A number of small ship strikes in Cape Cod Bay were documented during the years when these advisories were issued. Considering the status of the right whale and their vulnerability to ship strikes while in Cape Cod Bay, DMF is now pursuing regulations.



THE COMMONWEALTH OF MASSACHUSETTS
Secretary of the Commonwealth - William Francis Galvin
2018 CUMULATIVE TABLE TO THE MASSACHUSETTS REGISTER
1356 - 1381

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: 1998	Register: # 859
1978	138	1999	885
1979	193	2000	911
1980	241	2001	937
1981	292	2002	963
1982	344	2003	989
1983	396	2004	1016
1984	448	2005	1042
1985	500	2006	1068
1986	546	2007	1094
1987	572	2008	1120
1988	598	2009	1146
1989	624	2010	1172
1990	650	2011	1198
1991	676	2012	1124
1992	702	2013	1250
1993	729	2014	1276
1994	755	2015	1302
1995	871	2016	1329
1996	Supp. # 2 807	2017	1355
1997	833		

		<i>Issue</i>	<i>Effective Date</i>
101 CMR	Executive Office of Health and Human Services		
10.00	Transitional Planning Services	1363	4/20/18
14.00	Pilot Program of Nutritional Assistance	1356	1/12/18
204.00	Rates of Payment to Resident Care Facilities	1358	2/9/18
	- <i>Emergency</i>	1378	10/30/18
206.00	Standard Payments to Nursing Facilities - <i>Emergency</i>	1359	2/1/18
	- <i>Compliance</i> (MA Reg. # 1359)	1364	2/1/18
	- <i>Emergency</i>	1376	10/1/18
	- <i>Correction</i> (MA Reg. # 1376)	1381	10/1/18
	- <i>Compliance</i> (MA Reg. # 1376)	1381	10/1/18
304.00	Rates for Community Health Centers	1381	12/28/18
314.00	Dental Services - <i>Emergency</i>	1360	2/15/18
	- <i>Compliance</i> (MA Reg. # 1360)	1366	2/15/18
	. . . . .	1375	10/5/18
	- <i>Correction</i> (MA Reg. # 1375)	1378	10/5/18
316.00	Surgery and Anesthesia	S1360	3/9/18
317.00	Medicine	S1360	3/9/18
318.00	Radiology	S1360	3/9/18
	. . . . .	1381	12/28/18
322.00	Durable Medical Equipment, Oxygen, and Respiratory Equipment . .	1359	3/1/18
	- <i>Correction</i> (MA Reg. # 1359)	1361	3/1/18
330.00	Team Evaluation Services	1364	5/4/18
334.00	Prostheses, Prosthetic Devices, and Orthotic Devices	1381	12/28/18
343.00	Hospice Services	1372	10/1/17
345.00	Temporary Nursing Services	1361	3/23/18
346.00	Rates for Certain Substance-related and Addictive Disorders Programs	1370	7/27/18
	. . . . .	1381	12/28/18
347.00	Freestanding Ambulatory Surgery Centers	1379	11/30/18
348.00	Day Habilitation Program Services	1369	7/13/18
349.00	Rates for Early Intervention Program Services - <i>Correction</i> (MA Reg. # 1355)	1362	12/29/17
350.00	Home Health Services	1364	5/4/18
352.00	Rates of Payment for Certain Children's Behavioral Health Services	1376	10/19/18
353.00	Payment for Primary Care Clinician Plan Services	1361	3/23/18
410.00	Rates for Competitive Integrated Employment Services	S1360	3/9/18
411.00	Rates for Certain Placement, Support, and Shared Living Services . .	1366	6/1/18
412.00	Rates for Family Transitional Support Services	1361	3/23/18
413.00	Payments for Youth Intermediate-term Stabilization Services	1366	6/1/18
414.00	Rates for Family Stabilization Services	1370	7/27/18
	- <i>Correction</i> (MA Reg. # 1370)	1372	7/27/18
417.00	Rates for Certain Elder Care Services	1375	10/5/18
418.00	Payments for Youth Short-term Stabilization and Emergency Placement Services	1374	9/21/18
420.00	Rates for Adult Long-term Residential Services	1363	4/20/18
424.00	Rates for Certain Developmental and Support Services	1359	2/23/18
	. . . . .	1377	11/2/18
425.00	Rates for Certain Young Parent Support Programs	S1360	3/9/18

		<i>Issue</i>	<i>Effective Date</i>
427.00	Rates for Certain Youth and Young Adult Support Services	1379	11/30/18
444.00	Rates for Certain Substance Use Disorder Services	1358	2/9/18
613.00	Health Safety Net Eligible Services	1359	2/23/18
102 CMR	Office of Child Care Services		
5.00	Standards for the Licensure or Approval of Agencies Offering Child Placement and Adoption Services	1360	3/9/18
103 CMR	Department of Correction		
483.00	Visiting Procedures	1361	3/23/18
	1376	10/19/18
104 CMR	Department of Mental Health		
27.00	Licensing and Operational Standards for Mental Health Facilities . . .	1359	2/23/18
28.00	Licensing and Operational Standards for Community Services	1359	2/23/18
29.00	Application for DMH Services, Referral, Service Planning and Appeals	1368	6/29/18
30.00	Fiscal Administration	1359	2/23/18
105 CMR	Department of Public Health		
100.000	Determination of Need	1381	12/28/18
120.000	The Control of Radiation	1373	9/7/18
127.000	Licensing of Mammography Facilities	1368	6/29/18
	- <i>Correction</i> (MA Reg. # 1368)	1371	6/29/18
141.000	Licensure of Hospice Programs	1358	2/9/18
145.000	Licensing of Out-of-hospital Dialysis Units in Massachusetts	1379	11/30/18
150.000	Standards for Long-term Care Facilities	1361	3/23/18
151.000	General Standards of Construction for Long-term Care Facilities in Massachusetts	1363	4/20/18
153.000	Licensure Procedure and Suitability Requirements for Long-term Care Facilities	1372	8/24/18
173.000	Mobile Integrated Health Care and Community EMS Programs	1373	9/7/18
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830 CMR	Department of Revenue		
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2.00	Political Expenditures - <i>Correction</i> (MA Reg. # 1363) - <i>Emergency</i>	1363 1365 1373	4/20/18 4/20/18 8/21/18
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995 CMR	Pilot Commissioners		
2.00	Pilotage within District One	1378	11/16/18



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin
Secretary of the Commonwealth

Notice of Correction

Regulation Filing To be completed by filing agency

CHAPTER NUMBER: 101 CMR 206.00

CHAPTER TITLE: Standard Payments to Nursing Facilities

AGENCY: Executive Office of Health and Human Services

ORIGINAL PUBLICATION REFERENCE: 1376 Date: 10/19/2018

SUMMARY OF CORRECTION:
In 101 CMR 206.06(12)(c), change the "Per Diem Annualized Adjustment" dollar amount for "Nursing Facility Group 1" from \$0.57 to \$4.57.

AGENCY CONTACT: Deborah M. Briggs PHONE: (617) 847-3302

ADDRESS: 100 Hancock Street, 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: Dec 14 2018

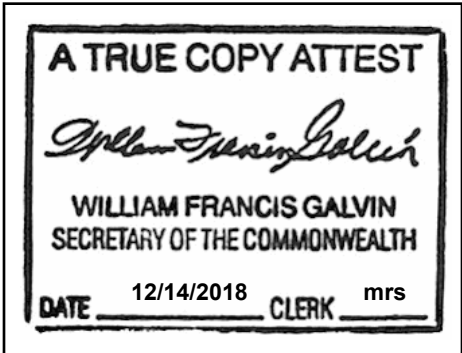
Publication To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1381 DATE: 12/28/2018

EFFECTIVE DATE: 10/01/2018

CODE OF MASSACHUSETTS REGULATIONS

Table with 2 columns: Remove these pages: and Insert these pages:.





THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 205 CMR 146.00

CHAPTER TITLE: Gaming Equipment

AGENCY: Massachusetts Gaming Commission

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
205 CMR 146.00 outlines the standards applicable to the various types of equipment used in the table games offered for play in a gaming establishment. The amendments throughout are to make the language uniform throughout with respect to the number of seats permitted at gaming tables.

REGULATORY AUTHORITY: M.G.L. c. 23K, §§ 2, 4(37), and 5

AGENCY CONTACT: Shara Bedard PHONE: 617-979-8458

ADDRESS: 101 Federal Street, 12th Floor, Boston, MA 02110

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

These amendments need to be adopted on an emergency basis due to concerns around table overcrowding as well as adherence to rules of play.

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.*

N/A

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: _____

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: _____

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*
Table Games, Gambling, Rules of the Game, and Casinos.

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:*

205 CMR 146.13, .14, .15, .16, .17, .18, .21, .22, .23, .24, .25, .26, .27, .29, .31, .32, .33, .34, .35, .36, .37, .38, .39, .40, .41, .42; .44, .58, .59, .60, .61, and .62 will be amended as stated above.

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: Dec 7 2018

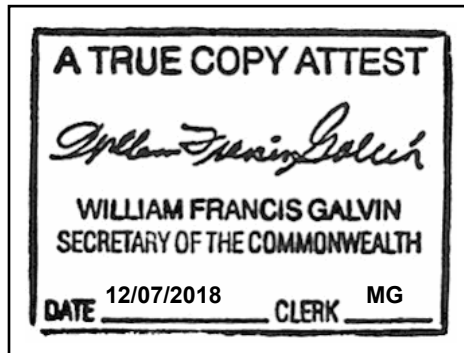
Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1381 DATE: 12/28/2018

EFFECTIVE DATE: 12/07/2018

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>
This is an Emergency Regulation.	There are no Replacement Pages.



146.11: Roulette Balls

Balls used in gaming at roulette shall be made completely of a non-metallic material and not be less than $\frac{12}{16}$ of an inch nor more than $\frac{14}{16}$ of an inch in diameter unless otherwise approved by the Bureau.

146.12: Roulette; Inspection Procedures; Security Procedures

(1) Prior to opening a roulette table for gaming activity, a casino supervisor or member of the security department shall:

- (a) Inspect the roulette table and roulette wheel for any magnet or contrivance that would affect the fair operation of such wheel;
- (b) Inspect the roulette wheel to assure that it is level and rotating freely and evenly;
- (c) Inspect the roulette wheel to assure that all parts are secure and free from movement;
- (d) Inspect the roulette ball by passing it over a magnet or compass to assure its non-magnetic quality; and
- (e) Confirm that the layout and signage comply with 205 CMR 146.10(3), if a double zero roulette wheel is being used as a single zero roulette wheel.

(2) If a gaming licensee uses a roulette wheel which has external movable parts, any adjustments to the movable parts shall be made by a gaming establishment supervisor or a member of the gaming establishment maintenance department, in the presence of a security department member. Adjustments to the movable parts of a roulette wheel that is located on the gaming floor shall only be made when the roulette table is not open to the public or if the roulette wheel is moved to a secure location outside the gaming establishment as approved by the Bureau.

(3) All adjustments shall be completed prior to the inspections required pursuant to 205 CMR 146.12(1).

(4) The gaming licensee may replace any of the movable parts at any time, provided, however, if any one or more of the movable parts are external then an inspection must be completed in accordance with 205 CMR 146.12(1) and notification of what was replaced provided to the Bureau, prior to reopening the roulette wheel and table for gaming activity.

(5) A log of adjustments shall be maintained which shall include, at a minimum, the date, the roulette table number, whether an adjustment or replacement was completed and the signature of the person making the adjustment or replacement.

(6) When a roulette table is not open for gaming activity, the roulette wheel shall be secured by placing a cover over the entire wheel and securely locking such cover to the roulette table.

146.13: Blackjack Table; Card Reader Device; Physical Characteristics; Inspections

(1) Blackjack shall be played at a table having player positions for no more than seven players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.

(2) The layout for a blackjack table shall contain, at a minimum:

- (a) The name or trade name of the gaming licensee offering the game; and
- (b) Specific areas designated for the placement of wagers, which betting areas shall not exceed seven in number, with the exception of the 6 to 5 blackjack variation, which shall contain no more than six betting areas.

(3) The following inscriptions shall appear on the blackjack layout:

- (a) Blackjack pays 3 to 2;
- (b) Dealer must draw to 16 and stand on all 17s or Dealer must hit on soft 17s; and
- (c) Insurance pays 2 to 1.

(4) If a gaming licensee offers blackjack rule variations, the blackjack layout shall have imprinted on it, at a minimum, the following inscriptions instead of the inscriptions set forth in 205 CMR 146.13(3):

146.13: continued

- (a) Blackjack pays 1 to 1;
- (b) Dealer must draw to 16 and stand on all 17s or Dealer must hit on soft 17s; and
- (c) Dealer's hole card dealt face up.

(5) Each blackjack table shall have a drop box and a tip box attached to it with the location of said boxes on the same side of the gaming table, but on opposite sides of the dealer, as previously approved by the Bureau.

(6) If a gaming licensee offers one of the permissible additional wagers pursuant to the authorized Rules of the Game of Blackjack, the blackjack layout shall have designated areas for the placement of the additional wager and shall have the payout odds for the additional wager imprinted on the layout or a separate sign located at the table containing the payout odds for the additional wager.

(7) A blackjack table may have attached to it an approved card reader device which permits the dealer to read his or her hole card in order to determine if the dealer has a blackjack in accordance with the authorized Rules of the Game of Blackjack. If a blackjack table has an approved card reader device attached to it, the floorperson assigned to the table shall inspect the card reader device at the beginning of each gaming day to insure that there has been no tampering with the device and that it is in proper working order. A card reader device may not be used on a blackjack table offering a progressive blackjack wager pursuant to the authorized Rules of the Game of Blackjack.

(8) Notwithstanding the requirements of 205 CMR 146.13(2), if a gaming licensee offers multiple action blackjack in accordance with the authorized Rules of the Game of Blackjack, the blackjack layout shall contain, at a minimum:

- (a) Three separate designated betting areas for each player position at the table with each separate betting area being numbered one through three, provided, however, that the number of player positions at each table shall not exceed six;
- (b) A separate designated area on the layout for each player position for the placement of insurance wagers;
- (c) A separate designated area on the layout for each player position for the placement of double down wagers;
- (d) A separate designated area on the layout for each player position for the placement of split pair wagers; and
- (e) Three separate areas designated for the placement of the dealer's original face up card with each separate area being numbered one through three.

(9) In order to collect the cards at the conclusion of a round of play as required by the authorized Rules of the Game of Blackjack and at such other times as provided in 205 CMR 146.49, each blackjack table shall have a discard rack securely attached to the top of the dealer's side of the table. The height of each discard rack shall equal the height of the cards, stacked one on top of the other, contained in the total number of decks that are to be used to play the game at that table; provided, however, that a taller discard rack may be used if such rack has a distinct and clearly visible mark on its side to show the exact height for a stack of cards equal to the total number of cards contained in the number of decks to be used to play the game at that table. Whenever a double shoe is used at a blackjack table, the same number of decks shall be used in each side of the double shoe, and the height and marking requirements for that table's discard rack shall be determined from the number of decks used in one side of the shoe.

(10) If a gaming licensee offers a progressive blackjack wager pursuant to the authorized Rules of the Game of Blackjack, the blackjack layout shall have designated areas for the placement of the progressive blackjack wager and shall contain the following equipment:

- (a) A separate acceptor device for the placement of a progressive wager. Each acceptor device shall have a light which shall illuminate upon placement and acceptance of a gaming chip;
- (b) A method to ensure that only one progressive blackjack wager is made per person, per round of play;
- (c) A device or method to indicate that a progressive blackjack wager has been won;

146.13: continued

- (d) A sign describing the winning wagers and the payouts to be awarded on winning progressive blackjack wagers at a location near the table;
- (e) A table controller panel which shall be equipped with a “lock-out” button which, once activated by the dealer, will prevent any player’s gaming chip from being recognized in the acceptor device; and
- (f) A mechanical, electrical or electronic table inventory return device which shall permit all gaming chips deposited into the acceptor devices to be collected and immediately returned to a designated area within the table inventory container prior to the dealing of a hand. The table inventory return device shall be designed and constructed to contain any feature the Bureau may require to maintain the security and integrity of the game. The procedures for the operation of all functions of the table inventory return device shall be submitted to the Bureau.

(11) If a gaming licensee offers a blackjack bonus wager pursuant to the authorized Rules of the Game of Blackjack, the blackjack layout shall have designated areas for the placement of the blackjack bonus wager, and shall contain the following equipment:

- (a) A table controller located in an area of the table or the pit which area shall be secured by dual locking mechanisms, which are unique from one another. One locking mechanism shall be maintained and controlled by a gaming establishment security supervisor, and the second locking mechanism shall be maintained and controlled by a gaming establishment supervisor;
 1. One table controller shall control no more than four blackjack tables. Procedures for the operation, security and control of the table controller shall be submitted to the Bureau prior to implementation;
 2. Whenever it is required that a table controller or any device connected thereto which may affect the operation of the blackjack bonus system be accessed or opened, certain information shall be recorded on a form entitled “Controller Access Authorization Log,” which shall include, at a minimum, the date, time, purpose of accessing or opening the controller or device, and the signature of the authorized employee accessing or opening the machine or device. The Controller Access Authorization Log shall be maintained in the same secured location as the table controller, and shall have recorded thereon a sequential number and the manufacturer’s serial number or the asset number of the controller;
- (b) A blackjack bonus button, which shall be located at the table by the dealer, and used by each player with a winning blackjack bonus wager to generate a bonus amount to be won by that player. The blackjack bonus button shall be attached to the table in a manner that will enable the dealer to place the blackjack bonus button directly in front of each winning player;
- (c) A blackjack bonus display, which shall be located at the table and shall display the amount of the winning blackjack bonus on both sides of the device, so that the amount is visible to all players, the dealer and supervisory personnel; and
- (d) A sign containing the amount of the blackjack bonus wager, as well as the minimum and maximum possible blackjack bonus amounts to be awarded, pursuant to 205 CMR 147.03: *Notice and Patron Access*.

(12) If a gaming licensee offers a streak wager pursuant to the authorized Rules of the Game of Blackjack, the blackjack table shall also contain:

- (a) A layout which shall include, at a minimum:
 1. Four additional separate designated betting areas for each of the player positions at the table, which areas shall be numbered “2” through “5”; and
 2. The inscriptions “Two consecutive wins pays 3 to 1,” “Three consecutive wins pays 7 to 1,” “Four consecutive wins pays 17 to 1,” and “Five consecutive wins pays 37 to 1”; and
- (b) The following equipment:
 1. Marker buttons (“lammers”) with the gaming licensee’s name or logo, to indicate how many consecutive blackjack hands a patron has won or another device or method approved by the Bureau; and
 2. A sign containing the permissible amount of the streak wager, posted pursuant to 205 CMR 147.03: *Notice and Patron Access*.

146.13: continued

(13) If a gaming licensee offers a match-the-dealer wager pursuant to the authorized Rules of the Game of Blackjack, the blackjack table shall contain:

- (a) A layout which shall include, at a minimum, an additional designated betting area bearing the inscription “Match-the-dealer” at each of the player positions at the table; and
- (b) A sign approved by the Bureau setting forth the payout odds for the match-the-dealer wager.

(14) If a gaming licensee offers the 6 to 5 blackjack variation:

- (a) The layout shall have imprinted on it, at a minimum, the following inscriptions:
 - 1. Blackjack pays 6 to 5;
 - 2. Dealer must draw to 16 and soft 17 or Dealer must hit on soft 17s; and
 - 3. Insurance pays 2 to 1; and
- (b) A notice shall be posted in accordance with 205 CMR 147.03: *Notice and Patron Access* indicating that all wagers shall be made in increments of \$5.00 as required by the authorized Rules of the Game of Blackjack.

(15) If a gaming licensee offers the 20 point bonus wager pursuant to the authorized Rules of the Game of Blackjack, the layout otherwise required by 205 CMR 146.13 shall also include, at a minimum, an additional designated betting area for the 20 point bonus wager at each of the player positions at the table. The blackjack table shall also contain a sign setting forth the payout odds for the 20 point bonus wager.

(16) If a gaming licensee offers the option set forth in the authorized Rules of the Game of Blackjack that requires the dealer to draw additional cards on a soft 17, the blackjack layout shall have imprinted on it, at a minimum, the following inscription instead of the inscription set forth in 205 CMR 146.13(3)(b): “Dealer must draw to 16 and soft 17 and stand on hard 17s and all 18s”.

(17) If a gaming licensee offers the optional bonus wager pursuant to the authorized Rules of the Game of Blackjack, the layout otherwise required by 205 CMR 146.13 shall include, at a minimum, an additional designated betting area for such wager at each of the player positions at the table. In addition, payout odds for the optional bonus wager shall be inscribed on the layout or posted on a sign at each such blackjack table.

(18) If a gaming licensee requires a hand fee, the approved layout otherwise required by 205 CMR 146.13 shall include, at a minimum, an additional designated area at each player position for the placement of the hand fee.

146.14: Three-card Poker Table: Physical Characteristics

(1) Three-card poker shall be played at a table having player positions for no more than nine players on one side of the table and a place for the dealer on the opposite side.

(2) A true-to-scale rendering and color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a three-card poker table shall contain, at a minimum:

- (a) The name or trade name of the gaming licensee offering the game;
- (b) A separate designated betting area at each player position for the placement of “ante” wagers;
- (c) A separate designated betting area located immediately in front of each ante wager betting area for the placement of “play” wagers;
- (d) A separate designated betting area located immediately behind each ante wager betting area for the placement of “pair plus” wagers;
- (e) If the gaming licensee offers the six card bonus wager pursuant to the authorized Rules of the Game of Three Card Poker, a separate designated betting area at each player position for the placement of a six card bonus wager; and
- (f) Inscriptions that advise patrons, in accordance with the authorized Rules of the Game of Three Card Poker, of the payout odds for ante and play wagers, pair plus wagers, six card bonus wagers and ante bonuses and that “Dealer Plays with Queen High or Better.”

146.14: continued

(3) Each three-card poker table shall have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.

146.15: Spanish 21 Table; Physical Characteristics

(1) Spanish 21 shall be played at a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side.

(2) A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a Spanish 21 table shall have imprinted thereon, at a minimum:

(a) The name or trade name of the gaming licensee offering the game;

(b) A separate designated betting area at each player position for the placement of the following wagers:

1. The required Spanish 21 wager; and
2. An optional match-the-dealer wager;

(c) The following inscriptions:

1. "Blackjack Pays 3 to 2";
2. "Dealer Must Draw to 16 and Stand on All 17s;"
3. "Insurance Pays 2 to 1";

(d) The payout odds for each of the wagers listed in the authorized Rules of the Game of Spanish 21; and

(e) The payout odds for the match-the-dealer wager, unless the odds are included in the sign required by 205 CMR 146.15(3).

(3) A gaming licensee shall post a sign at each Spanish 21 table, which explains:

(a) That doubled down hands and split hands are not eligible for the additional payouts in the authorized Rules of the Game of Spanish 21; and

(b) The payout odds for the match-the-dealer wager, if those payout odds are not imprinted on the layout.

(4) Each Spanish 21 table shall have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.

(5) In order to collect the cards at the conclusion of a round of play as required by the authorized Rules of the Game of Spanish 21 and at such other times as provided in 205 CMR 146.49, each Spanish 21 table shall have a discard rack securely attached to the top of the dealer's side of the table. The height of each discard rack shall equal the height of the cards, stacked one on top of the other, contained in the total number of decks that are to be used in the dealing shoe at that table; provided, however, that a taller discard rack may be used if such rack has a distinct and clearly visible mark on its side to show the exact height for a stack of cards equal to the total number of cards contained in the number of decks to be used in the dealing shoe at that table.

(6) A Spanish 21 table may have attached to it, as approved by the Bureau, a card reader device which permits the dealer to read his or her hole card in order to determine if the dealer has a blackjack pursuant to the definition of "blackjack" in the authorized Rules of the Game of Spanish 21. If a Spanish 21 table has an approved card reader device attached to it, the floorperson assigned to the table shall inspect the card reader device at the beginning of each gaming day. The purpose of this inspection shall be to insure that there has been no tampering with the device and that it is in proper working order.

146.16: Blackjack Switch Table; Physical Characteristics

(1) Blackjack switch shall be played at a table having player positions for no more than five players on one side of the table and a place for the dealer on the opposite side.

(2) A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a blackjack switch table shall have imprinted thereon, at a minimum, the following:

146.16: continued

- (a) The name or trade name of the gaming licensee offering the game;
 - (b) Two adjacent designated betting areas at each player position for the placement of the required two initial blackjack switch wagers;
 - (c) A separate designated area on the layout at each player position for the placement of the optional match wager;
 - (d) The following inscriptions, unless they are included on the sign required by 205 CMR 146.16(3):
 - 1. "Blackjack pays 1 to 1";
 - 2. "Insurance pays 2 to 1";
 - 3. "Dealer must hit a soft 17"; and
 - 4. "Dealer pushes on 22"; and
 - (e) The payout odds for the optional match wager, unless they are included on the sign required by 205 CMR 146.16(3).
- (3) A gaming licensee shall post a sign at each blackjack switch table, which shall include:
- (a) A statement that, if more than one match occurs in a player's initial four cards, the match wager will only be paid once, using the highest payoff that occurs within those cards; and
 - (b) The payout odds for the optional match wager, if they are not imprinted on the layout.
- (4) Each blackjack switch table shall have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.
- (5) Each blackjack switch table shall have a discard rack securely attached to the top of the dealer's side of the table. The height of each discard rack shall equal the height of the cards, stacked one on top of the other, contained in the total number of decks that are to be used in the dealing shoe at that table; provided however, that a taller discard rack may be used if such rack has a distinct and clearly visible mark on its side to show the exact height for a stack of cards equal to the total number of cards contained in the number of decks to be used in the dealing shoe at that table.
- (6) A blackjack switch table may have attached to it a card reader device which permits the dealer to read his or her hole card in order to determine if the dealer has a blackjack. If a blackjack switch table has an approved card reader device attached to it, such device shall be inspected at the beginning of each gaming day, to insure that there has been no tampering with the device and that it is in proper working order.

146.17: Craps and Mini-craps Tables; Physical Characteristics

- (1) Craps and mini-craps shall be played on an oblong table with rounded corners and high walled sides having player positions for no more than eight players on each side. A craps table shall not be larger than 14 feet in length. A mini-craps table shall be no longer than 9½ feet in length.
- (2) A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a craps or mini-craps table shall contain, at a minimum:
- (a) The name or trade name of the gaming licensee offering the game;
 - (b) Specific areas designated for the placement of wagers described in the authorized Rules of the Game of Craps and Mini Craps; and
 - (c) The words "No call bets".
- (3) Each craps and mini-craps table shall have a drop box and tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.
- (4) In addition to the requirements of 205 CMR 146.17(2), if the fire bet in the game of craps is offered by a gaming licensee, the craps table shall include, at a minimum:
- (a) No more than 16 designated areas for the placement of fire bets, which areas shall be located around the perimeter of the layout, correspond to player positions at the table, and be sequentially numbered in a clockwise direction, with the area numbered "1" being located immediately to the left of the game personnel;

146.17: continued

- (b) A designated area of the layout for the relocation and identification of all fire bets placed by players prior to the come out roll of a shooter, which area shall be located in front of the boxperson and contain numbered areas which correspond to the location of the numbered areas described in 205 CMR 146.17(4)(a); and
- (c) The following information on the inside wall of the table, which information shall be visible to all player positions:
 1. The payout odds for four, five and six different (unique) points made;
 2. That fire bets shall only be accepted prior to a shooter's initial come out roll; and
 3. The wager limitations applicable to the fire bet.

146.18: Baccarat, Midi-baccarat, Mini-baccarat, and Baccarat-chemin de Fer Tables; Physical Characteristics

- (1) Baccarat shall be played on a table having numbered player positions for no more than 14 players.
- (2) Baccarat-chemin de fer shall be played on a table having numbered player positions for no more than 14 players.
- (3) Mini-baccarat shall be played at a table having player positions for no more than nine players on one side of the table and a place for the dealer on the opposite side; provided however, that unless the cards are changed after each shoe, a mini-baccarat table using the dealing procedure in the authorized Rules of the Game of Minibaccarat shall have player positions for no more than six players. The dimensions of a mini-baccarat table shall be submitted to the Bureau.
- (4) A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a baccarat, midi-baccarat, mini-baccarat, or baccarat-chemin de fer table shall contain, at a minimum:
 - (a) The name or trade name of the gaming licensee offering the game;
 - (b) For baccarat, midi-baccarat and mini-baccarat layouts, specific areas designated for the placement of wagers on the "Banker's Hand", "Players Hand", and "Tie Hand";
 - (c) For baccarat-chemin de fer layouts, specific areas for the placement of the wagers authorized by the authorized Rules of the Game of Baccarat - Chemin de Fer;
 - (d) For baccarat, midi-baccarat and mini-baccarat layouts, the phrase "Tie Bets pay 8 to 1";
 - (e) Numbered areas that correspond to the seat numbers for the purpose of marking vigorish; provided, however, that the numbered areas are not required if:
 1. For baccarat, the gaming licensee offers a no vigorish variation of the game in accordance with the authorized Rules of the Game of Baccarat;
 2. For mini-baccarat, the gaming licensee only charges vigorish in accordance with the provisions of the authorized Rules of the Game of Mini-baccarat or offers a no vigorish variation of the game in accordance with the provisions of the authorized Rules of the Game of Mini-baccarat;
 - (f) An area designated for the placement of cards for the "Player's" and "Banker's" hands;
 - (g) If a gaming licensee offers the optional total card wagers in the games of baccarat, midi-baccarat and mini-baccarat:
 1. Three specific areas at each player position designated for the placement of total card wagers on a total of four cards, five cards and six cards, and identified with the numerals "4", "5", and "6", respectively, which areas shall be located between the areas designated for the placement of wagers on a "Tie Hand" and the "Banker's Hand"; and
 2. An inscription on the layout indicating the payout odds for all total card wagers;
 - (h) If a gaming licensee offers the optional bonus wager authorized by the authorized Rules of the Game of Baccarat or Mini-baccarat:
 1. Two separate areas at each player position designated for the placement of the optional bonus wager which shall be located, from the player's perspective, immediately to the right of the areas designated for the placement of wagers on the "Banker's Hand" and "Player's Hand"; and
 2. An inscription identifying the payout odds for the optional bonus wager unless the gaming licensee chooses to comply with 205 CMR 146.18(7) through (9); and
 - (i) If a gaming licensee offers the no vigorish variation of baccarat, midi-baccarat or mini-baccarat pursuant to the authorized Rules of the Game of Baccarat, Baccarat, Midi-baccarat, or Mini-baccarat, respectively:

146.18: continued

1. An area at each player position designated for placement of the “dragon 7” wager and inscribed with “dragon 7,” which area shall be located on the right side of the area designated for the placement of a “Tie Hand” wager when viewed by the player; and
 2. An inscription identifying the payout odds for the dragon 7 wager unless the gaming licensee chooses to comply with 205 CMR 146.18(8).
- (5) If marker buttons are used for the purpose of marking vigorish, these marker buttons shall be placed in the table inventory float container or in a separate rack designed for the purpose of storing marker buttons and such rack shall be placed in front of the table inventory float container during gaming activity.
- (6) Each baccarat and mini-baccarat table shall have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.
- (7) If the payout odds are not inscribed on the layout as provided by 205 CMR 146.18(4)(h)2., a sign shall be posted at each baccarat, midi-baccarat and mini-baccarat table offering the optional bonus wager authorized by the authorized Rules of the Game of Baccarat or Mini-baccarat listing the payout odds for the optional bonus wager.
- (8) If the payout odds are not inscribed on the layout as provided by 205 CMR 146.18(4)(h)2., a sign shall be posted at each baccarat, midi-baccarat and mini-baccarat table offering the dragon 7 wager authorized by the authorized Rules of the Game of Baccarat, Baccarat, Midi-baccarat, or Mini-baccarat, respectively, indicating the payout odds for the dragon 7 wager.
- (9) If the payout odds are not inscribed on the layout as provided by 205 CMR 146.18(4)(h)2., a sign shall be posted at each baccarat, midi-baccarat and mini-baccarat table offering the panda 8 wager authorized by the authorized Rules of the Game of Baccarat, Baccarat, Midi-baccarat, or Mini-baccarat, respectively, indicating the payout odds for the panda 8 wager.

146.19: Big Six Wheel and Layout; Physical Characteristics

- (1) Gaming at Big Six shall be conducted at a wheel circular in shape and no less than five feet in diameter. The rim of the wheel shall be divided into 54 equally spaced sections with 23 sections containing a \$1.00 bill, 15 sections containing a \$2.00 bill, eight sections containing a \$5.00 bill, four sections containing a \$10.00 bill, two sections containing a \$20.00 bill, one section containing a picture of a flag or the name or logo of the gaming licensee, and one section containing a picture of a joker, each of which sections shall be covered with transparent protective cover.
- (2) The sections required by 205 CMR 146.19(1) shall be arranged clockwise around the rim of the wheel in the following order: joker, \$1, \$2, \$1, \$5, \$2, \$1, \$10, \$1, \$5, \$1, \$2, \$1, \$20, \$1, \$2, \$1, \$5, \$2, \$1, \$10, \$1, \$2, \$5, \$1, \$2, \$1, flag, \$2, \$5, \$2, \$1, \$2, \$1, \$10, \$1, \$5, \$1, \$2, \$1, \$20, \$1, \$2, \$1, \$5, \$2, \$1, \$10, \$1, \$2, \$5, \$1, \$2, and \$1.
- (3) Each section of the Big Six Wheel shall also display the payout odds for the wager contained therein, pursuant to the authorized Rules of the Game of Big Six Wheel.
- (4) Each Big Six Wheel table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of, the dealer.
- (5) A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a Big Six Wheel table shall have imprinted thereon, at a minimum:
- (a) The name or trade name of the gaming licensee offering the game;
 - (b) Spaces which shall be used by patrons to place their wagers, and which shall contain:
 1. Depictions of a \$1.00 bill, \$2.00 bill, \$5.00 bill, \$10.00 bill, and \$20.00 bill, or numbers representing those monetary denominations;
 2. A flag or the name or logo of the gaming licensee, as it appears on the Big Six Wheel; and
 3. A joker; and
 - (c) The payout odds for each of the permitted wagers.

146.20: Sic Bo Table; Sic Bo Shaker; Physical Characteristics

- (1) Each sic bo table shall have a drop box and tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.
- (2) Each sic bo table shall have an electrical device which, when the numeric value of each die has been entered, shall cause the winning combinations to be illuminated. The sic bo table shall have an area, which depicts all permissible wagers pursuant to the authorized Rules of the Game of Sic Bo. Each combination shall have the capability to be illuminated, if it is a winning combination, after the numeric value of each die has been entered into the electrical device by the dealer.
- (3) A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a sic bo table shall contain, at a minimum:
- The name or trade name of the gaming licensee; and
 - Specific areas designated for the placement of the wagers authorized by the authorized Rules of the Game of Sic Bo; and
 - The payout odds currently being offered in accordance with the authorized Rules of the Game of Sic Bo.
- (4) Sic bo shall be played with a sealed container, to be known as a “sic bo shaker,” which shall be used to shake the dice in order to arrive at the winning combinations.
- A manual sic bo shaker shall be designed and constructed to contain any feature the Bureau may require to maintain the integrity of the game and shall, at a minimum, adhere to the following specifications:
 - The sic bo shaker shall have a compartment to secure the three dice required by the authorized Rules of the Game of Sic Bo and a separate cover which conceals the dice while the dealer is shaking the sic bo shaker. The compartment to secure the three dice shall be transparent and the cover which conceals the dice shall be opaque;
 - The sic bo shaker shall have the capability of being sealed or locked in order to ensure the integrity of the dice contained therein;
 - The sic bo shaker shall have the name or trade name of the gaming licensee or identifying logo imprinted or impressed thereon; and
 - The sic bo shaker shall be secured to the sic bo table when the table is open for gaming activity.
 - An automated sic bo shaker may be used in the game of sic bo, provided that:
 - The shaker meets the requirements of 205 CMR 146.20(4)(a), except that a separate opaque cover shall not be used; and
 - The shaker, its location on the sic bo table and the procedures for shaking the dice are submitted to the Bureau.

146.21: Pai Gow Poker Table; Pai Gow Poker Shaker; Physical Characteristics; Computerized Random Number Generator

- (1) Pai gow poker shall be played at a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side.
- (2) A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a pai gow poker table shall contain, at a minimum:
- Six separate designated betting areas for the players at the table with each area being numbered one through six;
 - Two separate areas located below each betting area which shall be designated for the placement of the high and second highest or low hands of that player;
 - If a gaming licensee offers the optional bonus wager and/or insurance wager authorized by the authorized Rules of the Game of Pai Gow Poker:
 - A separate area for each player, located to the right of the numbered betting areas, designated for the placement of a bonus wager by each player;
 - A separate area for each player, located to the left of the numbered betting areas, designated for the placement of an insurance wager by each player;

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3. Notice of signage for payout odds for the bonus wager and insurance wager and payout amounts for the “envy bonus” as defined at the authorized Rules of the Game of Pai Gow Poker; and
 4. The inscription indicating the payout limit per round of play for the bonus wager and the insurance wager established by the gaming licensee pursuant to the authorized Rules of the Game of Pai Gow Poker or a generic inscription indicating the wagers are subject to the posted payout limit;
 - (d) If the gaming licensee offers the additional wager authorized by the authorized Rules of the Game of Pai Gow Poker, a separate area for each player, designated for the placement of that additional wager by each player, as well as the payout odds for the additional wager;
 - (e) Two separate areas designated for the placement of the high and second highest or low hands of the dealer;
 - (f) The name or trade name of the gaming licensee offering the game;
 - (g) If the gaming licensee offers the optional bonus wagers authorized by the authorized Rules of the Game of Pai Gow Poker, separate areas for each player, designated for the placement of the three-card bonus wager and seven-card bonus wager; and
 - (h) If the gaming licensee offers the imperial pai gow bonus wager authorized by the authorized Rules of the Game of Pai Gow Poker:
 1. A separate area for each player, located to the right of the area for the placement of a player’s pai gow wager, designated for the placement of the imperial pai gow bonus wager; and
 2. An inscription or notice of signage, as approved by the Bureau, for payout odds for both the “player hand bonus” and “banker hand bonus” as defined in the authorized Rules of the Game of Pai Gow Poker.
- (3) If a gaming licensee offers the optional bonus wager and/or the insurance wager authorized by the authorized Rules of the Game of Pai Gow Poker, a sign shall be posted at each pai gow poker table offering any of these wagers that explains the following:
- (a) For the optional bonus wager and the insurance wager authorized by the authorized Rules of the Game of Pai Gow Poker, the details of the payout limit established pursuant to the authorized Rules of the Game of Pai Gow Poker and, if a generic inscription is used pursuant to 205 CMR 146.21, established payout limit; or
 - (b) For the optional wagers authorized by the authorized Rules of the Game of Pai Gow Poker, the payout odds for each bonus wager.
- (4) Each pai gow poker table shall have a drop box and tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.
- (5) Pursuant to the authorized Rules of the Game of Pai Gow Poker, pai gow poker may be played with a container, to be known as a “pai gow shaker,” which shall be used to shake three dice before each hand of pai gow poker is dealt in order to determine the starting position for the dealing or delivery of the cards. The pai gow shaker shall be designed and constructed to contain any feature the Bureau may require to maintain the integrity of the game and shall, at a minimum, adhere to the following specifications:
- (a) The pai gow poker shaker shall be capable of housing three dice and shall be designed so as to prevent the dice from being seen while the dealer is shaking it; and
 - (b) The pai gow poker shaker shall have the name or identifying logo of the gaming licensee imprinted or impressed thereon.
- (6) As an alternative to using the shaker and dice described in 205 CMR 146.21(5) a gaming licensee may, unless the gaming licensee offers the optional bonus wagers authorized by the authorized Rules of the Game of Pai Gow Poker, determine the starting position for the dealing or delivery of the cards in pai gow poker by utilizing a computerized random number generator that automatically selects and displays a number from one through seven inclusive. Any computerized random number generator proposed for use by a gaming licensee shall be approved by the Bureau.

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(7) If a gaming licensee offers a progressive payout wager pursuant to 205 CMR 138.62: *Payment of Table Game Progressive Payout Wagers; Supplemental Wagers not Paid from the Table Inventory: (Reserved)*, the pai gow poker table shall include the following features:

- (a) A separate acceptor device mounted for the placement of the progressive wager, which acceptor device shall have a light that illuminates upon the insertion and acceptance of a gaming chip;
- (b) A sign describing each winning progressive payout wager and the payout to be awarded therefore;
- (c) A table controller panel located in an area of the table as approved by the Bureau and which shall be equipped with a “lock-out” button that, once activated by the dealer as set forth in 205 CMR 138.62: *Payment of Table Game Progressive Payout Wagers; Supplemental Wagers not Paid from the Table Inventory: (Reserved)*, shall prevent any player from depositing a gaming chip in the acceptor device; and
- (d) A mechanical, electrical or electronic table inventory return device which shall permit all gaming chips deposited into the acceptor device referenced in 205 CMR 146.13(7)(a) to be collected and immediately returned to a designated area within the table inventory container prior to the dealing of a hand. The table inventory return device shall be designed and constructed to contain any feature the may require to maintain the security and integrity of the game. The procedures for the operation of all functions of the table inventory return device shall be submitted to the Bureau.

(8) If a gaming licensee offers the dragon’s eye variation of pai gow poker pursuant to the authorized Rules of the Game of Pai Gow Poker, in addition to the requirements set forth in 205 CMR 146.21, the layout shall include six separate betting areas at each player position for the placement of the following six optional wagers:

- (a) An even wager;
- (b) An odd wager;
- (c) A match wager;
- (d) A double wager;
- (e) A triple wager; and
- (f) A dice bonus wager.

(9) If a gaming licensee offers the “dealer queen’s dragon” wager, “dynasty bonus” wager, “protection” wager, and the “red/black” wager authorized by the authorized Rules of the Game of Pai Gow Poker then the following shall apply:

- (a) A separate area for each player, located above the numbered betting areas, designated “queen’s dragon” for the placement of the “dealer queen’s dragon” wager.
- (b) A separate area for each player, located to the right of the numbered betting areas, designated “dynasty bonus” for the placement of the “dynasty bonus” wager.
- (c) A separate area for each player, located to the left of the numbered betting areas, designated “P” for the placement of the “protection” wager.
- (d) Two separate areas for each player, one located to the right of the “queen’s dragon” betting area and colored red and the other located to the left of the “queen’s dragon” betting area and colored black, for the placement of the “red/black” wager.
- (e) Notice of signage, as approved by the Bureau, providing the payout odds for the “dealer queen’s dragon” wager, “dynasty bonus” wager, “protection” wager, “red/black” wager, and payout amounts for the “envy bonus” as defined in the authorized Rules of the Game of Pai Gow Poker.
- (f) Inscriptions indicating the aggregate payout limit per round of play for the “dealer queen’s dragon” wager, the “dynasty bonus” wager, the “protection” wager, and the “red/black” wager established by the gaming licensee pursuant to the authorized Rules of the Game of Pai Gow Poker a generic inscription indicating the wagers are subject to the posted payout limit.

146.22: Pai Gow Table; Pai Gow Shaker; Physical Characteristics

(1) Pai gow shall be played at a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side.

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- (2) A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a pai gow table shall contain, at a minimum:
- (a) Six separate designated betting areas for the players at the table with each area being numbered one through six;
 - (b) A separate area, located to the left of the dealer, for the placement of four tiles which shall be referred to as the "dead hand"; and
 - (c) The name or trade name of the gaming licensee offering the game.
- (3) Each pai gow table shall have a drop box and tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.
- (4) Pai gow shall be played with a container, to be known as a "pai gow shaker," which shall be used to shake three dice before each hand of pai gow is dealt in order to determine the starting position for the dealing of the pai gow tiles. The pai gow shaker shall be designed and constructed to contain any feature the Bureau may require to maintain the integrity of the game and shall, at a minimum, adhere to the following specifications:
- (a) The pai gow shaker shall be capable of housing three dice and shall be designed so as to prevent the dice from being seen while the dealer is shaking it; and
 - (b) The pai gow shaker shall have the name or identifying logo of the gaming licensee imprinted or impressed thereon.
- (5) If a gaming licensee offers the dragon's eye variation of pai gow pursuant to the authorized Rules of the Game of Pai Gow, in addition to the requirements set forth in 205 CMR 146.22 the layout shall include:
- (a) Five separate betting areas at each player position for the placement of the following five optional wagers:
 1. An even wager;
 2. An odd wager;
 3. A match wager;
 4. A double wager; and
 5. A triple wager.
 - (b) A separate location to the left of dealer's table inventory container with six areas for the dealer's placement of player dice bonus wagers, which areas are designated with the numeric player position at the table.

146.23: Chase the Flush Table; Physical Characteristics

- (1) Chase the Flush shall be played on a table having positions for six players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau for approval prior to utilizing the layout design.
- (2) The layout for a Chase the Flush table shall contain, at a minimum:
- (a) The name or trade name of the gaming licensee;
 - (b) Four separate designated betting areas at each player position for the placement of ante, x-tra bonus, all in and same suit wagers, configured with the same suit area closest to the dealer, the all in wager area farthest from the dealer, the ante wager area arrayed between the same suit wager area and the all in wager area, and the x-tra bonus wager area to the right of and separated from the ante wager area by an "+" symbol;
 - (c) A separate designated area for the placement of the four community cards, which area shall be located in the center of the table between the table inventory container and the player betting areas;
 - (d) A separate designated area for the placement of the dealer's three cards, which area shall be located between the table inventory container and the designated area for the community cards described in 205 CMR 146.23(2)(c);
 - (e) An inscription indicating that an ante wager shall push if the dealer has less than a 3-card nine high flush; and

146.23: continued

(f) Unless the gaming licensee complies with 205 CMR 146.23(3) an inscription at each player position describing the following:

1. The payout odds for same suit and x-tra bonus wagers;
2. That an x-tra wager shall not be paid unless the player's hand beats the dealer with four or more cards of the same suit. If the player wins with less than a four card flush then the x-tra Bonus bet pushes; and
3. The rules governing the required amount of an all in wager as a multiple of the player's ante wager (three times the ante if made prior to the first two cards cards being exposed; two times the ante if made after the first two cards are dealt but prior to the final two community cards being dealt; or equal to the ante if made after all community cards are dealt but prior to the dealer's cards being revealed).

(3) If the information required by 205 CMR 146.23(2)(f) is not inscribed on the layout, a sign shall be posted at each Chase the Flush table that sets forth such information.

(4) Each Chase the Flush table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of, the dealer.

146.24: Poker Table; Physical Characteristics

(1) Poker shall be played on a table which is oval in shape and has player positions for no more than 11 players and a dealer. Each poker table shall be designed and constructed to contain any feature the Bureau may require to maintain the integrity of the game. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.

(2) The layout for a poker table shall contain, at a minimum:

- (a) The name or trade name of the gaming licensee offering the game; and
- (b) A designated holding area located to the right of the dealer for the collection of the rake prior to final placement of the rake in the table inventory container.

(3) Each poker table shall have a designated area for the placement of at least one deck of cards. This area may be part of the table inventory container.

(4) Each poker table shall have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer, in locations approved by the Bureau.

(5) If a gaming licensee offers a bad beat payout at a designated poker table, a transparent locked box or container shall be attached to the table on the same side as the drop box and shall be used to hold the pot contributions that fund the bad beat payout.

NON-TEXT PAGE

146.25: Double Down Stud Table; Physical Characteristics

- (1) Double down stud shall be played on a table having player positions for no more than seven players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.
- (2) The layout for a double down stud table contain, at a minimum:
 - (a) The name or trade name of the gaming licensee offering the game;
 - (b) Seven separate designated betting areas for the placement of wagers by the players;
 - (c) A separate designated area located below each betting area for the placement of double down wagers; and
 - (d) A separate designated area located directly in front of the table inventory container for the placement of the dealer's common cards.
- (3) The following inscription shall be conspicuously printed on each double down stud layout: "Payout Limit of \$100,000 Per Hand". A gaming licensee shall post a sign at each double down stud table explaining the details and the ramifications of this payout limit.
- (4) Each double down stud table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer.

146.26: Caribbean Stud Poker Table; Physical Characteristics

- (1) Caribbean stud poker shall be played on a table having player positions for no more than seven players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.
- (2) The layout for a Caribbean stud poker table shall contain, at a minimum:
 - (a) The name or trade name of the gaming licensee;
 - (b) A separate designated betting area at each player position for the placement of "ante" wagers;
 - (c) A separate designated betting area located immediately behind each ante betting area for the placement of "bet" wagers; and
 - (d) The inscriptions "Payout Limit of \$5,000 per Hand on Bet Wagers" and "Bet Wager Void Unless Dealer has Ace/King or Better".
- (3) A sign shall be posted at each Caribbean stud poker table that explains the details of the \$5,000 payout limit permitted by the authorized Rules of the Game of Caribbean Stud Poker.
- (4) Each Caribbean stud poker table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer.
- (5) Each Caribbean stud poker table shall also have an approved table game progressive payout wager system for the placement of progressive wagers. A table game progressive payout wager system shall include, without limitation:
 - (a) A wagering device at each player position that acknowledges or accepts the placement of the progressive wager;
 - (b) A control device that controls or monitors the placement of progressive wagers at the gaming table, including a mechanism, such as a "lock-out" button, that prevents the recognition of any progressive wager that a player attempts to place after the dealer has announced "No more bets";
 - (c) One or more devices that meet the requirements of 205 CMR for progressive wagers and payouts at table games;
 - (d) Any other equipment or device that contributes to the efficient operation or integrity of the game; and
 - (e) Written procedures for the operation and use of the system and its components.

146.27: Let It Ride Poker Table; Physical Characteristics

- (1) Let it ride poker shall be played on a table having player positions for no more than seven players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.
- (2) The layout for a let it ride poker table shall contain, at a minimum:
 - (a) The name or trade name of the gaming licensee;
 - (b) Three separate designated betting areas at each player position for the placement of wagers in accordance with the authorized Rules of the Game of Let it Ride Poker;
 - (c) A separate designated area at each player position for the placement of the cards of each player;
 - (d) A separate designated area located directly in front of the table inventory container for the placement of the community cards;
 - (e) The payout odds for all authorized wagers, including the let it ride bonus wager authorized by the authorized Rules of the Game of Let it Ride Poker and the three-card bonus wager authorized by the authorized Rules of the Game of Let it Ride Poker, if the gaming licensee offers either optional wager;
 - (f) The inscription indicating the payout limit per hand established by the gaming licensee pursuant to the authorized Rules of the Game of Let it Ride Poker or a generic inscription indicating the game is subject to the posted payout limit; and
 - (g) If a gaming licensee offers the optional three-card bonus wager authorized by the authorized Rules of the Game of Let it Ride Poker, a separate designated area at each player position for the placement of the three-card bonus wager.
- (3) A sign shall be posted at each let it ride poker table that explains the details of the payout limit established pursuant to the authorized Rules of the Game of Let it Ride Poker and if a generic inscription is used pursuant to 205 CMR 146.27(2)(f), the sign shall also contain the established payout limit.
- (4) Each let it ride poker table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer.
- (5) If a gaming licensee offers the let it ride bonus wager authorized by the authorized Rules of the Game of Let it Ride Poker, the let it ride poker table shall also include the following equipment or devices, which shall be submitted to and approved by the Bureau, together with the procedures for their operation and use:
 - (a) A wagering device at each player position that acknowledges or accepts the placement of the let it ride bonus wager;
 - (b) A control device that controls or monitors the placement of let it ride bonus wagers at the gaming table, including a mechanism that prevents the recognition of any let it ride bonus wager that a player attempts to place after the dealer has announced "No more bets"; and
 - (c) Any other equipment or device that contributes to the efficient operation or integrity of the game.

146.29: Fast Action Hold'em Table; Physical Characteristics

- (1) Fast action hold 'em shall be played at a table having player positions for no more than nine players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.
- (2) The layout for the fast action Hold'em table (the layout) shall include, at a minimum:
 - (a) The name or trade name of the gaming licensee;
 - (b) A separate designated betting area at each player position;
 - (c) A separate area located immediately to the right of each betting area designated for the placement of cards to be discarded by a player pursuant to the authorized Rules of the Game of Fast Action Hold'em;
 - (d) Five separate areas aligned in a row in the center of the layout for placement of the five community cards; and

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(e) An inscription indicating that a “natural” pays five to one.

(3) Each fast action Hold'em table shall have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.

146.30: Casino War Table; Physical Characteristics

(1) Casino war shall be played at a table having player positions for no more than seven players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.

(2) The layout for a Casino war table shall include, at a minimum:

- (a) The name or trade name of the gaming licensee;
- (b) A separate designated betting area at each player position for the placement of initial and war wagers;
- (c) A separate designated betting area for the placement of tie wagers; and
- (d) The payout odds for a tie wager and war wager.

(3) Each Casino war table shall have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.

146.31: Colorado Hold'em Poker Table; Physical Characteristics

(1) Colorado Hold'em poker shall be played at a table having player positions for no more than seven players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.

(2) The layout for the Colorado Hold'em poker table (the layout) shall include, at a minimum:

- (a) The name or trade name of the gaming licensee;
- (b) A separate designated betting area at each player position for ante and bet wagers, and if a gaming licensee offers a bonus wager pursuant to the authorized Rules of the Game of Colorado Hold'em Poker, a separate designated betting area for the bonus wager;
- (c) A separate area located immediately to the left of each betting area designated for the placement of the card to be discarded by a player pursuant to the authorized Rules of the Game of Colorado Hold'em Poker or;
- (d) Three separate areas aligned in a row in the center of the layout for placement of the three community cards; and
- (e) The payout odds for all winning authorized wagers, including an “immediate winner” as defined at the authorized Rules of the Game of Colorado Hold'em Poker.

(3) Each Colorado Hold'em poker table shall have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.

146.32: Boston 5 Stud Poker Table; Physical Characteristics

(1) Boston 5 stud poker shall be played on a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.

(2) The layout for a Boston 5 stud poker table shall contain, at a minimum:

- (a) The name or trade name of the gaming licensee;
- (b) A separate designated betting area at each player position for the placement of ante wagers;
- (c) A separate designated area shall be located immediately to the right of each ante betting area for the placement of first wagers;
- (d) A separate designated area shall be located immediately to the right of each first wager betting area for the placement of second wagers;

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- (e) A separate designated area shall be located immediately above each ante betting area for the placement of optional bonus wagers; and
 - (f) Notice of signage for payout odds for all authorized wagers.
- (3) A sign shall be posted at each Boston 5 stud poker table that lists the payout odds for all authorized wagers.
- (4) Each Boston 5 stud poker table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer.

146.33: Double Cross Poker Table; Physical Characteristics

- (1) Double cross poker shall be played on a table having player positions for no more than seven players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.
- (2) The layout for a double cross poker table shall contain at a minimum:
- (a) The name or trade name of the gaming licensee;
 - (b) A separate designated betting area at each player position for the placement of the ante wager;
 - (c) Four separate designated betting areas at each player position for the placement of raise wagers, with one raise wager area located to the left of the ante betting area, one raise wager area located to the right of the ante betting area, one raise wager area located above the ante betting area and one raise wager area located below the ante betting area, so that the ante betting area and the four raise wager areas, when viewed from above, form the shape of a cross;
 - (d) A separate designated area at each player position for the placement of a three-card wager, located to the right of the designated areas for the placement of ante and raise wagers;
 - (e) A separate designated area, located between the table inventory container and the player betting areas on the right hand side of the dealer, for the placement of the five community cards in the same type of cross formation created by the five wager areas described in 205 CMR 146.33(2)(b) and (c);
 - (f) A separate designated area, located between the table inventory container and the player betting areas on the left hand side of the dealer, for the placement of the dealer's two cards; and
 - (g) An inscription identifying the payout odds for all authorized wagers or a sign identifying the payout odds for all authorized wagers posted at each double cross poker table.
- (4) Each double cross poker table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer.

146.34: Double Attack Blackjack Table; Physical Characteristics

- (1) Double attack blackjack shall be played on a table having player positions for no more than seven players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.
- (2) The layout for a double attack blackjack table shall contain, at a minimum:
- (a) The name or trade name of the gaming licensee; and
 - (b) Separate designated betting areas at each player position for the placement of the initial wager, the double attack wager, and the optional bonus wager.
- (3) The following inscriptions shall appear on the double attack blackjack layout:
- (a) Blackjack pays 1 to 1;
 - (b) Dealer must draw to 16, and stand on all 17s; and
 - (c) Insurance pays 5 to 2.

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- (4) Payout odds for the optional bonus wager authorized by the authorized Rules of the Game of Double Attack Blackjack shall be inscribed on the layout or posted on a sign at each double attack blackjack table.
- (5) Each double attack blackjack table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer.

146.35: Four-card Poker Table; Physical Characteristics

- (1) Four-card poker shall be played on a table having player positions for no more than seven players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.
- (2) The layout for a four-card poker table shall contain, at a minimum:
 - (a) The name or trade name of the gaming licensee;
 - (b) Separate designated betting areas at each player position for the placement of the ante wager and the play wager;
 - (c) Separate designated betting areas at each player position for the placement of the aces up wager; and
 - (d) An inscription identifying the payout odds for all authorized wagers or a sign identifying the payout odds for all authorized wagers posted at each four-card poker table.
- (4) Each four-card poker table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer.

146.36: Texas Hold'em Bonus Poker Table; Physical Characteristics

- (1) Texas Hold'em bonus poker shall be played on a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.
- (2) The layout for a Texas Hold'em bonus poker table shall contain, at a minimum:
 - (a) The name or trade name of the gaming licensee;
 - (b) A separate designated betting area at each player position for the placement of ante wagers;
 - (c) Three separate designated areas at each player position for the placement of flop, turn and river wagers, which areas shall be located immediately above the ante betting area as viewed by a player;
 - (d) A separate designated area at each player position for the placement of an optional bonus wager, which area shall be located immediately above and to the right of the flop wager betting area as viewed by a player;
 - (e) A separate designated area for the placement of the five community cards, which area shall be located in the center of the table between the table inventory container and the player betting areas;
 - (f) A separate designated area for the placement of the dealer's two cards, which area shall be located between the table inventory container and the designated area for the community cards described in 205 CMR 146.36(2)(e); and
 - (g) An inscription indicating that an ante wager shall receive a payout if a winning hand has a qualifying rank, as elected by the gaming licensee, of straight or higher or flush or higher.
- (3) A sign that lists the payout odds for all authorized wagers shall be posted at each Texas Hold'em bonus poker table.
- (4) Each Texas Hold'em bonus poker table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer.

146.37: Flop Poker Table; Physical Characteristics

- (1) Flop poker shall be played on a table having player positions for no more than nine players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.
- (2) The layout for a flop poker table shall contain, at a minimum:
 - (a) The name or trade name of the gaming licensee;
 - (b) Three separate designated betting areas at each player position for the placement of ante, pot and flop wagers, with the pot wager area closer to the dealer than the ante and flop wager areas;
 - (c) An arc extending across all player positions with the areas designated for players' pot wagers on the side of the arc closer to the dealer and with the areas designated for players' ante and flop wagers on the side of the arc farther from the dealer;
 - (d) A designated area at each player position for the placement of player cards located between the designated areas for the placement of the ante wager and the flop wager;
 - (e) A designated area at the center of the gaming table for the placement of the three community cards;
 - (f) A designated area at the center of the gaming table for the placement of collected pot wagers, which area shall be located farther from the dealer than the designated area described in 205 CMR 146.37(2)(b); and
 - (g) Unless the gaming licensee complies with 205 CMR 146.37(3), an inscription listing the payout odds for ante and flop wagers and indicating that the highest ranking hand wins all pot wagers.
- (3) If the information required by 205 CMR 146.37(2)(g) is not inscribed on the layout, a sign shall be posted at each flop poker table that lists the payout odds for ante and flop wagers and indicating that the highest ranking hand wins all pot wagers.
- (4) Each flop poker table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of, the dealer.
- (5) In addition to the requirements of 205 CMR 146.37(2), if a gaming licensee offers the three-card bonus wager, the flop poker table shall include a designated betting area at each player position for the placement of the three-card bonus wager. The flop poker table shall also contain a sign setting forth the payout odds for the three-card bonus wager.

146.38: Two-card Joker Poker Table; Physical Characteristics

- (1) Two-card joker poker shall be played on a table having player positions for no more than seven players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.
- (2) The layout for a two-card joker poker table shall contain, at a minimum:
 - (a) The name or trade name of the gaming licensee;
 - (b) Four separate designated betting areas at each player position for the placement of the ante wager, call wager, pair up wager and super flush bonus wager;
 - (c) An inscription identifying the payout odds for all authorized wagers unless the gaming licensee chooses to comply with 205 CMR 146.38(3); and
 - (d) An inscription indicating that a joker may only be used to complete a pair unless the gaming licensee chooses to comply with 205 CMR 146.38(4).
- (3) If the payout odds are not inscribed on the layout as provided in 205 CMR 146.38(2)(c) a sign identifying the payout odds for all authorized wagers shall be posted at each two-card joker poker table.
- (4) If the layout is not inscribed with the information described in 205 CMR 146.38(2)(d) a sign shall be posted at each two-card joker poker table indicating that a joker may only be used to complete a pair.

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(5) Each two-card joker poker table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer.

146.39: Asia Poker Table; Asia Poker Shaker; Physical Characteristics; Computerized Random Number Generator

(1) Asia poker shall be played at a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.

(2) The layout for an Asia poker table shall contain, at a minimum, the following:

- (a) The name or trade name of the gaming licensee;
- (b) Six separate designated betting areas for the players at the table with each area being numbered one through six;
- (c) Three separate areas located below each betting area, which shall be designated for the placement of the high, medium and low hands of that player and configured with the high hand area farthest from the betting area, the low hand area closest to the betting area, and the medium hand area arrayed between the high hand area and the low hand area; and
- (d) Three separate areas located in front of the table inventory container designated for the placement of the high, medium and low hands of the dealer and configured with the dealer's high hand area closest to the dealer, the dealer's low hand area farthest from the dealer, and the dealer's medium hand area arrayed between the dealer's high hand area and the dealer's low hand area.

(3) Each Asia poker table shall have a drop box and tip box attached to it on the same side of the gaming table as, but on opposite sides of the dealer.

(4) Pursuant to the authorized Rules of the Game of Asia Poker, Asia poker may be played with a container, to be known as an "Asia poker shaker", which shall be used to shake three dice before each hand of Asia poker is dealt in order to determine the starting position for the dealing or delivery of the cards. The Asia poker shaker shall be designed and constructed to contain any feature the Bureau may require to maintain the integrity of the game and shall, at a minimum, adhere to the following specifications:

- (a) The Asia poker shaker shall be capable of housing three dice and shall be designed so as to prevent the dice from being seen while the dealer is shaking it; and
- (b) The Asia poker shaker shall have the name or identifying logo of the gaming licensee imprinted or impressed thereon.

(5) As an alternative to using the shaker and dice described 205 CMR 146.39(4), a gaming licensee may determine the starting position for the dealing or delivery of the cards in Asia poker by utilizing a computerized random number generator that automatically selects and displays a number from one through seven. Any computerized random number generator proposed for use by a gaming licensee shall be approved by the Bureau.

146.40: Ultimate Texas Hold'em Table; Physical Characteristics

(1) Ultimate Texas Hold'em shall be played on a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.

(2) The layout for an ultimate Texas Hold'em table shall contain, at a minimum:

- (a) The name or trade name of the gaming licensee;
- (b) Four separate designated betting areas at each player position for the placement of ante, blind, play and trips wagers, configured with the trips wager area closest to the dealer, the play wager area farthest from the dealer, the ante wager area arrayed between the trips wager area and the play wager area, and the blind wager area to the right of and separated from the ante wager area by an "=" symbol;

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- (c) A separate designated area for the placement of the five community cards, which area shall be located in the center of the table between the table inventory container and the player betting areas;
- (d) A separate designated area for the placement of the dealer's two cards, which area shall be located between the table inventory container and the designated area for the community cards described in 205 CMR 146.40(2)(c);
- (e) An inscription indicating that an ante wager shall push if the dealer has less than a pair; and
- (f) Unless the gaming licensee complies 205 CMR 146.40(3) an inscription at each player position describing the following:
 - 1. The payout odds for blind and trips wagers;
 - 2. That a blind wager shall not be paid unless the player's hand ranks higher than the dealer's hand; and
 - 3. The rules governing the required amount of a play wager as a multiple of the player's ante wager (three or four times the ante if made prior to any community cards being dealt; two times the ante if made after the flop is dealt but prior to the final two community cards being dealt; or equal to the ante if made after all community cards are dealt but prior to the dealer's cards being revealed).

(3) If the information required by 205 CMR 146.40(2)(f) is not inscribed on the layout, a sign shall be posted at each ultimate Texas Hold'em table that sets forth such information.

(4) Each ultimate Texas Hold'em table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer.

146.41: Winner's Pot Poker Table; Physical Characteristics

(1) Winner's pot poker shall be played on a table having player positions for no more than seven players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.

(2) The layout for a winner's pot poker table shall contain, at a minimum:

- (a) The name or trade name of the gaming licensee;
- (b) Four separate designated betting areas at each player position for the placement of ante, bet, double and jacks plus bonus wagers, configured in an array so that the jacks plus bonus wager area is closest to the dealer, the double wager area is second closest to the dealer, the bet wager area is third closest to the dealer, and the ante wager area is farthest from the dealer;
- (c) Three separate designated betting areas for the placement of the ante, bet and double wagers of the dealer, configured in an array in front of the dealer so that the double wager area is closest to the dealer, the bet wager area is the second closest to the dealer, and the ante wager area is farthest from the dealer;
- (d) A designated area at each player position for the placement of the face up cards of the player, which area shall be located to the left of and adjacent to the wagering areas of the player;
- (e) A designated area at the center of the gaming table for the placement of the face up cards of the dealer;
- (f) A designated area at the center of the gaming table for the placement of the collected wagers comprising the winner's pot; and
- (g) Unless the gaming licensee complies with 205 CMR 146.41(3), inscriptions:
 - 1. Listing the payout odds for the jacks plus bonus wager; and
 - 2. Indicating that the winner's pot shall be awarded to the highest ranking hand of a player or the dealer.

(3) If the information required by 205 CMR 146.41(2)(g) is not inscribed on the layout, a sign shall be posted at each winner's pot poker table that lists the payout odds for the jacks plus bonus wager and indicates that the winner's pot shall be awarded to the highest ranking hand of a player or the dealer. In addition, a sign shall be posted at each winner's pot poker table indicating that:

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- (a) The ante wager of a player who folds after the first three cards are dealt does not increment the winner's pot and is placed in the table inventory container;
- (b) The percentage or, if applicable, the dollar amount of the commission that shall be deducted from the winner's pot and placed in the table inventory container; and
- (c) The outcome of a jacks plus bonus wager of a player who has folded his or her hand shall be determined on the cards dealt to the player prior to folding.

(4) Each winner's pot poker table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer.

146.42: Supreme Pai Gow Table; Pai Gow Poker Shaker; Physical Characteristics; Computerized Random Number Generator

(1) Supreme pai gow shall be played at a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.

(2) The layout for a supreme pai gow table shall contain, at a minimum:

- (a) The name or trade name of the gaming licensee;
- (b) Six separate designated betting areas for the players at the table for placement of the supreme pai gow wager with each area being numbered one through six;
- (c) Two separate areas located below each betting area which shall be designated for the placement of the high and low hands of that player and configured with the high hand area farther from the betting area;
- (d) Two separate areas located in front of the table inventory container designated for the placement of the high and low hands of the dealer and configured with the dealer's high hand closer to the dealer; and
- (e) A separate designated area at each player position for placement of the bonus wager, which area shall be located immediately above and to the right of the supreme pai gow wagering area as viewed by the player.

(3) Each supreme pai gow table shall have a drop box and tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.

(4) Pursuant to the authorized Rules of the Game of Supreme Pai Gow, supreme pai gow may be played with a container, to be known as a "pai gow shaker", which shall be used to shake three dice before each hand of supreme pai gow is dealt in order to determine the starting position for the dealing or delivery of the cards. The pai gow shaker shall be designed and constructed to contain any feature the Bureau may require to maintain the integrity of the game and shall, at a minimum, adhere to the following specifications:

- (a) The pai gow shaker shall be capable of housing three dice and shall be designed so as to prevent the dice from being seen while the dealer is shaking it; and
- (b) The pai gow shaker shall have the name or identifying logo of the gaming licensee imprinted or impressed thereon.

(5) As an alternative to using the shaker and dice described in 205 CMR 146.42(4), a gaming licensee may determine the starting position for the dealing or delivery of the cards in supreme pai gow by utilizing a computerized random number generator that automatically selects and displays a number from one through seven. Any computerized random number generator proposed for use by a gaming licensee shall be approved by the Bureau.

146.43: Mississippi Stud; Physical Characteristics

(1) Mississippi stud shall be played on a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.

146.43: continued

- (2) The layout for a Mississippi stud table shall contain, at a minimum:
- (a) The name or trade name of the gaming licensee;
 - (b) A separate designated betting area at each player position for the placement of the ante wager;
 - (c) Three separate designated betting areas at each player position for the placement of the 3rd street, 4th street and 5th street wagers, which areas shall be located closer to the player than the ante wager betting area and, when viewed by the player, arrayed from left to right;
 - (d) Inscriptions at each player position providing that:
 1. All bet wagers shall be in an amount equal to one, two or three times the amount of the player's ante; and
 2. The payout odds for all authorized wagers; and
 3. Three separate designated areas in front of the dealer for the placement of the community cards, with one area inscribed "3rd street", a second area inscribed "4th street", and a third area inscribed "5th street".
- (3) Each Mississippi stud table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of, the dealer.

146.44: Red Dog Table; Physical Characteristics

- (1) Red dog shall be played at a table having player positions for no more than seven players on one side of the table and on the opposite side a place for the dealer. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.
- (2) The layout for a red dog table shall contain, at a minimum:
- (a) The name or trade name of the gaming licensee offering the game;
 - (b) Two separate designated betting areas for each player, clearly marked to distinguish between the original wager and the raise wager, and situated so that the betting area for the raise wager is closer to the player than the betting area for the original wager;
 - (c) An area designated for the placement of the first, second and third card; and
 - (d) The payout odds currently being offered in accordance with the authorized Rules of the Game of Red Dog.
- (3) Each red dog table shall have a drop box and a tip box attached to it with the location of said boxes on the same side of the gaming table but on opposite sides of the dealer.

146.45: Dice: Physical Characteristics

- (1) Except as otherwise provided in 205 CMR 146.45(2), each die used in gaming shall:
- (a) Be formed in the shape of a perfect cube and of a size no smaller than 0.750 of an inch on each side nor any larger than 0.775 of an inch on each side;
 - (b) Be transparent and made exclusively of cellulose except for the spots, name or trade name of the gaming licensee and serial number or letters contained thereon;
 - (c) Have the surface of each of its sides perfectly flat and the spots contained in each side perfectly flush with the area surrounding them;
 - (d) Have all edges and corners perfectly square and forming perfect 90° angles;
 - (e) Have the texture and finish of each side exactly identical to the texture and finish of all other sides;
 - (f) Have its weight equally distributed throughout the cube and no side of the cube heavier or lighter than any other side of the cube;
 - (g) Have its six sides bearing white circular spots from one to six respectively with the diameter of each spot equal to the diameter of every other spot on the die;
 - (h) Have spots arranged so that the side containing one spot is directly opposite the side containing six spots, the side containing two spots is directly opposite the side containing five spots and the side containing three spots is directly opposite the side containing four spots; each spot shall be placed on the die by drilling into the surface of the cube and filling the drilled out portion with a compound which is equal in weight to the weight of the cellulose drilled out and which forms a permanent bond with the cellulose cube, and shall extend into the cube exactly the same distance as every other spot extends into the cube to an accuracy tolerance of .0004 of an inch; and

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4. The date of the transaction; and
 5. The signatures of the individuals involved;
- (b) A reconciliation on a daily basis of the sets of tiles distributed and the sets of tiles destroyed and cancelled, the sets of tiles returned to the storage area and, if any, the sets of tiles in tile reserve; and
- (c) A physical inventory of the sets of tiles at least once every three months. This inventory shall be performed by an individual with no incompatible functions and shall be verified to the balance of the sets of tiles on hand as required 205 CMR 146.53(13)(a)1. Any discrepancies shall immediately be reported to the Bureau.
- (14) Other than tiles retained for Bureau inspection, tiles shall be cancelled or destroyed within 72 hours of collection by the security department. In addition, once tiles retained as evidence by the Bureau are released to the security department, the tiles shall immediately be destroyed or cancelled.
- (15) Destruction and cancellation of tiles shall take place in a secure place, the location and physical characteristics of which shall be approved by the Bureau. The adequacy of the destruction and cancellation process shall be approved by the Bureau. Destruction of tiles shall be by shredding by the security department or a vendor approved by the Bureau. Cancellation of tiles shall be by drilling a circular hole of at least ¼ of an inch in diameter through the center of each card in the deck.

146.54: Inspection and Approval of Gaming Equipment and Related Devices and Software

- (1) No gaming equipment or any related device or software shall be used in a gaming establishment unless it is identical in all mechanical, electrical, electronic or other aspects to a prototype thereof that has been reviewed and approved for use by the independent testing lab certified by the commission.
- (2) The following equipment shall be certified by an approved internal or independent testing lab followed by an on-site inspection by the Bureau prior to initial use or following any modification:
- (a) Slot machines;
 - (b) Multiplayer systems;
 - (c) Electronic table games;
 - (d) Server supported slot systems;
 - (e) Slot machine bonus systems;
 - (f) Progressive equipment;
 - (g) Kiosks;
 - (h) Account based wagering systems;
 - (i) Wireless wagering devices;
 - (j) Slot monitoring systems;
 - (k) Gaming voucher systems; and
 - (l) Devices used in conjunction with a slot monitoring system.
- (3) Any evidence that an item of gaming equipment or a related device or software used in a gaming facility has been tampered with or altered in any way which would affect the integrity, fairness, or suitability of the item for use in a casino shall be immediately reported to the Bureau. The Bureau shall ensure that any such item is maintained in a secure manner.
- (4) A gaming licensee and gaming device vendor shall comply with, and the commission adopts and incorporates by reference, Gaming Laboratories International, LLC Standard GLI-25: Dealer Controlled Electronic Table Games, version 1.2, released September 6, 2011, subject to the following amendments: Delete section 1.1 and replace with the following: "The following sets forth the technical standards for dealer controlled electronic table games as identified in 205 CMR 146.00. This GLI standard is adopted in whole subject to the modifications described in 205 CMR 146.54(4). The standard and modifications should at all times be read in conjunction with 205 CMR and the standards referenced in section 1.3.1 so as to create a harmonious regulatory framework.

146.55: Approval of Gaming Equipment/Approval of New Gaming Equipment

- (1) At the Bureau's request, the manufacturer will supply a sample of suggested equipment for review and testing.
- (2) A gaming licensee, in conjunction with other interested parties, may petition the Bureau in writing for the approval of new gaming equipment in accordance with the process set forth in 205 CMR 147.00: *Uniform Standards of Rules of the Games* related to petitions for a new game or game variation. New gaming equipment pending approval shall be permitted to be used during new game or game variation field trials conducted pursuant to 205 CMR 147.04(5).

146.56: Security of Gaming Equipment

- (1) Any equipment used for the operation of a gaming table that is stored in inventory shall be secured in a locked area with dedicated closed circuit television system coverage. This shall include, but not be limited to cards, dice, pai gow tiles, shuffle machines, wheels or devices that can affect or determine the outcome of the game. The areas to be secured shall include pit stands, card and dice storage rooms or any other back of house table games equipment storage areas and any other areas so designated by the Commission.
- (2) Any gaming equipment that will be sold by a gaming licensee to an outside party shall require a notification to the Bureau office within the gaming establishment with the specific details. Cards and dice may be sold at the gift shop after the licensee has submitted their procedure for the process to the Bureau.
- (3) All gaming equipment included in 205 CMR 146.00 shall be imprinted with a unique serial number.

146.58: Crazy 4 Poker Table; Physical Characteristics

- (1) Crazy 4 poker shall be played on a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.
- (2) The layout for a Crazy 4 poker table shall contain, at a minimum:
 - (a) The name or trade name of the gaming licensee;
 - (b) Separate designated betting areas at each player position for the placement of the Ante, Play, Super Bonus and Queens Up Wagers for each player. The Super Bonus betting area must be located to the right of the Ante Wager betting area and be separated by an "=" symbol;
 - (c) If the licensee offers either the Four or Five-Card Progressive Payout Wager pursuant to the authorized Rules of the Game of Crazy 4 Poker, a separate area designated for the placement of the Progressive Payout Wager for each player;
 - (d) If a licensee offers the Five Card Hand Bonus Wager pursuant to the authorized Rules of the Game of Crazy 4 Poker, each player position must contain an electronic wagering system for the placement of the Five Card Hand Bonus Wager;
 - (e) An inscription identifying the payout odds for all authorized wagers or a sign identifying the payout odds or amounts for all permissible wagers posted at each Crazy 4 Poker table;
 - (f) Inscriptions that advise patrons of the following:
 1. The best four-card hand plays.
 2. The dealer qualifies with a king or better.
 3. A player who has a pair of aces or better may place a Play Wager in an amount up to three times the player's Ante Wager.
 4. The player's Super Bonus Wager shall be returned if the player beats or ties the dealer with a hand that is not a straight or better.
- (4) Each Crazy 4 poker table shall have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer.

146.58: continued

(5) If the gaming licensee offers either a Four or Five-Card Progressive Payout Wager pursuant to the authorized Rules of the Game of Crazy 4 Poker, the Crazy 4 Poker table must have a progressive table game system, in accordance with 205 CMR 143.02 for the placement of Progressive Payout Wagers. If the gaming licensee is offering a Progressive Payout Wager on multiple linked tables or games in the same gaming establishment, the progressive table game system must comply with 205 CMR 143.02: *Progressive Gaming Devices*. The progressive table game system must include:

- (a) A wagering device at each player position that acknowledges or accepts the placement of the Progressive Payout Wager; and
- (b) A device that controls or monitors the placement of Progressive Payout Wagers at the gaming table, including a mechanism, such as a lock-out button, that prevents the recognition of any Progressive Payout Wager that a player attempts to place after the dealer has announced “no more bets”.

(6) If the gaming licensee offers the Five Card Hand Bonus Wager pursuant to the authorized Rules of the Game of Crazy 4 Poker, the Crazy 4 Poker table must have a table game system, in accordance with 205 CMR 138.62 and an electronic wagering system in accordance with 205 CMR 146.43. Each player position must contain an electronic wagering system for the placement of the Five Card Hand Bonus Wager. The system must include a mechanism, such as a lockout button, that prevents the placement of any Five Card Hand Bonus Wagers that a player attempts to place after the dealer has begun dealing the cards. If the certificate holder is offering a Five Card Hand Bonus Wager on multiple linked tables or games in the same gaming establishment, the progressive table game must comply with 205 CMR 143.02: *Progressive Gaming Devices*.

146.59: Criss-cross Poker Table Physical Characteristics

(1) Criss-cross Poker shall be played at a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.

(2) The layout for a Criss-cross Poker table shall contain, at a minimum:

- (a) The name or trade name of the gaming licensee.
- (b) Five separate betting areas for each player designated for the placement of the Ante Across and Ante Down Wagers and the Across, Down and Middle Bets.
- (c) Five separate areas designated for the placement of the five community cards. The area for the community cards must form a cross with one box furthest from the table inventory container, three boxes in the center row and one box directly in front of the table inventory container.
- (d) If the licensee offers the optional Five Card Bonus Wager, a separate area designated for the placement of the Five Card Bonus Wager for each player.
- (e) Inscriptions that advise patrons of the payout odds or amounts for all permissible wagers offered by the licensee. If payout odds or amounts are not inscribed on the layout, a sign identifying the payout odds or amounts for all permissible wagers shall be posted at each Criss-cross Poker table.
- (f) If the licensee establishes a payout limit per player per round, inscriptions that advise patrons of the payout limit. If the limit is not inscribed on the layout, a sign identifying the payout limit shall be posted at each Criss-cross Poker table.
- (g) Each Criss-cross Poker table must have a drop box and a tip box attached on the same side of the table as, but on opposite sides of, the dealer as approved by the on-site Bureau office. The Bureau may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

(3) Each Criss-cross Poker table must have a discard rack securely attached to the top of the dealer's side of the table.

146.60: Free Bet Blackjack

- (1) Free Bet Blackjack shall be played at a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side.
- (2) A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a Free Bet Blackjack table shall contain, at a minimum:
 - (a) The name or logo of the gaming licensee;
 - (b) A separate betting area designated for the placement of the Blackjack Wager for each player;
 - (c) The following inscriptions:
 1. Blackjack pays 3 to 2;
 2. Insurance pays 2 to 1;
 3. Dealer shall draw to 16 and stand on all 17s or other similar language approved by the Bureau;
 4. Blackjack Wagers will push if the dealer's hand has a total point count of 22 or other similar language approved by the Bureau; and
 5. Surrender is not available on a Free Bet Blackjack table or other similar language approved by the Bureau, unless the gaming licensee posts a sign at each Free Bet Blackjack table specifying that surrender is not available.
 - (d) If the licensee offers the Push 22 Wager, a separate area designated for the placement of the wager for each player;
 - (e) Inscriptions that advise patrons of the payout odds or amounts for all permissible wagers offered by the certificate holder unless a sign identifying the payout odds or amounts for all permissible wagers is posted at each Free Bet Blackjack table.
- (3) Each Free Bet Blackjack table must have a drop box and a tip box attached on the same side of the table as, but on opposite sides of, the dealer.
- (4) Each Free Bet Blackjack table must have a card reader device attached to the top of the dealer's side of the table. The floorperson assigned to the Free Bet Blackjack table shall inspect the card reader device at the beginning of each gaming day to ensure that there has been no tampering with the device and that it is in proper working order.
- (5) Each Free Bet Blackjack table must have a discard rack securely attached to the top of the dealer's side of the table. The height of each discard rack must either:
 - (a) Equal the height of the cards, stacked one on top of the other, in the total number of decks that are to be used in the dealing shoe at that table; or
 - (b) Be taller than the height of the total number of decks being used if the discard rack has a distinct and clearly visible mark on its side to show the exact height for a stack of cards equal to the total number of cards in the number of decks to be used in the dealing shoe at that table.

146.61: Heads Up Hold'em

- (1) Heads Up Hold'em shall be played at a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side.
- (2) A true-to-scale rendering and color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a Heads Up Hold'em table shall contain, at a minimum:
 - (a) The name or trade name of the gaming licensee;
 - (b) A separate designated betting area at each player position for the placement of the ante wager;
 - (c) A separate designated betting area located immediately behind each ante wager betting area for the placement of the raise wager;
 - (d) The odds wager, trips plus wager and pocket bonus wager permitted pursuant to the authorized Rules of the Game of Heads Up Hold'em, shall be placed in a separate designated betting area at each player position for the placement of each wager as follows:

146.61: continued

1. The odds wager designated betting area shall be to the right of, and aligned with, the ante wager;
 2. The trips plus wager designated betting area shall be in front of the ante wager;
 3. The pocket bonus wager designated betting area shall be to the right of, and aligned with, the trips plus designated betting area, and in front of the odds wager designated betting area;
- (e) Heads Up Hold'em tables shall have inscriptions that advise patrons of the payout odds of the odds wager, bad beat bonus, trips plus wager, and pocket bonus wager as described in the authorized Rules of the Game of Heads Up Hold'em, respectively; and inscriptions that advise patrons of the permissible raise wagers.
- (3) Each Heads Up Hold'em table shall have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.

146.62: High Card Flush; Physical Characteristics

- (1) High Card Flush shall be played at a table having player positions for no more than six players on one side of the table and a place for the dealer on the opposite side.
- (2) A true-to-scale rendering and color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a High Card Flush table shall contain, at a minimum:
 - (a) The name or trade name of the gaming licensee;
 - (b) A separate designated betting area at each player position for the placement of the ante wager;
 - (c) A separate designated betting area located immediately in front of each ante wager betting area for the placement of the raise wager;
 - (d) If a gaming licensee offers the Flush Bonus wager, the Straight Flush Bonus wager, and/or the Progressive payout wager pursuant to the authorized Rules of the Game of High Card Flush, a separate designated betting area at each player position for the placement of each wager, which shall be located behind each ante wager betting area;
 - (e) If a gaming licensee offers the Flush Bonus wager, the Straight Flush Bonus wager, and/or the Progressive payout wager pursuant to the authorized Rules of the Game of High Card Flush, inscriptions that advise patrons of the payout odds for the Flush Bonus wager, the Straight Flush Bonus wager, and/or the Progressive payout wager, as described in the authorized Rules of the Game of High Card Flush;
 - (f) Inscriptions that advise patrons of the permissible raise wagers, as described in the authorized Rules of the Game of High Card Flush; and
 - (g) Inscriptions that advise patrons of the dealer's qualifying hand, as defined in the authorized Rules of the Game of High Card Flush.
- (3) Each High Card Flush table shall have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.
- (4) If a gaming licensee offers the Progressive payout wager pursuant to the authorized Rules of the Game of High Card Flush, each High Card Flush table shall be equipped with an approved table game progressive payout wager system for the placement of Progressive payout wagers, equipped with additional approved features or standards including, but not limited to, those required pursuant to 205 CMR 143.02: *Progressive Gaming Devices*.

146.63: Table Game Progressive Wager Equipment

- (1) To the extent not specifically provided for in 205 CMR 146.63 or 205 CMR 143.02: *Progressive Gaming Devices*, if a gaming licensee offers an approved progressive wager for any game authorized pursuant to 205 CMR 147.00: *Uniform Standards of Rules of the Games*, the table layout for such game shall have designated areas for the placement of the progressive wager and may include other equipment as approved by the Bureau including, but not limited to:

146.63: continued

- (a) A separate acceptor device for the placement of a progressive wager, each of which shall have a light which shall illuminate upon placement and acceptance of a gaming chip;
- (b) A method to ensure that only one progressive wager is made per person, per round of play;
- (c) A sign describing the winning wagers and the payouts to be awarded on winning progressive wagers at a location on the table, or within a reasonable distance from the table such that a patron can easily read it;
- (d) A table controller panel which shall be equipped with a "lock-out" button which, once activated by the dealer, will prevent any player's gaming chips from being recognized in the acceptor device; and
- (e) A mechanical, electrical, or electronic table inventory return device which shall permit all gaming chips deposited into the acceptor devices to be collected and immediately returned to a designated area within the table inventory container prior to the dealing of a hand. The table inventory return device shall be designated and constructed to contain any feature the IEB may require to maintain the security and integrity of the game. The procedures for the operation of all functions of the table inventory return device shall be submitted to the IEB.

REGULATORY AUTHORITY

205 CMR 146.00: M.G.L. c. 23K, §§ 2, 4(37), and 5.



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin
Secretary of the Commonwealth

Regulation Filing To be completed by filing agency

CHAPTER NUMBER: 310 CMR 7.00

CHAPTER TITLE: Air Pollution Control

AGENCY: Department of Environmental Protection

SUMMARY OF REGULATION: State the general requirements and purposes of this regulation.

The regulation amends 310 CMR 7.40 by adopting the California Motor Vehicle Greenhouse Gas (GHG) Standards for model years (MYs) 2021 through 2025 passenger cars, light-duty trucks, and medium-duty passenger vehicles.

REGULATORY AUTHORITY: M.G.L. c. 111, Sections 142A through 142M, M.G.L. c. 21N

AGENCY CONTACT: Sharon Weber PHONE: 617-556-1190

ADDRESS: 1 Winter St., Boston, MA 02108

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - if this regulation is adopted as an emergency, state the nature of the emergency.

To comply with M.G.L. c.142K, MassDEP is required to adopt California vehicle standards. To comply with Section 177 of the federal Clean Air Act, MassDEP's vehicle standards must be identical to California's vehicle standards. These regulations are being enacted as an emergency regulation in order to be consistent with California's regulations, as required by state and federal law.

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.

N/A

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:

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

For the first and second year: _____

For the first five years: _____

No fiscal effect: _____

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: _____

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*
Low Emission Vehicle Program, Motor Vehicle GHG emission standards, Transportation

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:*

Amend 310 CMR 7.40

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: **Dec 13 2018**

Publication - *To be completed by the Regulations Division*

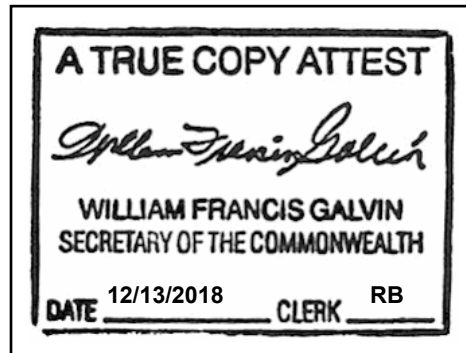
MASSACHUSETTS REGISTER NUMBER: **1381** DATE: **12/28/2018**

EFFECTIVE DATE: **12/13/2018**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages: _____ *Insert these pages:* _____

This is an Emergency Regulation there are no replacement pages.



7.40: continued

MANUFACTURER means any small, intermediate or large volume motor vehicle manufacturer which offers, delivers or arranges for the delivery of new motor vehicles for sale or lease in Massachusetts as defined in Title 13 CCR § 1900, except as otherwise provided in 310 CMR 7.40(12).

MANUFACTURERS ADVISORY CORRESPONDENCE means a document issued by the California Air Resources Board, which is a policy interpretation for further clarification of the California Code of Regulations (CCR).

MEDIUM-DUTY PASSENGER VEHICLE means any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of persons. The medium-duty passenger vehicle definition does not include any vehicle which:

- (a) is an "incomplete truck" *i.e.*, is a truck that does not have the primary load carrying device or container attached; or
- (b) has a seating capacity of more than 12 persons; or
- (c) is designed for more than nine persons in seating rearward of the driver's seat; or
- (d) is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area, for purposes of 310 CMR 7.40(1): MEDIUM-DUTY PASSENGER VEHICLE.

MEDIUM-DUTY VEHICLE means any 2003 through 2006 model year heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in Title 13 CCR § 1956.8(g) or (h) or 1960.1(h)(2), having a manufacturer's gross vehicle weight rating of 14,000 lbs. or less; any 2003 heavy-duty vehicle certified to the standards in Title 13 CCR § 1960.1(h)(1), 1956.8(g) or (h) having a manufacturer's gross vehicle weight rating of 14,000 lbs. or less; and any 2003 and subsequent model heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in Title 13 CCR § 1956.8(c), (g) or (h), 1961(a)(1) or 1962 having a manufacturer's gross vehicle weight rating between 8,501 and 14,000 lbs.

MODEL YEAR means a manufacturer's annual production period which includes January 1st of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.

MODIFIED PART means any aftermarket part intended to replace an original equipment emissions-related part and which is not functionally identical to the original equipment part in all respects which in any way affect emissions, excluding a consolidated part.

MOTOR VEHICLE POLLUTION CONTROL SYSTEM means the combination of emission-related parts which controls air pollutant emissions from a motor vehicle or motor vehicle engine.

2012 THROUGH 2016 MY NATIONAL GREENHOUSE GAS PROGRAM means the national program that applies to new 2012 through 2016 model year passenger cars, light-duty trucks, and medium-duty passenger vehicles as promulgated by the U.S. Environmental Protection Agency (40 CFR Parts 85, 86, and 600) and Department of Transportation National Highway Traffic Safety Administration (49 CFR Parts 531, 533, 537 and 538) on April 1, 2010, as incorporated in and amended by the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles."

2017 THROUGH 2025 MY NATIONAL GREENHOUSE GAS PROGRAM means the national program that applies to new 2017 through 2025 model year passenger cars, light-duty-trucks, and medium-duty passenger vehicles as adopted by the U.S. Environmental Protection Agency as codified in 40 CFR Part 86, Subpart S, except as follows:

7.40: continued

For model years 2021 through 2025, the "2017 through 2025 MY National Greenhouse Gas Program" means the national program that applies to new 2021 through 2025 model year passenger cars, light-duty-trucks, and medium-duty passenger vehicles as adopted by the U.S. Environmental Protection Agency as codified in 40 CFR Part 86, Subpart S, as last amended on October 25, 2016 that incorporates CFR sections 86.1818-12 (October 25, 2016), 86.1865-12 (October 25, 2016), 86.1866-12 (October 25, 2016), 86.1867-12 (October 25, 2016), 86.1868-12 (October 25, 2016), 86.1869-12 (October 25, 2016), 86.1870-12 (October 25, 2016), and 86.1871-12 (October 25, 2016).

NEW VEHICLE means any passenger car, light-duty truck or 2003 and subsequent model year medium-duty vehicle and 2005 and subsequent model year heavy-duty engine and vehicle with 7,500 miles or fewer on its odometer.

NON-METHANE ORGANIC GASES OR NMOG means the total mass of oxygenated and non-oxygenated hydrocarbon emissions.

PASSENGER CAR means any motor vehicle designed primarily for transportation of persons and having a design capacity of 12 persons or less.

PLACED IN SERVICE means having been sold or leased to an end-user and not just to a dealer or other distribution chain entity, and having been individually registered for on-road use in Massachusetts.

PROJECT MANAGER means the person responsible for the administration of Transportation System Projects pursuant to Title 13 CCR § 1962 (g)(5), 1962.1(g)(5), and 310 CMR 7.40.

RECALL means:

- (a) A manufacturer's issuing of notices directly to consumers that vehicles in their possession or control should be corrected;
- (b) A manufacturer's efforts to actively locate and correct vehicles in the possession or control of consumers.

RECALL CAMPAIGN means that plan approved by the California Air Resources Board or the Department, by which the manufacturer will effect the recall of noncomplying vehicles.

REPLACEMENT PART means any aftermarket part which is intended to replace an original equipment emissions-related part and which is functionally identical to the original equipment part in all respects which in any way affect emissions (including durability), or a consolidated part.

SMALL VOLUME MANUFACTURER means, with respect to the 2001 and subsequent model-years, a manufacturer with California sales less than 4,500 new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles and heavy-duty engines based on the average number of vehicles sold for the three previous consecutive model years for which a manufacturer seeks certification as a small volume manufacturer; however, for manufacturers certifying for the first time in California model-year sales shall be based on projected California sales. A manufacturer's California sales shall consist of all vehicles or engines produced by the manufacturer and delivered for sale in California, except that vehicles or engines produced by the manufacturer and marketed in California by another manufacturer under the other manufacturer's nameplate shall be treated as California sales of the marketing manufacturer. Except as provided in the next paragraph, for the 2009 through 2017 model years, the annual sales from different firms shall be aggregated in the following situations:

- (a) vehicles produced by two or more firms, one of which is 10% or greater part owned by another; or
- (b) vehicles produced by any two or more firms if a third party has equity ownership of 10% or more in each of the firms; or
- (c) vehicles produced by two or more firms having a common corporate officer(s) who is (are) responsible for the overall direction of the companies; or

7.40: continued

(d) vehicles imported or distributed by any firms where the vehicles are manufactured by the same entity and the importer or distributor is an authorized agent of the entity.

Notwithstanding the provisions of this paragraph, upon application to the Executive Officer, a manufacturer may be classified as a "small volume manufacturer" for the 2015 through 2017 model years if the Executive Officer determines that it is operationally independent of the firm that owns 10% or more of the applicant or has a greater than 10% equity ownership in the applicant based on the criteria provided in the last paragraph of Title 13 CCR § 1900(b)(22).

For purposes of compliance with the zero-emission vehicle requirements, heavy-duty vehicles and engines shall not be counted as part of a manufacturer's sales. For purposes of applying the 2005 through 2017 model year zero-emission vehicle requirements for small-volume manufacturers under Title 13 CCR § 1962(b), the annual sales from different firms shall be aggregated in the case of:

1. vehicles produced by two or more firms, each one of which either has a greater than 50% equity ownership in another or is more than 50% owned by another; or
2. vehicles produced by any two or more firms if a third party has equity ownership of greater than 50% in each firm.

Notwithstanding the provisions of this paragraph, upon application to the Executive Officer, a manufacturer may be classified as a "small volume manufacturer" for the 2015 through 2017 model years if the Executive Officer determines that it is operationally independent of the firm that owns 50% or more of the applicant or has a greater than 50% equity ownership in the applicant based on the criteria provided in the last paragraph of Title 13 CCR § 1900(b)(22).

NON-TEXT PAGE

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

7.40: continued

Title 13 CCR	Title	Section Amended Date
1960.1.5	Optional NO _x Standards for 1983 and Later Model Passenger Cars, and Light-duty Trucks and Medium-duty Vehicles Less than 4000 Lbs. Equivalent Inertia Weight (EIW) or 3751 Lbs. Loaded Vehicle Weight (LVW).	9/30/91
1960.5	Certification of 1983 and Subsequent Model-year Federally Certified Light-duty Motor Vehicles for Sale in California.	9/30/91
1961	Exhaust Emission Standards and Test Procedures – 2004 through 2019 Model Passenger Cars, Light-duty Trucks, and Medium-duty Vehicles.	8/7/12
1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures – 2009 through 2016 Model Passenger Cars, Light-duty Trucks, and Medium-duty Vehicles.	8/7/12
1961.2	Exhaust Emission Standards and Test Procedures – 2015 and Subsequent Model Passenger Cars, Light-duty Trucks, and Medium-duty Vehicles.	12/12/18
1961.3	Greenhouse Gas Exhaust Emission Standards and Test Procedures – 2017 and Subsequent Model Passenger Cars, Light-duty Trucks, and Medium-duty Vehicles.	12/12/18
1962(a), (b), (c), (d), (e), (f), (g)(1-7), (h), (i), (j)	Zero-emission Vehicle Standards for 2005-2008 Model Passenger Cars, Light-duty Trucks, and Medium-duty Vehicles, Including California Exhaust Emission Standards and Test Procedures for 2005-2008 Model Zero-emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-duty Truck and Medium-duty Vehicle Classes, except for § C.7.8.	4/17/09
1962.1(a), (b), (c), (d), (f), (g)(1-7), (h), (i), (j), (l)	Zero-emission Vehicle Standards for 2009-2017 Model Passenger Cars, Light-duty Trucks, and Medium-duty Vehicles, including California Exhaust Emission Standards and Test Procedures for 2009-2017 Model Zero-emission Vehicles Hybrid Electric Vehicles, in the Passenger Car, Light-duty Truck and Medium-duty Vehicle Classes, except for § C.7.8.	1/1/16
1962.2(a), (b), (c), (d), (g)(1-7), (h), (i), (j), (l)	Zero-emission Vehicle Standards for 2018 and Subsequent Model Year Passenger Cars, Light-duty Trucks, and Medium-duty Vehicles, including California Exhaust Emission Standards and Test Procedures for 2018 and Subsequent Model Zero-emission Vehicles and Hybrid Electric Vehicles, in the Passenger Car, Light-duty Truck and Medium-duty Vehicle Classes, except for § C.7.8.	1/1/16
1964	Special Test Procedures for Certification and Compliance – New Modifier Certified Motor Vehicles.	2/23/90
1965	Emission Control, Smog Index, and Environmental Performance Labels – 1979 and Subsequent Model-year Motor Vehicles.	8/7/12
1968.1	Malfunction and Diagnostic System Requirements – 1994 and Subsequent Model-year Passenger Cars, Light-duty Trucks and Medium-duty Vehicles and Engines.	11/27/90
1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions.	8/7/12
1978	Standards and Test Procedures for Vehicle Refueling Emissions.	8/7/12

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

7.40: continued

Title 13 CCR	Title	Section Amended Date
Article 6. Emission Control System Warranty.		
2035	Purpose, Applicability, and Definitions.	12/26/90
2036	Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-duty Trucks, and Medium-duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.	5/15/99
2037	Defects Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-duty Trucks, and Medium-duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles.	8/7/12
2038	Performance Warranty for 1990 and Subsequent Model Passenger Cars, Light-duty Trucks, Medium-duty Vehicles and Motor Vehicle Engines Used in Such Vehicles.	8/7/12
2039	Emissions Control System Warranty Statement.	12/26/90
2040	Vehicle Owner Obligations.	12/26/90
2041	Mediation; Finding of Warrantable Condition.	12/26/90
Article 7. Procedures for Certifying Used Modifier-certified Motor Vehicles and Licensing Requirements for Vehicle Emission Test Laboratories.		
2047	Certification Procedures for Used Modifier-certified Motor Vehicles.	5/31/88
CHAPTER 2. Enforcement of Vehicle Emission Standards and Surveillance Testing.		
Article 1. Assembly-line Testing.		
2061	Assembly-line Test Procedures - 1983 and Subsequent Model Years.	10/23/96
2062	Assembly-line Test Procedures - 1998 and Subsequent Model Years.	8/7/12
Article 1.5 Enforcement of Vehicle Emission Standards and Surveillance Testing for 2005 and Subsequent Model Year Heavy-duty Engines and Vehicles.		
2065	Applicability of Chapter 2 to 2005 and Subsequent Model Year Heavy-duty Engines and Vehicles.	7/25/01
Article 2. Enforcement of New and In-use Vehicle Standards.		
2101	Compliance Testing and Inspection - New Vehicle Selection, Evaluation, and Enforcement Action.	11/27/99
2106	New Vehicle Assembly-line Inspection Testing.	11/27/99
2107	Assembly-line Quality-audit Testing.	11/27/99
2108	Order of Executive Officer.	11/30/83
2109	New Vehicle Recall Provisions.	11/30/83
2110	Remedial Action for Assembly-line Quality Audit Testing of Less Than a Full Calendar Quarter of Production Prior to the 2001 Model Year.	11/27/99
Article 2.1 Procedures for In-use Vehicle Voluntary and Influenced Recalls.		
2111	Applicability.	1/26/95



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 206.00

CHAPTER TITLE: Standard Payments to Nursing Facilities

AGENCY: Executive Office of Health and Human Services

THIS REGULATION WAS ORIGINALLY FILED AS AN EMERGENCY:

Published in Massachusetts Register Number: 1376 Date: 10/19/2018

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 Notification: 09/14/18

Executive Order 562 approval: 12/11/18

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: 10/26/2018

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: 12/11/18

AGENCY CONTACT: Deborah M. Briggs PHONE: (617) 847-3302

ADDRESS: 100 Hancock Street, 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: Dec 14 2018

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1381 DATE: 12/28/2018

EFFECTIVE DATE: 10/01/2018

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>

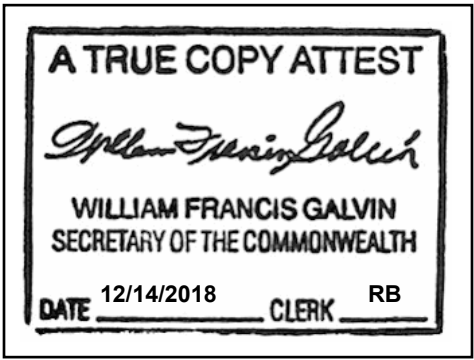


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101 CMR 206.00: STANDARD PAYMENTS TO NURSING FACILITIES

Section

- 206.01: Scope and Purpose
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- 206.03: General Payment Provisions
- 206.04: Nursing and Other Operating Costs
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206.01: Scope and Purpose

101 CMR 206.00 governs the payments effective October 1, 2018, for services rendered to publicly aided and industrial accident residents by nursing facilities including residents in a residential care unit of a nursing facility. 101 CMR 206.00 does not govern nursing facility payments pursuant to a contract with the Office of Medicaid.

206.02: General Definitions

As used in 101 CMR 206.00, unless the context requires otherwise, terms have the following meanings.

Actual Utilization Rate. The occupancy of a nursing facility calculated by dividing total patient 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.

Administrative and General Costs. Administrative and general costs include the amounts reported in the following accounts: administrator salaries; payroll taxes - administrator; worker's compensation - administrator; group life/health - administrator; administrator pensions; other administrator benefits; clerical; EDP/payroll/bookkeeping services; administrator-in-training; office supplies; phone; conventions and meetings; help wanted advertisement; licenses and dues, resident-care related; education and training - administration; accounting - other; insurance - malpractice; other operating expenses; realty company variable costs; management company allocated variable costs; and management company allocated fixed costs.

Administrator-in-training. A person registered with the Board of Registration of Nursing Home Administrators and involved in a course of training as described in 245 CMR: *Board of Registration in Nursing Home Administrators*.

Audit. An examination of the provider's cost report and supporting documentation to evaluate the accuracy of the financial statements and identification of Medicaid patient-related costs.

Base Year. The calendar year used to compute the standard payments.

Building Costs. Building costs include the direct cost of construction of the structure that houses residents and expenditures for service equipment and fixtures such as elevators, plumbing, and electrical fixtures 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 to building costs but not mortgage acquisition costs.

Capital Costs. Capital costs include building depreciation, financing contribution, building insurance, real estate taxes, non-income portion of Massachusetts Corporate Excise Taxes, other rent, and other fixed costs.

206.02: continued

Case-mix Category. One of six categories of resident acuity that represents a range of management minutes.

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

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. A change of ownership must be a sale of assets of the provider 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.

Centers for Medicare and Medicaid Services (CMS). The federal agency under the U.S. Department of Health and Human Services that is responsible for administering the Medicare and Medicaid programs.

Constructed Bed Capacity. A nursing facility's "bed capacity (or clinical bed capacity)" as defined at 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 rooms 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) with either outlets or capped lines within the room.

Department of Public Health (DPH). An agency of the Commonwealth of Massachusetts, established under M.G.L. c. 17, § 1.

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. Direct restorative therapy services include supervisory, administrative, and consulting time associated with provision of the services. These include, but are not limited to, reviewing preadmission referrals, informally communicating with families, scheduling treatments, completing resident care documentation including MDS documentation, screening of patients, writing orders, meeting with aides to discuss patients, consulting with physicians and nurse practitioners, managing equipment, and assessing equipment needs of patients.

Executive Office of Health and Human Services (EOHHS). The executive department of the Commonwealth of Massachusetts established under M.G.L. c. 6A, § 2 that, through the Department of Elder Affairs and other agencies within EOHHS, as appropriate, operates and administers the programs of medical assistance and medical benefits under M.G.L. c. 118E and that serves as the single state agency under section 1902(a)(5) of the Social Security Act.

Equipment. A fixed asset, usually moveable, accessory or supplemental to the building, including such items as beds, tables, and wheelchairs.

Financing Contribution. Payment for the use of necessary capital assets whether internally or externally funded.

Generally Available Employee Benefits. Employee benefits that are nondiscriminatory and available to all full-time employees.

Hospital-based Nursing Facility. A separate nursing facility unit or units located in a hospital building licensed for both hospital and nursing facility services in which the nursing facility licensed beds are less than a majority of the facility's total licensed beds and the nursing facility patient days are less than a majority of the facility's total patient days. It does not include freestanding nursing facilities owned by hospitals.

206.02: continued

Reported Costs. All costs reported in the cost report, less costs adjusted and/or self-disallowed in the HCF-1.

Required Education. Educational activities, conducted by a recognized school or authorized organization, required to maintain a professional license of employees that provide care to publicly aided residents. Required education also includes training for nurses' aides.

Residential Care. The minimum basic care and services and protective supervision required by the Department in accordance with 105 CMR 150.000: *Licensing of Long-term Care Facilities* for residents who do not routinely require nursing or other medically related services.

Residential Care Unit. A unit within a nursing facility licensed by the Department to provide residential care.

State Fiscal Year (SFY). The 12-month period from July 1st through June 30th.

Unit. A unit is an identifiable section of a nursing facility such as a wing, floor, or ward as defined in 105 CMR 150.000: *Licensing of Long-term Care Facilities*.

206.03: General Payment Provisions

(1) General. Nursing facility payments are prospective rates based on reported costs for a prior base year. The base year for the standard payments effective October 1, 2018, is 2007. Nursing facility payments include the nursing standard payments and other operating cost standard payment established in 101 CMR 206.04 and the capital payment established in 101 CMR 206.05. Payments may be adjusted to include additional payments in accordance with 101 CMR 206.06.

(2) Ancillary Costs. Unless a provider participates in the Ancillary Pilot Program with the MassHealth agency, or a provider's payments include ancillary services pursuant to the regulations or written policy of the purchasing agency, the provider must bill ancillary services directly to the purchaser in accordance with the purchaser's regulations or policies.

(3) Disclaimer of Authorization of Services. 101 CMR 206.00 is not authorization for or approval of the substantive services, or lengths of time, for which rates are determined pursuant to 101 CMR 206.00. Governmental units that purchase services from eligible providers are responsible for the definition, authorization, and approval of services and lengths of time provided to publicly aided individuals. Information concerning substantive program requirements must be obtained from purchasing governmental units.

206.04: Nursing and Other Operating Costs

(1) Nursing facilities are paid the following nursing standard payments.

Payment Group	Management Minute Range	Standard Payment
H	0 - 30	\$14.58
JK	30.1 - 110	\$39.91
LM	110.1 - 170	\$69.01
NP	170.1 - 225	\$97.23
RS	225.1 - 270	\$118.75
T	270.1 and above	\$147.65

(2) For all payment groups, the other operating cost standard payment is \$76.96.

206.05: Capital(1) Allowable Basis of Fixed Assets and Capital Cost.(a) Allowable Basis of Fixed Assets.

1. Fixed Assets. Fixed assets include land, building, improvements, equipment, and software.

2. Allowable Basis. The allowable basis is the lower of the provider's actual construction cost or the maximum capital expenditure approved for each category of assets by the Massachusetts Public Health Council and used for nursing facility services. EOHHS classifies depreciable land improvements such as parking lot construction, on-site septic systems, on-site water and sewer lines, walls, and reasonable and necessary landscaping costs as building cost.

3. Allowable Additions. EOHHS will recognize fixed asset additions made by the provider if the additions are related to the care of publicly assisted residents. If additions relate to a capital project for which the Department has established a maximum capital expenditure, the allowable amount will be limited to the amount approved by the Department. EOHHS will not recognize fixed asset additions made or equipment rental expense incurred within 12 months after a determination of need project becomes operational.

4. Change of Ownership.

a. If there is a change of ownership, the allowable basis will be determined as follows.

i. Land. The allowable basis is the lower of the acquisition cost or the seller's allowable basis.

ii. Building. The allowable basis is the lower of the acquisition cost or the seller's allowable basis, reduced by the amount of actual depreciation allowed in the Medicaid rates for the years 1968 through June 30, 1976, and 1993 forward.

iii. Improvements. The allowable basis is the lower of the acquisition cost or the seller's allowable basis, reduced by the amount of actual depreciation allowed in the MassHealth rates.

iv. Equipment. The allowable basis is the lower of the acquisition cost or the seller's allowable basis, reduced by the amount of actual depreciation allowed in the MassHealth rates.

b. Upon transfer, the seller's allowable building improvements will become part of the new owner's allowable basis of building.

c. If EOHHS cannot determine the amount of actual depreciation allowed in a prior year from its records, EOHHS will determine the amount using the best available information including, among other things, documentation submitted by the provider.

d. EOHHS will limit the annual amount of depreciation on transferred assets to the seller's annual allowed depreciation.

5. Special Provisions.

a. Nonpayment of Acquisition Cost. EOHHS will reduce allowable basis if the provider does not pay all or part of the acquisition cost of a reimbursable fixed asset or if there is a forgiveness, discharge, or other nonpayment of all or part of a loan used to acquire or construct a reimbursable fixed asset. EOHHS will reduce the basis to the extent that the basis was derived from the acquisition or construction cost of the fixed asset.

b. Repossession by Transferor. EOHHS will recalculate allowable basis if a transferor repossesses a facility to satisfy the transferee's purchase obligations; becomes an owner or receives an interest in the transferee's facility or company; or acquires control of a facility. The allowable basis will not exceed the transferor's original allowable basis under EOHHS regulations applicable at the date of change of ownership, increased by any allowable capital improvements made by the transferee since acquisition, and reduced by depreciation since acquisition.

(b) Capital Costs. EOHHS will calculate the provider's capital costs including depreciation, financing contribution, and other capital costs as defined in 101 CMR 206.05(1)(b)1. through 5.

1. Depreciation. EOHHS will allow depreciation on buildings, improvements, and equipment based on the allowable basis of fixed assets as of December 31, 2007. Depreciation of buildings, improvements, and equipment will be allowed based on generally accepted accounting principles using the allowable basis of fixed assets, the straight line method, and the following useful lives.

206.06: continued

(a) Except for the period from October 1, 2018 through September 30, 2019, nursing facility payments will include a user fee add-on as listed in 101 CMR 206.06(12)(a).

Nursing Facility Group	<i>Per Diem</i> Add-on Amount
1	\$15.47
2	\$1.55
3	\$1.55
4	\$0.00

(b) For the period from October 1, 2018 through September 30, 2019, nursing facility payments will include a user fee add-on as listed in 101 CMR 206.06(12)(b).

Nursing Facility Group	<i>Per Diem</i> Add-on Amount
1	\$18.98
2	\$1.90
3	\$1.90
4	\$0.00

(c) For the period from October 1, 2018 through April 30, 2019, nursing facility payments will include an annualization adjustment as listed in 101 CMR 206.06(12)(c).

Nursing Facility Group	<i>Per Diem</i> Annualized Adjustment
1	\$4.57
2	\$0.06
3	\$0.06
4	\$0.00

(d) EOHHS may adjust the add-on amount to reflect a change in the amount of the nursing facility user fee assessment under 101 CMR 512.04: *Calculation of User Fee*.

(13) **Direct Care Staff Payments.** For the period from October 1, 2018 through June 30, 2019, providers will receive periodic lump sum installment payments for wages, benefits, and related employee costs of direct care staff of nursing facilities. EOHHS may, *via* administrative bulletin or other written issuance, establish rules governing various aspects of the payments including, but not limited to, reporting and compliance requirements, penalties for noncompliance, recovery, and application to providers that close during FY2019.

(a) **Calculation of the Payment.** EOHHS will calculate the total FY2019 direct care staff payment amount for each provider as described in 101 CMR 206.06(13)(a). EOHHS will, *via* administrative bulletin or other written issuance, publish a list of such amounts by provider.

1. Sum the total FY2018 direct care staff payments for all providers.
2. Calculate the difference between \$38.3 million and the total FY2018 direct care staff payments for all providers included in 101 CMR 206.06(13)(a)1.

206.06: continued

3. Divide the FY2018 total direct care staff payments for each provider by the FY2018 total direct care staff payments for all providers and multiply the quotient by the difference calculated under 101 CMR 206.06(13)(a)2.
 4. For each provider, sum the provider's total FY2018 total direct care staff payment and share of the difference for the provider calculated under 101 CMR 206.06(13)(a)3.
- (b) Payment of the Direct Care Staff Payment. The total FY2019 direct care staff payment calculated pursuant to 101 CMR 206.06(13)(a) for each provider will be divided by three and paid to each provider in three periodic installments in October 2018, January 2019, and April 2019. Any FY2019 direct care staff funds allocated to a facility that closes during FY2019 shall not be paid to the closing facility following the date of closure and shall be redistributed among all remaining eligible facilities.
- (c) Permissible Use. Providers must use the direct care staff payment revenue to increase wages, benefits, and related employee costs for registered nurses, licensed practical nurses, certified nursing assistants, dietary aides, housekeeping aides, laundry aides, activities staff, and social workers employed by the provider. Such expenditures may include overtime payments and bonuses. Spending for temporary nursing services, contract employees, and directors of nursing is not permissible.
- (d) Direct Care Staff Payment Recovery. EOHHS reserves the right to recover any unused or misused direct care staff payments.

206.08: Reporting Requirements

- (1) Required Cost Reports.
 - (a) Nursing Facility Cost Report. Each provider must complete and file a Nursing Facility Cost Report each calendar year with the Center. The Nursing Facility Cost Report must contain the complete financial condition of the provider, including all applicable management company, central office, and real estate expenses. If a provider has closed on or before November 30th, the provider is not required to file an HCF-1 report.
 - (b) Realty Company Cost Report. A provider that does not own the real property of the nursing facility and pays rent to an affiliated or non-affiliated realty trust or other business entity must file or cause to be filed a Realty Company Cost Report with the Center.



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 101 CMR 304.00

CHAPTER TITLE: Rates for Community Health Centers

AGENCY: Executive Office of Health and Human Services

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

101 CMR 304.00 governs the payment rates to be used by governmental units and purchasers under M.G.L. c. 152 (the Worker's Compensation Act) for community health center (CHC) services.

REGULATORY AUTHORITY: M.G.L. c. 118E

AGENCY CONTACT: Debby Briggs, MassHealth Publications PHONE: (617) 847-3302

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

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.*

Executive Order 145 notifications: August 24, 2018

Executive Order 562 approval: December 11, 2018

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: October 1, 2018

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

For the first and second year: total estimated annualized increase of \$9.99 million

For the first five years: _____

No fiscal effect: _____

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

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

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:*

101 CMR 304.00 is being amended.

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: Dec 14 2018

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1381 DATE: 12/28/2018

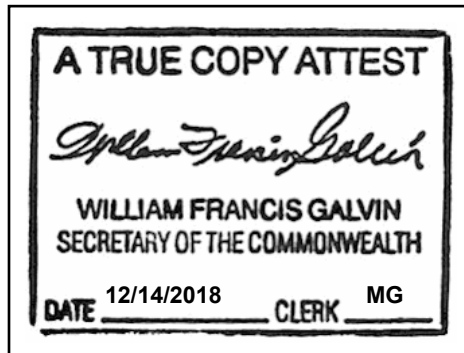
EFFECTIVE DATE: 12/28/2018

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages: _____ *Insert these pages:* _____

501-508

501-508



101 CMR 304.00: RATES FOR COMMUNITY HEALTH CENTERS

Section

- 304.01: General Provisions
- 304.02: Definitions
- 304.03: General Rate Provisions and Maximum Allowable Fees
- 304.04: Allowable Fees
- 304.05: Adjustment to Ensure Title XIX Access or Quality
- 304.06: Program Innovation Provision
- 304.07: Modifiers for Provider Preventable Conditions That Are National Coverage Determinations
- 304.08: Reporting Requirements
- 304.09: Effect of Claims Submission for MassHealth Providers
- 304.10: Severability

304.01: General Provisions

(1) Scope, Purpose and Effective Date. 101 CMR 304.00 governs the payment rates to be used by governmental units and purchasers under M.G.L. c. 152 (the Workers' Compensation Act) for community health center services. The rates contained in 101 CMR 304.00 are effective for dates of services on or after January 1, 2019.

(2) Coverage. The rates of payment under 101 CMR 304.00 constitute full compensation for community health center services provided to publicly aided individuals as well as full compensation for necessary administration, professional supervision, and supporting services associated with patient care. Any client resources or third party payments received on behalf of a publicly aided individual will reduce, by that amount, the amount of the purchasing governmental unit's obligation for services rendered to the publicly aided individual.

(3) Disclaimer of Authorization of Services. 101 CMR 304.00 is not authorization for or approval of the services for which rates are determined. The purchasing governmental unit or purchaser under M.G.L. c. 152 is responsible for the definition, authorization, and approval of services.

(4) Coding Updates and Corrections. EOHHS may publish service code updates and corrections in the form of an administrative bulletin. Updates may reference coding systems including, but not limited to, the *American Medical Association's Current Procedural Terminology* (CPT). The publication of such updates and corrections will list

- (a) codes for which only the code numbers change, with the corresponding cross references between existing and new codes;
- (b) deleted codes for which there are no corresponding new codes; and
- (c) codes for entirely new services that require pricing. EOHHS will list these codes and apply individual consideration (I.C.) reimbursement for these codes until appropriate rates can be developed.

(5) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on substantive provisions of 101 CMR 304.00 or to publish service code updates and corrections. In addition, EOHHS may issue administrative bulletins that specify the information and documentation necessary to implement 101 CMR 304.00.

304.02: Definitions

As used in 101 CMR 304.00, unless the context requires otherwise, terms have the meanings in 101 CMR 304.02.

340B Drug Pricing Program. A program established by Section 340B of Public Health Law 102-585, the Veterans Health Act of 1992.

Community Health Center (CHC). A facility licensed as a freestanding clinic by the Massachusetts Department of Public Health pursuant to M.G.L. c. 111, § 51, that provides comprehensive ambulatory services and that is not financially or physically an integral part of a hospital.

304.02: continued

Cost Report. The document used to report cost and other financial and statistical data in a format requested by and approved by the Center for Health Information and Analysis or EOHHS.

Early and Periodic Screening, Diagnosis and Treatment Services. A program of health screening and other medical services for publicly aided individuals younger than 21 years old as required by federal law. Payment for such services is in accordance with 101 CMR 304.04.

Emergency Care. Medical care required immediately due to illness or injury with symptoms of sufficient severity that a prudent lay person would believe there is an immediate threat to life or high risk of permanent damage to the individual's health. Emergency conditions are those that require immediate medical treatment at the most accessible hospital equipped to provide emergency services. Emergency care does not include elective, primary, or urgent care.

Enhanced Global Delivery. The provision and supervision of case management, perinatal counseling (including, but not limited to, obstetrical-risk assessment and monitoring), in addition to pelvic or cesarean delivery, all routine prenatal visits, and one postpartum visit.

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

Governmental Unit. The Commonwealth of Massachusetts and any department, agency, board, commission, division, or political subdivision of the Commonwealth.

Group Medical Visit. A session conducted by a physician other than a psychiatrist; a physician assistant; a nurse practitioner; or a registered nurse, to introduce appropriate health care topics that could include, but are not limited to, preventive medicine approaches to personal health and safety and to present self-help and personal management information concerning family medicine, adult medicine, sex education, and chronic illness.

Individual Medical Visit. A face to face meeting between a patient and a physician other than a psychiatrist; a physician assistant; a nurse practitioner; or a registered nurse within the community health center setting, for purposes of examination, diagnosis, or treatment.

Individual Mental Health Visit. A face-to-face meeting between a patient and either a psychiatrist or a psychiatric clinical nurse specialist within the community health center setting, for purposes of examination, diagnosis, or treatment.

Industrial Accident Patient. A person who receives medical services for which persons, corporations, or other entities are in whole or part liable under M.G.L. c. 152 (the Workers' Compensation Act).

MassHealth. The medical assistance and benefit programs administered by EOHHS pursuant to Title XIX of the Social Security Act (42 U.S.C. 1396), Title XXI of the Social Security Act (42 U.S.C. 1397), M.G.L. c. 118E, and other applicable laws and waivers to provide and pay for medical services to eligible members.

Nurse-midwife Medical Visit. A face-to-face meeting at a community health center between a patient and a nurse-midwife for prenatal and postpartum services. If a community health center chooses to be reimbursed by the enhanced global delivery rate set forth in 101 CMR 316.00: *Surgery and Anesthesia*, a nurse-midwife medical visit is not reimbursable.

Primary or Elective Care. Medical care required by individuals or families that is appropriate for the maintenance of health and the prevention of illness. This care includes, but is not limited to, physical examination, diagnosis and management of illness, ongoing health maintenance, accident prevention, and referral when necessary. This care does not require the specialized resources of a hospital emergency department.

304.02: continued

Publicly Aided Individual. A person who receives health care and other services for which a governmental unit is in whole or in part liable under a statutory program of public assistance.

Purchaser under M.G.L. c. 152. An insurance company, self-insurer, or worker’s compensation agent of a department of the Commonwealth, county, city, or district that purchases medical services subject to M.G.L. c. 152, § 1.

Supporting Services. Services including, but not limited to, health education, health outreach, medical social work services, nutrition services (other than the WIC program), and translation services.

Urgent Care. Services required promptly to prevent impairment of health due to symptoms that a prudent lay person would believe require medical attention, but are not life threatening and do not pose a high risk of permanent damage to an individual’s health. Urgent care does not include emergency care or primary or elective care.

304.03: General Rate Provisions and Maximum Allowable Fees

(1) Rate Determination. Rates of payment for authorized community health center services to which 101 CMR 304.00 applies, are the lower of

- (a) the community health center's usual charge to the general public (other than publicly aided individuals or industrial accident patients) for the same or similar services; or
- (b) the schedule of allowable fees set forth in 101 CMR 304.04.

(2) Individual Consideration (I.C.). Non-listed procedures and services designated I.C. are individually considered items. The community health center's bill for such an item must be accompanied by a brief report of the procedure or service provided, including a pertinent history and diagnosis, a description of the service rendered, and the length of time spent with the patient. In making the determination of whether the service is appropriately classified as an individually considered item, the purchasing agency uses the following criteria:

- (a) policies, procedures, and practices of other third-party purchasers of care, both governmental and private;
- (b) the severity and complexity of the patient's disorder or disability;
- (c) prevailing provider ethics and accepted practice; and
- (d) time, degree of skill, and cost including equipment cost required to perform the procedure(s).

304.04: Allowable Fees

<u>Service Code</u>	<u>Allowable Fee</u>	<u>Service Description</u>
(1) <u>Medical Diagnosis and Treatment.</u>		
T1015	\$162.10	Clinic visit/encounter, all-inclusive (individual medical visit excludes laboratory and radiology)
T1015-HQ	\$ 31.79	Clinic visit/encounter, all-inclusive; group setting (group medical visit excludes laboratory and radiology)
99050	\$ 52.38	Services provided in the office at times other than regularly scheduled office hours, or days when the office is normally closed (<i>e.g.</i> , holidays, Saturday or Sunday), in addition to basic service (Bill this code for urgent care provided Monday through Friday from 5:00 P.M. to 6:59 A.M., and Saturday from 7:00 A.M. to Monday 6:59 A.M.) (This code may be billed in addition to the individual medical visit.)
T1015-TH	\$158.92	Clinic visit/encounter, all-inclusive; obstetrical treatment/services, prenatal or postpartum (nurse-midwife medical visit excludes laboratory and radiology)
G0469	\$135.00	Federally qualified health center (FQHC) visit, mental health, new patient (individual mental health visit, new patient, adult)

304.04: continued

<u>Service Code</u>	<u>Allowable Fee</u>	<u>Service Description</u> (continued)
G0469	\$162.10	Federally qualified health center (FQHC) visit, mental health, new patient (individual mental health visit, new patient, child)
G0470	\$135.00	Federally qualified health center (FQHC) visit, mental health, established patient (individual mental health visit, established patient, adult)
G0470	\$162.10	Federally qualified health center (FQHC) visit, mental health, established patient (individual mental health visit, established patient, child)

(2) Early and Periodic Screening, Diagnosis and Treatment Services.

<u>Service Code</u>	<u>Allowable Fee</u>	<u>Service Description</u>
99381	\$166.88	Initial comprehensive preventive medicine evaluation and management of an individual, including an age and gender appropriate history, examination, counseling/anticipatory guidance/risk factor reduction interventions, and the ordering of laboratory/diagnostic procedures, new patient; infant (age younger than one year)
99382	\$166.88	Initial comprehensive preventive medicine evaluation and management of an individual, including an age and gender appropriate history, examination, counseling/anticipatory guidance/risk factor reduction interventions, and the ordering of laboratory/diagnostic procedures; early childhood (age one through four years)
99383	\$166.88	Initial comprehensive preventive medicine evaluation and management of an individual, including an age and gender appropriate history, examination, counseling/anticipatory guidance/risk factor reduction interventions, and the ordering of laboratory/diagnostic procedures; late childhood (age five through 11 years)
99384	\$166.88	Initial comprehensive preventive medicine evaluation and management of an individual, including an age and gender appropriate history, examination, counseling/anticipatory guidance/risk factor reduction interventions, and the ordering of laboratory/diagnostic procedures; adolescent (age 12 through 17 years)
99385	\$166.88	Initial comprehensive preventive medicine evaluation and management of an individual, including an age and gender appropriate history, examination, counseling/anticipatory guidance/risk factor reduction interventions, and the ordering of laboratory/diagnostic procedures; age 18 through 39 years
99391	\$166.88	Periodic comprehensive preventive medicine reevaluation and management of an individual, including an age and gender appropriate history, examination, counseling/anticipatory guidance/risk factor reduction interventions, and the ordering of laboratory/diagnostic procedures, established patient; infant (age younger than one year)
99392	\$166.88	Periodic comprehensive preventive medicine reevaluation and management of an individual, including an age and gender appropriate history, examination, counseling/anticipatory guidance/risk factor reduction interventions, and the ordering of laboratory/diagnostic procedures, established patient; early childhood (age one through four years)
99393	\$166.88	Periodic comprehensive preventive medicine reevaluation and management of an individual, including an age and gender appropriate history, examination, counseling/anticipatory guidance/risk factor reduction interventions, and the ordering of laboratory/diagnostic procedures, established patient; late childhood (age five through 11 years)

304.04: continued

<u>Service Code</u>	<u>Allowable Fee</u>	<u>Service Description</u> (continued)
99394	\$166.88	Periodic comprehensive preventive medicine reevaluation and management of an individual, including an age and gender appropriate history, examination, counseling/anticipatory guidance/risk factor reduction interventions, and the ordering of laboratory/diagnostic procedures, established patient; adolescent (age 12 through 17 years)
99395	\$166.88	Periodic comprehensive preventive medicine reevaluation and management of an individual, including an age and gender appropriate history, examination, counseling/anticipatory guidance/risk factor reduction interventions, and the ordering of laboratory/diagnostic procedures, established patient; age 18 through 39 years

(3) Other Community Health Center Services. The rates of payment for other community health center services provided to publicly aided individuals and industrial accident patients are based on the applicable regulation and rates of payment for the specific care and services rendered as issued by EOHHS or the governmental unit or purchaser under M.G.L. c. 152 where the schedules of such governmental unit or purchaser under M.G.L. c. 152 have not been superseded by 101 CMR 304.00. Such care and services include, but are not limited to, those furnished by dentists, pharmacies, independent clinical laboratories, optometrists, opticians, podiatrists, psychologists, and other individual practitioners and noninstitutional providers.

(4) 340B Transition Supplemental Payments. Subject to federal approval, eligible community health centers will receive monthly supplemental payments in accordance with 101 CMR 304.04(4).

(a) Eligibility for the Supplemental Payments.

1. Community health centers for which the calendar year 2016 gross margin earned on drugs purchased through the 340B Drug Pricing Program, as reported to the Center for Health Information and Analysis, is greater than the projected annual impact of the medical visit rate effective October 20, 2017, determined in accordance with 101 CMR 304.04(4)(c)3., will receive supplemental payments in accordance with 101 CMR 304.04(4).

2. Community health centers for which the calendar year 2016 gross margin earned on drugs purchased through the 340B Drug Pricing Program, as reported to the Center for Health Information and Analysis, is lower than or equal to the projected annual impact of the medical visit rate effective October 20, 2017, determined in accordance with 101 CMR 304.04(4)(c)3., will not receive supplemental payments in accordance with 101 CMR 304.04(4).

(b) Frequency and Duration of Supplemental Payments.

1. Supplemental payments will be made to eligible community health centers on a monthly basis.

2. Supplemental payments will be made for 63 months, beginning with October 2017.

(c) Calculation of Monthly Supplemental Payment Amounts for the First 12 Months of Payment. For each of the 12 months beginning with October 2017, a monthly supplemental payment will be made to eligible community health centers in an amount calculated in accordance with 101 CMR 304.04(4)(c). The amount of the monthly supplemental payment is calculated for each eligible community health center as follows:

1. Historical annual medical visit rate revenue is determined from claims data submitted by the community health center and MassHealth managed care organizations.

2. Projected annual medical visit rate revenue is calculated for the 12-month period beginning October 1, 2017, using the medical visit rate effective October 20, 2017, and medical visit claims and encounters, excluding behavioral health claims and encounters, including claims billed directly to the MassHealth Medicaid Management Information System (MMIS) by community health centers for state fiscal year 2015 and MassHealth managed care organization encounters for federal fiscal year 2016.

304.04: continued

3. Projected annual impact of the medical visit rate effective October 20, 2017, is determined by subtracting historical annual medical visit rate revenue determined in accordance with 101 CMR 304.04(4)(c)1. from projected annual medical visit rate revenue determined in accordance with 101 CMR 304.04(4)(c)2.
 4. Projected annual impact of the medical visit rate effective October 20, 2017, determined in accordance with 101 CMR 304.04(4)(c)3. is subtracted from calendar year 2016 gross margin earned on drugs purchased through the 340B Drug Pricing Program, as reported to the Center for Health Information and Analysis.
 5. The projected annual medical visit rate revenue determined in accordance with 101 CMR 304.04(4)(c)2. is multiplied by 0.75.
 6. The lower of the amount calculated in accordance with 101 CMR 304.04(4)(c)4. and the amount calculated in accordance with 101 CMR 304.04(4)(c)5. is divided by 12 to determine the community health center's monthly supplemental payment amount for the 12 months beginning with October 2017.
- (d) Calculation of Monthly Supplemental Payment Amounts for Subsequent Months. For the 51 months beginning with October 2018, monthly supplemental payments will be made to eligible community health centers in an amount calculated in accordance with 101 CMR 304.04(4)(d). Monthly supplemental payment amounts are calculated for each eligible community health center in accordance with the following.
1. The community health center's average monthly supplemental payment amount for the 15 months beginning with October 2018 is equivalent to the community health center's monthly supplemental payment amount for the 12 months beginning with October 2017 calculated in accordance with 101 CMR 304.04(4)(c)6.
 2. The community health center's average monthly supplemental payment amount for the 12 months beginning with January 2020 is the product of the community health center's monthly supplemental payment amount for the 12 months beginning with October 2017 calculated in accordance with 101 CMR 304.04(4)(c)6. and 0.75.
 3. The community health center's average monthly supplemental payment amount for the 12 months beginning with January 2021 is the product of the community health center's monthly supplemental payment amount for the 12 months beginning with October 2017 calculated in accordance with 101 CMR 304.04(4)(c)6. and 0.50.
 4. The community health center's average monthly supplemental payment amount for the 12 months beginning with January 2022 is the product of the community health center's monthly supplemental payment amount for the 12 months beginning with October 2017 calculated in accordance with 101 CMR 304.04(4)(c)6. and 0.25.
- (e) Impact on Allowable Fees in Subsequent Periods. Subject to promulgation of further rate setting regulations as may be necessary to implement this provision, for each of the four 12-month periods beginning in or around January 2020, January 2021, January 2022, and January 2023, the allowable fees described in 101 CMR 304.04(1) and (2) will be increased such that aggregate expenditures for such allowable fees in each period will increase over such expenditures from the previous 12-month period by 25% of the amount of aggregate expenditures for the 340B transition supplemental payments, as determined by EOHHS, in the 12-month period beginning October 2017 described in 101 CMR 304.04(4)(c), based on projected utilization, as determined by EOHHS.
- (f) Authority to Issue Additional Guidance. EOHHS reserves the right to issue an administrative bulletin on these supplemental payment provisions including, but not limited to, an administrative bulletin to implement changes in the payment amounts and dates to account for any period during which 101 CMR 304.00 is in effect and MassHealth Managed Care Organizations (MCOs) continue to cover 340B drugs for MassHealth members.

304.05: Adjustment to Ensure Title XIX Access or Quality

A community health center may request an adjustment of rates if it can demonstrate that access to service delivery is threatened. In order to qualify, the community health center must obtain certification from EOHHS that, without an increase in rates, access to services to MassHealth members will be jeopardized or that the quality of service will fall below levels acceptable to EOHHS and required by Title XIX. If EOHHS makes such a certification, the community health center may submit an application for a rate adjustment. The community health center's application must include a copy of EOHHS certification, the number of clients in need of the particular service, the number of visits required, evidence of the direct relationship between services and the cost of providing care and the minimal additional costs to adequately provide the services. EOHHS will review and act on a request for a change in rates within 60 days of the receipt of a completed application.

304.06: Program Innovation Provision

(1) Review of Program Innovation Applications. A community health center may apply for a prospective adjustment of its payment rates under 101 CMR 304.00 or establishment of a rate separate from its payment rates under 101 CMR 304.00 in order to implement a program innovation that advances a high priority policy initiative of the Commonwealth. EOHHS will review and act on such a request within 60 days after receipt of a program innovation application consisting of, but not limited to, a description of the purpose and scope of the program innovation, including number of personnel involved and proposed implementation process and timeline, and a detailed budget of expected additional costs and project volume associated with the program innovation.

(2) Criteria. An application pursuant to 101 CMR 304.06(1) may be submitted on the basis of implementing a program innovation that advances a current high priority policy initiative of a state agency.

(3) Implementation Schedule. EOHHS will not approve an application submitted pursuant to 101 CMR 304.06(1) unless the community health center demonstrates that it will implement the program innovation within three months of the effective date of the adjustment of its payment rates or the effective date of the separate rate. EOHHS reserves the right to lower the rate retroactive to the date on which the program innovation became effective if the program innovation is not implemented or if actual costs are lower than projected.

(4) Authority to Issue Additional Guidance. EOHHS reserves the right to issue an administrative bulletin on this program innovation provision including, but not limited to, an administrative bulletin to specify requirements related to applications, evaluation, use of funds, recordkeeping, and reporting.

304.07: Modifiers for Provider Preventable Conditions That Are National Coverage Determinations

The following are modifiers for use in reporting provider preventable conditions that are National Coverage Determinations. For more information on the use of these modifiers, *see* Appendix V of the MassHealth Community Health Center Manual.

<u>Modifier</u>	<u>Description</u>
PA	Surgical or other invasive procedure on wrong body part
PB	Surgical or other invasive procedure on wrong patient
PC	Wrong surgery or other invasive procedure on patient

304.08: Reporting Requirements

(1) Required Reports. Reporting requirements are governed by 957 CMR 6.00: *Cost Reporting Requirements.*

304.08: continued

(2) Penalty for Noncompliance. A purchasing governmental unit may reduce the payment rates of any community health center that fails to timely file required information with the Center for Health Information and Analysis or EOHHS, as applicable, by 5% during the first month of noncompliance, and by an additional 5% during each month of noncompliance thereafter (*i.e.*, 5% reduction during the first month of noncompliance, 10% reduction during the second month of noncompliance, and so on). The purchasing governmental unit will notify the community health center prior to imposing a penalty for noncompliance.

304.09: Effect of Claims Submission for MassHealth Providers

(1) Payment by MassHealth for community health center services pursuant to 101 CMR 304.00 constitutes an alternative payment methodology for federally qualified health center services as described by 42 U.S.C. § 1396a(bb)(6).

(2) Submission of claims for payment from MassHealth pursuant to 101 CMR 304.00 by community health centers enrolled in MassHealth constitutes agreement to be paid pursuant to the alternative payment methodology as required by 42 U.S.C. § 1396a(bb)(6)(A).

304.10: Severability

The provisions of 101 CMR 304.00 are severable, and if any provision of 101 CMR 304.00 or application of such provision to any community health center or any circumstances is held to be invalid or unconstitutional, such invalidity will not be construed to affect the validity or constitutionality of any remaining provisions of 101 CMR 304.00 or applications of such provisions to community health centers or circumstances other than those held invalid.

REGULATORY AUTHORITY

101 CMR 304.00: M.G.L. c. 118E.



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 101 CMR 318.00

CHAPTER TITLE: Radiology

AGENCY: Executive Office of Health and Human Services

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

101 CMR 318.00 governs the payment rates used by all governmental units for radiology care and services provided to publicly aided patients.

REGULATORY AUTHORITY: 101 CMR 318.00; M.G.L. c. 118E.

AGENCY CONTACT: Deborah Briggs PHONE: 617-847-3302

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

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.*

EO 145 notifications: 9/10/18

EO 562: 12/11/18

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: 10/15/18

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

For the first and second year: Total estimated annualized increase of \$972K

For the first five years: _____

No fiscal effect: _____

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

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

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:*

101 CMR 318.00 has been amended.

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: Dec 14 2018

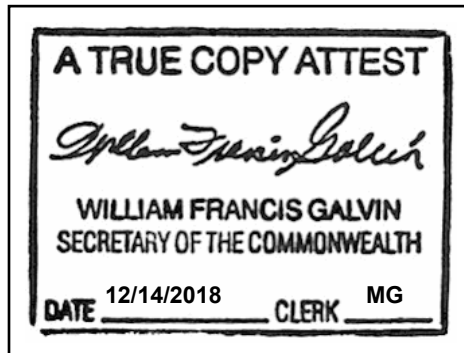
Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1381 DATE: 12/28/2018

EFFECTIVE DATE: 12/28/2018

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>
750.3 & 750.4	750.3 & 750.4
750.7 - 750.18	750.7 - 750.18



101 CMR 318.00: RADIOLOGY

Section

- 318.01: General Provisions
- 318.02: General Definitions
- 318.03: General Rate Provisions
- 318.04: Maximum Allowable Fees
- 318.05: Severability

318.01: General Provisions

(1) Scope, Purpose, and Effective Date. 101 CMR 318.00 governs the payment rates used by all governmental units for radiology care and services provided to publicly aided patients. Rates under 101 CMR 318.00 are effective on or after January 1, 2019, unless otherwise indicated. Rates for services provided to individuals covered by M.G.L. c. 152 (the Workers' Compensation Act) are not set forth in 101 CMR 318.00, but are at 114.3 CMR 40.00: *Rates for Services under M.G.L. c. 152, Worker's Compensation Act.*

(2) Coverage.

(a) Payment rates in 101 CMR 318.00 are used to pay for radiology services rendered to patients in a private medical office, licensed clinic, hospital, or other inpatient or outpatient facility or department, independent diagnostic testing facility, patient's residence, or other appropriate setting by an individual eligible provider, when an eligible provider bills for the medical services rendered and no other payment method applies.

(b) The rates of payment under 101 CMR 318.00 are full compensation for patient care rendered to publicly aided patients as well as for any related administrative or supervisory duties in connection with patient care. The rates of payment also reimburse all overhead expenses associated with the service provided, without regard to where the care is rendered.

(3) Disclaimer of Authorization of Services. 101 CMR 318.00 is not authorization for or approval of the procedures for which rates are determined pursuant to 101 CMR 318.00. Governmental units that purchase care are responsible for the definition, authorization, coverage policies, and approval of care and services provided to publicly aided patients.

(4) Coding Updates and Corrections. EOHHS may publish procedure code updates and corrections in the form of an administrative bulletin. Updates may reference coding systems including, but not limited to, the American Medical Association's *Current Procedural Terminology (CPT)*.

(a) The publication of such updates and corrections will list

1. codes for which the code numbers change, with the corresponding cross references between the new codes and the codes being replaced. Rates for such updated codes are set at the rate of the code that is being replaced;
2. deleted codes for which there are no corresponding new codes; and
3. codes for entirely new services that require pricing. EOHHS will list these codes and apply Individual Consideration (I.C.) reimbursement for these codes until appropriate rates can be developed.

(b) For entirely new codes that require new pricing and have Medicare assigned relative value units (RVUs) (or, for applicable services, Medicare rates), EOHHS may list these codes and price them according to the appropriate rate methodology used in setting physician rates. When Medicare RVUs (or, for applicable services, Medicare rates) are not available, EOHHS may apply individual consideration in reimbursing for these new codes until appropriate rates can be developed.

(5) Administrative Bulletins. EOHHS may issue administrative bulletins to add, delete, or otherwise update codes or modifiers, and to clarify its policy on and understanding of substantive provisions of 101 CMR 318.00. EOHHS may also issue administrative bulletins to clarify to which duly licensed or certified health care professionals or students the rate methods in this regulation apply.

318.02: General Definitions

The five-digit procedure codes and two-digit modifiers included in 101 CMR 318.00, and their corresponding descriptions, utilize the Healthcare Common Procedure Code System (HCPCS) for Level I and Level II coding. Level I CPT-4 codes are obtained from the Physicians' 2018 *Current Procedural Terminology* (CPT), copyright 2017 by the American Medical Association (AMA), unless otherwise specified. Level II codes are obtained from the 2018 HCPCS, maintained jointly by the Centers for Medicare and Medicaid Services (CMS), the Blue Cross and Blue Shield Association, and the Health Insurance Association of America. HCPCS is a listing of descriptive terms and identifying codes and modifiers for reporting medical services and procedures performed by physicians and other health care professionals, as well as associated nonphysician services. No fee schedules, basic unit value, relative value guides, conversion factors, or scales are included in any part of the Physicians' *Current Procedural Terminology*. For code descriptions, *see* the radiology services code spreadsheet on the EOHHS rates website www.mass.gov/regulations/101-CMR-31800-radiology. In addition, terms used in 101 CMR 318.00 have the meanings set forth in 101 CMR 318.02.

Eligible Provider. The established rates apply in accordance with 101 CMR 318.01 to the following types of providers who meet conditions of participation of the governmental unit purchasing such services, and to the extent specified by such governmental unit. Eligible providers must provide such services in accordance with accepted professional standards and in accordance with state licensing requirements and certification by national credentialing bodies as required by law.

A licensed physician (other than an intern, resident, fellow, or house officer), licensed podiatrist, licensed dentist, licensed chiropractor, and licensed optometrist.

A provider of therapeutic and diagnostic radiology services. Such radiology services may be rendered by eligible providers such as, but not limited to, independent diagnostic testing facilities (IDTFs). These eligible providers must be independent of a hospital or a physician's office.

A provider of radiation oncology services. Radiation oncology services may be rendered by eligible providers such as, but not limited to, independent radiation oncology centers. These eligible providers must be independent of a hospital or a physician's office.

A clinic licensed by the Massachusetts Department of Public Health in accordance with 105 CMR 140.000: *Licensure of Clinics* to provide radiology services.

A freestanding birth center facility that is not operating under a hospital's license, and is licensed as a birth center by the Massachusetts Department of Public Health pursuant to 105 CMR 142.000: *The Operation and Maintenance of Birth Centers*.

An advanced practice registered nurse who is authorized by the Board of Registration in Nursing to practice as a certified nurse practitioner, certified nurse midwife, clinical nurse specialist, psychiatric clinical nurse specialist, or a certified registered nurse anesthetist (CRNA).

A licensed physician assistant who is authorized by the Board of Registration for Physician Assistants to practice as a physician assistant.

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

Governmental Unit. The Commonwealth, any department, agency, board, or commission of the Commonwealth and any political subdivision of the Commonwealth.

Individual Consideration (I.C.). Radiology services that are authorized but not listed in 101 CMR 318.00, radiology services performed in unusual circumstances, and services designated "I.C." are Individually Considered items. The governmental unit or purchaser analyzes the eligible provider's report of services rendered and charges submitted under the appropriate unlisted services or procedures category. The governmental unit or purchaser determines appropriate payment for procedures designated I.C. in accordance with the following standards and criteria:

- (a) the amount of time required to perform the service;
- (b) the degree of skill required to perform the service;
- (c) the severity or complexity of the patient's disease, disorder, or disability;
- (d) any applicable relative value studies;
- (e) any complications or other circumstances that may be deemed relevant;

318.04: continued

- (f) **PB: Surgical or Other Invasive Procedure Performed on the Wrong Patient.** (This modifier is applied to report Provider Preventable Conditions in accordance with 42 CFR 447.26 and results in nonpayment for services.)
- (g) **PC: Wrong Surgical or Other Invasive Procedure Performed on a Patient.** (This modifier is applied to report Provider Preventable Conditions in accordance with 42 CFR 447.26 and results in nonpayment for services.)
- (h) **SA: Nurse Practitioner Rendering Service in Collaboration with a Physician.** (This modifier is to be applied to service codes billed by a physician that were performed by a certified nurse practitioner employed by the physician (the physician employer must be practicing as an individual and not practicing as a professional corporation or as a member of a group practice).) A certified nurse practitioner billing under his or her own individual provider number, or a group practice, should not use this modifier.
- (i) **TC: Technical Component.** The component of a service or procedure representing the cost of rent, equipment, utilities, supplies, administrative and technical salaries and benefits, and other overhead expenses of the service or procedures, excluding the physician’s or other qualified health care professional’s professional component. (When the technical component is reported separately, the addition of modifier TC to the procedure code will allow payment of the technical component allowable fee (TC Fee) contained in 101 CMR 318.04(3), adjusted by 101 CMR 318.03 as applicable.)
- (j) **XE: Separate Encounter.** A service that is distinct because it occurred during a separate encounter.
- (k) **XS: Separate Structure.** A service that is distinct because it was performed on a separate organ/structure.
- (l) **XP: Separate Practitioner.** A service that is distinct because it was performed by a different practitioner.
- (m) **XU: Unusual Non-overlapping Service.** The use of a service that is distinct because it does not overlap usual components of the main service.

(3) **Fee Schedule.**

Code	NFAC	FAC	Global	PC	TC	Description (see radiology services code spreadsheet at www.mass.gov/regulations/101-CMR-31800-radiology)
70010	.	.	\$47.41	.	.	
70015	.	.	\$122.97	\$47.60	\$75.37	
70030	.	.	\$22.39	\$6.53	\$15.86	
70100	.	.	\$26.51	\$7.10	\$19.41	
70110	.	.	\$30.47	\$9.88	\$20.59	
70120	.	.	\$27.40	\$7.10	\$20.30	
70130	.	.	\$44.02	\$13.36	\$30.66	
70134	.	.	\$41.49	\$13.79	\$27.70	
70140	.	.	\$23.82	\$8.26	\$15.56	
70150	.	.	\$33.41	\$10.45	\$22.96	
70160	.	.	\$26.24	\$6.83	\$19.41	
70170	.	.	.	\$11.69	.	
70190	.	.	\$28.80	\$8.80	\$20.00	
70200	.	.	\$33.95	\$10.99	\$22.96	
70210	.	.	\$23.87	\$6.83	\$17.04	

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

318.04: continued

Code	NFAC	FAC	Global	PC	TC	Description (<i>see radiology services code spreadsheet at www.mass.gov/regulations/101-CMR-31800-radiology</i>)
70220	.	.	\$30.18	\$9.88	\$20.30	
70240	.	.	\$24.11	\$7.67	\$16.45	
70250	.	.	\$29.02	\$9.90	\$19.11	
70260	.	.	\$36.62	\$13.66	\$22.96	
70300	.	.	\$11.91	\$4.64	\$7.27	
70310	.	.	\$29.82	\$6.26	\$23.55	
70320	.	.	\$42.69	\$9.36	\$33.32	
70328	.	.	\$24.73	\$7.10	\$17.63	
70330	.	.	\$38.20	\$9.90	\$28.29	
70332	.	.	\$65.44	\$24.42	\$41.02	
70336	.	.	\$298.82	\$57.28	\$241.54	
70350	.	.	\$15.74	\$7.88	\$7.86	
70355	.	.	\$16.26	\$8.69	\$7.57	
70360	.	.	\$22.69	\$6.53	\$16.15	
70370	.	.	\$62.43	\$12.53	\$49.90	
70371	.	.	\$73.12	\$33.28	\$39.84	
70380	.	.	\$29.20	\$7.13	\$22.07	
70390	.	.	\$76.78	\$14.74	\$62.04	
70450	.	.	\$93.82	\$33.26	\$60.56	
70460	.	.	\$130.86	\$43.95	\$86.91	
70470	.	.	\$155.53	\$49.67	\$105.86	
70480	.	.	\$142.78	\$49.94	\$92.83	
70481	.	.	\$225.28	\$53.69	\$171.59	
70482	.	.	\$245.99	\$56.18	\$189.81	
70486	.	.	\$113.66	\$33.26	\$80.40	
70487	.	.	\$136.49	\$43.95	\$92.54	
70488	.	.	\$166.49	\$49.37	\$117.11	
70490	.	.	\$142.78	\$49.94	\$92.83	
70491	.	.	\$191.53	\$53.99	\$137.54	
70492	.	.	\$226.58	\$56.47	\$170.11	
70496	.	.	\$239.03	\$67.87	\$171.16	
70498	.	.	\$238.14	\$67.87	\$170.27	
70540	.	.	\$277.96	\$52.29	\$225.67	
70542	.	.	\$431.78	\$63.01	\$368.77	
70543	.	.	\$473.11	\$83.44	\$389.67	
70544	.	.	\$296.20	\$46.89	\$249.31	
70545	.	.	\$317.83	\$46.59	\$271.23	
70546	.	.	\$501.57	\$70.11	\$431.46	
70547	.	.	\$296.72	\$46.89	\$249.83	

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

318.04: continued

Code	NFAC	FAC	Global	PC	TC	Description (<i>see radiology services code spreadsheet at www.mass.gov/regulations/101-CMR-31800-radiology</i>)
70548	.	.	\$339.44	\$46.89	\$292.55	
70549	.	.	\$502.61	\$70.11	\$432.50	
70551	.	.	\$265.88	\$57.58	\$208.30	
70552	.	.	\$309.72	\$69.27	\$240.45	
70553	.	.	\$466.56	\$89.17	\$377.39	
70554	.	.	\$367.84	\$82.53	\$285.31	
70555	.	.	.	\$98.16	.	
70557	.	.	.	\$113.41	.	
70558	.	.	.	\$124.93	.	
70559	.	.	.	\$125.72	.	
71045	.	.	\$16.21	\$7.28	\$8.93	
71046	.	.	\$25.06	\$8.67	\$16.39	
71047	.	.	\$32.09	\$11.22	\$20.87	
71048	.	.	\$34.38	\$12.91	\$21.46	
71100	.	.	\$26.40	\$8.77	\$17.63	
71101	.	.	\$29.10	\$10.58	\$18.52	
71110	.	.	\$30.12	\$10.72	\$19.41	
71111	.	.	\$38.45	\$12.82	\$25.63	
71120	.	.	\$23.79	\$7.94	\$15.86	
71130	.	.	\$29.07	\$8.77	\$20.30	
71250	.	.	\$132.63	\$39.79	\$92.83	
71260	.	.	\$186.70	\$48.56	\$138.13	
71270	.	.	\$224.40	\$53.69	\$170.70	
71275	.	.	\$243.29	\$70.65	\$172.64	
71550	.	.	\$333.61	\$56.74	\$276.87	
71551	.	.	\$622.33	\$67.03	\$555.30	
71552	.	.	\$540.42	\$88.06	\$452.36	
71555	.	.	\$370.95	\$69.62	\$301.33	
72020	.	.	\$17.70	\$5.99	\$11.71	
72040	.	.	\$26.70	\$8.77	\$17.93	
72050	.	.	\$36.11	\$12.26	\$23.85	
72052	.	.	\$45.45	\$14.20	\$31.25	
72070	.	.	\$27.29	\$8.77	\$18.52	
72072	.	.	\$27.88	\$8.48	\$19.41	
72074	.	.	\$31.73	\$8.48	\$23.26	
72080	.	.	\$24.63	\$8.48	\$16.15	
72081	.	.	\$31.20	\$10.31	\$20.89	
72082	.	.	\$50.61	\$12.55	\$38.06	
72083	.	.	\$54.95	\$13.63	\$41.32	

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

318.04: continued

Code	NFAC	FAC	Global	PC	TC	Description (<i>see radiology services code spreadsheet at www.mass.gov/regulations/101-CMR-31800-radiology</i>)
72084	.	.	\$65.75	\$15.85	\$49.90	
72100	.	.	\$28.18	\$8.77	\$19.41	
72110	.	.	\$39.36	\$12.26	\$27.11	
72114	.	.	\$50.59	\$12.82	\$37.77	
72120	.	.	\$32.62	\$8.77	\$23.85	
72125	.	.	\$134.57	\$41.73	\$92.83	
72126	.	.	\$186.45	\$47.43	\$139.02	
72127	.	.	\$221.26	\$49.37	\$171.89	
72128	.	.	\$131.79	\$38.96	\$92.83	
72129	.	.	\$186.75	\$47.43	\$139.32	
72130	.	.	\$222.74	\$49.37	\$173.37	
72131	.	.	\$131.79	\$38.96	\$92.83	
72132	.	.	\$186.16	\$47.43	\$138.73	
72133	.	.	\$220.83	\$49.24	\$171.59	
72141	.	.	\$263.69	\$57.74	\$205.95	
72142	.	.	\$437.19	\$69.73	\$367.46	
72146	.	.	\$263.82	\$57.74	\$206.08	
72147	.	.	\$435.95	\$69.27	\$366.68	
72148	.	.	\$263.69	\$57.74	\$205.95	
72149	.	.	\$435.62	\$69.73	\$365.89	
72156	.	.	\$467.34	\$89.17	\$378.17	
72157	.	.	\$467.60	\$89.17	\$378.43	
72158	.	.	\$466.95	\$89.17	\$377.78	
72159	.	.	\$380.32	\$70.40	\$309.92	
72170	.	.	\$25.65	\$6.83	\$18.82	
72190	.	.	\$30.87	\$8.50	\$22.37	
72191	.	.	\$247.92	\$70.24	\$177.67	
72192	.	.	\$117.94	\$42.57	\$75.37	
72193	.	.	\$184.24	\$45.22	\$139.02	
72194	.	.	\$212.80	\$47.43	\$165.37	
72195	.	.	\$297.47	\$57.04	\$240.43	
72196	.	.	\$443.96	\$67.62	\$376.34	
72197	.	.	\$484.78	\$88.06	\$396.72	
72198	.	.	\$372.56	\$69.51	\$303.05	
72200	.	.	\$22.98	\$6.83	\$16.15	
72202	.	.	\$26.48	\$7.37	\$19.11	
72220	.	.	\$22.69	\$6.83	\$15.86	
72240	.	.	\$78.27	\$35.47	\$42.80	
72255	.	.	\$77.84	\$35.93	\$41.91	

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

318.04: continued

Code	NFAC	FAC	Global	PC	TC	Description (<i>see radiology services code spreadsheet at www.mass.gov/regulations/101-CMR-31800-radiology</i>)
72265	.	.	\$73.74	\$32.42	\$41.32	
72270	.	.	\$101.36	\$52.05	\$49.31	
72275	.	.	\$93.59	\$30.66	\$62.93	
72285	.	.	\$90.98	\$47.29	\$43.69	
72295	.	.	\$79.23	\$33.77	\$45.46	
73000	.	.	\$22.12	\$6.56	\$15.56	
73010	.	.	\$24.17	\$7.13	\$17.04	
73020	.	.	\$18.30	\$5.99	\$12.30	
73030	.	.	\$23.25	\$7.40	\$15.86	
73040	.	.	\$81.27	\$21.30	\$59.97	
73050	.	.	\$28.53	\$8.23	\$20.30	
73060	.	.	\$23.30	\$6.56	\$16.74	
73070	.	.	\$21.85	\$6.29	\$15.56	
73080	.	.	\$25.05	\$6.83	\$18.22	
73085	.	.	\$78.77	\$22.35	\$56.42	
73090	.	.	\$20.64	\$6.56	\$14.08	
73092	.	.	\$21.82	\$6.26	\$15.56	
73100	.	.	\$23.30	\$6.56	\$16.74	
73110	.	.	\$28.61	\$6.83	\$21.78	
73115	.	.	\$86.76	\$22.05	\$64.71	
73120	.	.	\$20.93	\$6.56	\$14.38	
73130	.	.	\$24.76	\$6.83	\$17.93	
73140	.	.	\$25.45	\$5.45	\$20.00	
73200	.	.	\$131.79	\$38.96	\$92.83	
73201	.	.	\$181.58	\$45.22	\$136.36	
73202	.	.	\$227.01	\$47.43	\$179.58	
73206	.	.	\$264.93	\$69.78	\$195.14	
73218	.	.	\$313.52	\$52.59	\$260.93	
73219	.	.	\$462.24	\$63.30	\$398.94	
73220	.	.	\$508.68	\$83.74	\$424.94	
73221	.	.	\$265.87	\$52.88	\$212.99	
73222	.	.	\$591.70	\$63.30	\$528.40	
73223	.	.	\$497.83	\$83.74	\$414.09	
73225	.	.	\$379.80	\$66.44	\$313.36	
73501	.	.	\$23.84	\$7.40	\$16.45	
73502	.	.	\$33.51	\$8.77	\$24.74	
73503	.	.	\$41.83	\$11.18	\$30.66	
73521	.	.	\$32.03	\$9.07	\$22.96	
73522	.	.	\$39.41	\$11.72	\$27.70	

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

318.04: continued

Code	NFAC	FAC	Global	PC	TC	Description (<i>see radiology services code spreadsheet at www.mass.gov/regulations/101-CMR-31800-radiology</i>)
73523	.	.	\$45.88	\$12.55	\$33.32	
73525	.	.	\$82.32	\$22.35	\$59.97	
73551	.	.	\$22.41	\$6.56	\$15.86	
73552	.	.	\$26.21	\$7.40	\$18.82	
73560	.	.	\$25.08	\$6.56	\$18.52	
73562	.	.	\$28.88	\$7.40	\$21.48	
73564	.	.	\$31.73	\$8.77	\$22.96	
73565	.	.	\$28.93	\$6.86	\$22.07	
73580	.	.	\$93.87	\$22.05	\$71.81	
73590	.	.	\$23.01	\$6.56	\$16.45	
73592	.	.	\$22.41	\$6.26	\$16.15	
73600	.	.	\$24.19	\$6.56	\$17.63	
73610	.	.	\$25.05	\$6.83	\$18.22	
73615	.	.	\$85.12	\$22.48	\$62.64	
73620	.	.	\$20.93	\$5.97	\$14.97	
73630	.	.	\$23.28	\$6.53	\$16.74	
73650	.	.	\$21.82	\$6.26	\$15.56	
73660	.	.	\$22.79	\$5.16	\$17.63	
73700	.	.	\$131.79	\$38.96	\$92.83	
73701	.	.	\$184.24	\$45.22	\$139.02	
73702	.	.	\$224.35	\$47.14	\$177.21	
73706	.	.	\$268.58	\$73.56	\$195.01	
73718	.	.	\$291.45	\$52.59	\$238.86	
73719	.	.	\$330.69	\$63.01	\$267.68	
73720	.	.	\$481.25	\$83.74	\$397.51	
73721	.	.	\$265.87	\$52.88	\$212.99	
73722	.	.	\$592.61	\$63.30	\$529.31	
73723	.	.	\$497.70	\$83.74	\$413.96	
73725	.	.	\$372.41	\$70.05	\$302.36	
74018	.	.	\$22.48	\$7.28	\$15.20	
74019	.	.	\$27.42	\$9.24	\$18.18	
74021	.	.	\$32.07	\$10.91	\$21.16	
74022	.	.	\$35.78	\$12.53	\$23.26	
74150	.	.	\$120.51	\$46.32	\$74.18	
74160	.	.	\$187.80	\$49.67	\$138.13	
74170	.	.	\$213.69	\$54.53	\$159.15	
74174	.	.	\$315.93	\$84.96	\$230.97	
74175	.	.	\$249.21	\$70.35	\$178.86	
74176	.	.	\$161.02	\$67.89	\$93.13	

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

318.04: continued

Code	NFAC	FAC	Global	PC	TC	Description (<i>see radiology services code spreadsheet at www.mass.gov/regulations/101-CMR-31800-radiology</i>)
74177	.	.	\$252.90	\$70.94	\$181.95	
74178	.	.	\$287.08	\$78.31	\$208.76	
74181	.	.	\$284.50	\$56.74	\$227.76	
74182	.	.	\$371.72	\$67.33	\$304.39	
74183	.	.	\$413.77	\$88.06	\$325.71	
74185	.	.	\$374.62	\$69.51	\$305.11	
74190	.	.	.	\$18.20	.	
74210	.	.	\$63.21	\$13.90	\$49.31	
74220	.	.	\$72.00	\$17.95	\$54.05	
74230	.	.	\$103.50	\$20.73	\$82.77	
74235	.	.	.	\$46.15	.	
74240	.	.	\$91.70	\$27.00	\$64.71	
74241	.	.	\$95.55	\$27.00	\$68.56	
74245	.	.	\$139.56	\$35.47	\$104.09	
74246	.	.	\$103.55	\$27.00	\$76.55	
74247	.	.	\$110.06	\$27.00	\$83.06	
74249	.	.	\$149.92	\$35.47	\$114.45	
74250	.	.	\$84.71	\$18.22	\$66.48	
74251	.	.	\$185.26	\$27.00	\$158.27	
74260	.	.	\$177.89	\$19.63	\$158.27	
74261	.	.	\$186.62	\$93.78	\$92.83	
74262	.	.	\$292.35	\$97.37	\$194.98	
74263	.	.	\$620.58	\$88.50	\$532.07	
74270	.	.	\$110.06	\$27.00	\$83.06	
74280	.	.	\$173.56	\$38.68	\$134.88	
74283	.	.	\$164.18	\$79.34	\$84.84	
74290	.	.	\$57.10	\$12.53	\$44.57	
74300	.	.	.	\$14.07	.	
74301	.	.	.	\$8.07	.	
74328	.	.	.	\$27.56	.	
74329	.	.	.	\$27.86	.	
74330	.	.	.	\$35.50	.	
74340	.	.	.	\$21.00	.	
74355	.	.	.	\$29.67	.	
74360	.	.	.	\$21.63	.	
74363	.	.	.	\$33.18	.	
74400	.	.	\$89.69	\$19.06	\$70.63	
74410	.	.	\$88.21	\$18.76	\$69.44	
74415	.	.	\$111.89	\$19.06	\$92.83	

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

318.04: continued

Code	NFAC	FAC	Global	PC	TC	Description (see radiology services code spreadsheet at www.mass.gov/regulations/101-CMR-31800-radiology)
74420	.	.	.	\$13.74	.	
74425	.	.	.	\$13.61	.	
74430	.	.	\$30.16	\$12.53	\$17.63	
74440	.	.	\$66.26	\$14.28	\$51.98	
74445	.	.	.	\$42.25	.	
74450	.	.	.	\$12.80	.	
74455	.	.	\$66.55	\$12.80	\$53.75	
74470	.	.	.	\$20.41	.	
74485	.	.	\$74.89	\$20.25	\$54.64	
74710	.	.	\$29.22	\$13.36	\$15.86	
74712	.	.	\$342.34	\$117.00	\$225.34	
74713	.	.	\$210.44	\$69.57	\$140.87	
74740	.	.	\$60.79	\$14.74	\$46.06	
74742	.	.	.	\$22.76	.	
74775	.	.	.	\$24.22	.	
75557	.	.	\$297.41	\$89.87	\$207.54	
75559	.	.	\$404.49	\$111.41	\$293.08	
75561	.	.	\$397.00	\$99.45	\$297.55	
75563	.	.	\$473.17	\$114.11	\$359.06	
75565	.	.	\$50.82	\$9.58	\$41.24	
75571	.	.	\$32.91	\$22.38	\$10.53	
75572	.	.	\$230.57	\$67.41	\$163.17	
75573	.	.	\$293.11	\$97.97	\$195.14	
75574	.	.	\$286.82	\$91.97	\$194.85	
75600	.	.	\$162.85	\$18.50	\$144.35	
75605	.	.	\$111.65	\$42.80	\$68.85	
75625	.	.	\$110.96	\$42.40	\$68.56	
75630	.	.	\$135.86	\$67.30	\$68.56	
75635	.	.	\$287.61	\$92.60	\$195.01	
75705	.	.	\$194.55	\$87.04	\$107.51	
75710	.	.	\$132.15	\$43.00	\$89.15	
75716	.	.	\$151.57	\$49.23	\$102.34	
75726	.	.	\$121.10	\$42.77	\$78.33	
75731	.	.	\$140.18	\$44.51	\$95.66	
75733	.	.	\$149.51	\$49.54	\$99.97	
75736	.	.	\$130.17	\$42.50	\$87.67	
75741	.	.	\$122.14	\$49.14	\$73.00	
75743	.	.	\$136.23	\$62.34	\$73.89	
75746	.	.	\$123.17	\$43.49	\$79.68	

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

318.04: continued

Code	NFAC	FAC	Global	PC	TC	Description (see radiology services code spreadsheet at www.mass.gov/regulations/101-CMR-31800-radiology)
75756	.	.	\$134.97	\$42.57	\$92.41	
75774	.	.	\$71.96	\$13.47	\$58.49	
75801	.	.	.	\$33.26	.	
75803	.	.	.	\$45.62	.	
75805	.	.	.	\$31.59	.	
75807	.	.	.	\$45.78	.	
75809	.	.	\$81.15	\$18.52	\$62.64	
75810	.	.	.	\$44.68	.	
75820	.	.	\$93.78	\$26.71	\$67.08	
75822	.	.	\$111.10	\$40.18	\$70.93	
75825	.	.	\$109.48	\$43.00	\$66.48	
75827	.	.	\$111.42	\$42.86	\$68.56	
75831	.	.	\$113.73	\$42.50	\$71.22	
75833	.	.	\$131.47	\$54.75	\$76.71	
75840	.	.	\$120.47	\$44.51	\$75.96	
75842	.	.	\$145.82	\$57.85	\$87.97	
75860	.	.	\$115.63	\$42.93	\$72.70	
75870	.	.	\$119.88	\$44.51	\$75.37	
75872	.	.	\$113.40	\$40.99	\$72.41	
75880	.	.	\$116.84	\$28.15	\$88.69	
75885	.	.	\$127.59	\$53.70	\$73.89	
75887	.	.	\$128.61	\$54.13	\$74.48	
75889	.	.	\$116.79	\$42.61	\$74.18	
75891	.	.	\$117.68	\$43.20	\$74.48	
75893	.	.	\$97.26	\$21.00	\$76.25	
75894	.	.	.	\$50.71	.	
75898	.	.	.	\$64.40	.	
75901	.	.	\$146.24	\$18.47	\$127.77	
75902	.	.	\$58.56	\$14.58	\$43.98	
75956	.	.	.	\$261.12	.	
75957	.	.	.	\$224.08	.	
75958	.	.	.	\$148.88	.	
75959	.	.	.	\$129.92	.	
75970	.	.	.	\$31.24	.	
75984	.	.	\$86.30	\$27.21	\$59.08	
75989	.	.	\$96.82	\$45.44	\$51.38	
76000	.	.	\$38.54	\$6.70	\$31.84	
76001	.	.	.	\$27.41	.	
76010	.	.	\$20.88	\$7.10	\$13.78	

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

318.04: continued

Code	NFAC	FAC	Global	PC	TC	Description (<i>see radiology services code spreadsheet at www.mass.gov/regulations/101-CMR-31800-radiology</i>)
76080	.	.	\$44.26	\$20.41	\$23.85	
76098	.	.	\$13.24	\$6.26	\$6.97	
76100	.	.	\$74.68	\$24.48	\$50.20	
76101	.	.	\$107.52	\$26.52	\$80.99	
76102	.	.	\$142.78	\$26.69	\$116.09	
76120	.	.	\$68.20	\$15.04	\$53.16	
76125	.	.	.	\$11.04	.	
76140	.	.	I.C.	.	.	
76376	.	.	\$18.46	\$7.64	\$10.82	
76377	.	.	\$56.67	\$30.75	\$25.92	
76380	.	.	\$111.75	\$38.12	\$73.63	
76390	.	.	\$423.17	\$54.47	\$368.70	
76496	.	.	I.C.	.	.	
76497	.	.	I.C.	.	.	
76498	.	.	I.C.	.	.	
76499	.	.	I.C.	.	.	
76506	.	.	\$97.06	\$24.95	\$72.11	
76510	.	.	\$138.00	\$70.33	\$67.67	
76511	.	.	\$81.98	\$41.84	\$40.13	
76512	.	.	\$74.87	\$41.84	\$33.03	
76513	.	.	\$77.67	\$28.06	\$49.61	
76514	.	.	\$12.03	\$7.72	\$4.31	
76516	.	.	\$64.06	\$24.52	\$39.54	
76519	.	.	\$68.51	\$24.52	\$43.98	
76529	.	.	\$64.58	\$25.63	\$38.95	
76536	.	.	\$95.43	\$21.84	\$73.59	
76604	.	.	\$71.77	\$20.98	\$50.79	
76641	.	.	\$87.45	\$28.37	\$59.08	
76642	.	.	\$71.60	\$26.43	\$45.17	
76700	.	.	\$99.98	\$31.42	\$68.56	
76705	.	.	\$74.63	\$22.95	\$51.68	
76706	.	.	\$77.35	\$21.84	\$55.51	
76770	.	.	\$92.46	\$28.64	\$63.82	
76775	.	.	\$46.52	\$22.38	\$24.15	
76776	.	.	\$128.83	\$29.48	\$99.35	
76800	.	.	\$113.26	\$45.88	\$67.37	
76801	.	.	\$99.84	\$38.98	\$60.86	
76802	.	.	\$51.53	\$32.88	\$18.65	
76805	.	.	\$115.70	\$39.14	\$76.55	

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

318.04: continued

Code	NFAC	FAC	Global	PC	TC	Description (<i>see radiology services code spreadsheet at www.mass.gov/regulations/101-CMR-31800-radiology</i>)
76810	.	.	\$75.00	\$38.87	\$36.12	
76811	.	.	\$145.77	\$75.86	\$69.90	
76812	.	.	\$167.07	\$71.27	\$95.80	
76813	.	.	\$97.34	\$47.14	\$50.20	
76814	.	.	\$64.51	\$39.77	\$24.74	
76815	.	.	\$68.42	\$25.32	\$43.09	
76816	.	.	\$93.56	\$33.88	\$59.67	
76817	.	.	\$78.98	\$29.67	\$49.31	
76818	.	.	\$98.27	\$41.98	\$56.29	
76819	.	.	\$71.69	\$30.67	\$41.02	
76820	.	.	\$37.72	\$19.79	\$17.93	
76821	.	.	\$75.42	\$27.89	\$47.54	
76825	.	.	\$226.21	\$65.11	\$161.09	
76826	.	.	\$134.27	\$32.26	\$102.01	
76827	.	.	\$61.62	\$22.38	\$39.25	
76828	.	.	\$42.89	\$22.00	\$20.89	
76830	.	.	\$99.99	\$27.00	\$73.00	
76831	.	.	\$96.82	\$28.56	\$68.26	
76856	.	.	\$89.63	\$26.70	\$62.93	
76857	.	.	\$38.15	\$19.33	\$18.82	
76870	.	.	\$54.23	\$24.76	\$29.48	
76872	.	.	\$76.57	\$26.08	\$50.50	
76873	.	.	\$135.69	\$60.62	\$75.07	
76881	.	.	\$93.77	\$24.32	\$69.44	
76882	.	.	\$28.40	\$19.06	\$9.34	
76885	.	.	\$104.90	\$28.94	\$75.96	
76886	.	.	\$86.69	\$23.76	\$62.93	
76930	.	.	.	\$25.40	.	
76932	.	.	.	\$25.40	.	
76936	.	.	\$219.42	\$74.61	\$144.81	
76937	.	.	\$25.31	\$11.10	\$14.21	
76940	.	.	.	\$78.56	.	
76941	.	.	.	\$52.55	.	
76942	.	.	\$48.53	\$25.86	\$22.67	
76945	.	.	.	\$26.78	.	
76946	.	.	\$26.02	\$15.20	\$10.82	
76948	.	.	\$47.96	\$15.23	\$32.73	
76965	.	.	\$71.37	\$51.66	\$19.70	
76970	.	.	\$76.43	\$14.98	\$61.45	

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

318.04: continued

Code	NFAC	FAC	Global	PC	TC	Description (<i>see radiology services code spreadsheet at www.mass.gov/regulations/101-CMR-31800-radiology</i>)
76975	.	.	.	\$32.80	.	
76977	.	.	\$5.53	\$2.11	\$3.42	
76998	.	.	.	\$47.57	.	
76999	.	.	I.C.	.	.	
77001	.	.	\$57.24	\$14.61	\$42.63	
77002	.	.	\$75.51	\$21.76	\$53.75	
77003	.	.	\$69.27	\$23.51	\$45.76	
77011	.	.	\$181.74	\$48.64	\$133.10	
77012	.	.	\$100.16	\$44.63	\$55.53	
77013	.	.	.	\$151.24	.	
77014	.	.	\$95.43	\$33.98	\$61.45	
77021	.	.	\$330.83	\$58.28	\$272.55	
77022	.	.	.	\$164.41	.	
77053	.	.	\$47.23	\$13.90	\$33.32	
77054	.	.	\$62.26	\$17.68	\$44.57	
77058	.	.	\$510.63	\$63.28	\$447.35	
77059	.	.	\$508.23	\$63.28	\$444.95	
77061	.	.	I.C.	.	.	
77062	.	.	I.C.	.	.	
77063	.	.	\$44.24	\$23.22	\$21.02	
77065	.	.	\$81.35	\$29.51	\$51.84	
77066	.	.	\$101.46	\$36.10	\$65.36	
77067	.	.	\$111.64	\$42.79	\$68.85	
77071	.	.	\$38.28	.	.	
77072	.	.	\$18.49	\$7.37	\$11.12	
77073	.	.	\$28.81	\$11.18	\$17.63	
77074	.	.	\$51.89	\$17.68	\$34.21	
77075	.	.	\$70.91	\$21.00	\$49.90	
77076	.	.	\$77.47	\$27.27	\$50.20	
77077	.	.	\$29.89	\$12.55	\$17.34	
77078	.	.	\$59.78	\$9.58	\$50.20	
77080	.	.	\$33.56	\$7.94	\$25.63	
77081	.	.	\$22.56	\$8.48	\$14.08	
77084	.	.	\$362.77	\$62.47	\$300.30	
77085	.	.	\$45.90	\$11.99	\$33.92	
77086	.	.	\$28.90	\$6.83	\$22.07	
77261	.	.	\$58.57	.	.	
77262	.	.	\$87.30	.	.	
77263	.	.	\$127.39	.	.	



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin
Secretary of the Commonwealth**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: 101 CMR 334.00CHAPTER TITLE: Prostheses, Prosthetic Devices, and Orthotic DevicesAGENCY: Executive Office of Health and Human ServicesSUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

EOHHS is statutorily required to periodically review the rates of payment for health care services, including Prostheses, Prosthetic Devices, and Orthotics Devices. The proposed amendments, which promulgate 101 CMR 334.00 as amended, are the product of that review. In general, the proposed amendments rebase payment rates to 2017 Medicare fees and update components of the rate methodology by reducing the percentage of the Medicare rates for less complex items; update terminology; and clarify definitions to reduce ambiguity.

REGULATORY AUTHORITY: M.G.L. c. 118EAGENCY CONTACT: Deborah M. Briggs PHONE: 617-847-3302ADDRESS: 100 Hancock Street, Quincy, MA 02171**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.***EO145 letters sent 7/13/2018**
Final ANF Approval 12/11/2018PUBLIC 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: 8/17/2018

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

For the first and second year: \$171,330.61 (annually)

For the first five years: _____

No fiscal effect: _____

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

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

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:*

101 CMR 334.00 is being amended.

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: Dec 14 2018

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1381 DATE: 12/28/2018

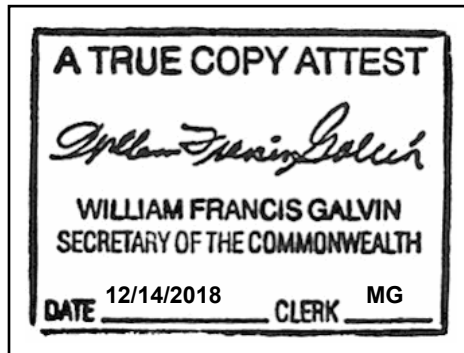
EFFECTIVE DATE: 12/28/2018

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages: | *Insert these pages:*

820.1 - 820.28

820.1 - 820.28.4



101 CMR 334.00: PROSTHESES, PROSTHETIC DEVICES AND ORTHOTIC DEVICES

Section

- 334.01: General Provisions
- 334.02: General Definitions
- 334.03: Rate Provisions
- 334.04: Reporting Requirements
- 334.05: Severability of Provisions

334.01: General Provisions

(1) Scope, Purpose and Effective Date. 101 CMR 334.00 governs the payment rates to be used by all governmental units for prostheses, prosthetic devices, and orthotic devices provided to publicly aided individuals. 101 CMR 334.00 is effective December 28, 2018. The rates set forth in 101 CMR 334.00 do not apply to individuals covered by M.G.L. c. 152 (the Workers' Compensation Act). Rates for services provided to these individuals are set forth in 114.3 CMR 40.03: *Service and Rate Coverage Provisions*(2).

(2) Coverage. 101 CMR 334.00 and the payment rates established under 101 CMR 334.00 apply to the direct purchase and repair of prescribed custom-made prostheses and prosthetic devices manufactured and supplied by providers, including the cost of customized fitting and client service. 101 CMR 334.00 also applies to the purchase and repair of orthotic devices. These rates are full payment for prostheses, prosthetic devices, and orthotic devices provided by sale, as well as full payment for any related supervisory or administrative duties, fittings and adjustments rendered in connection with the provision of prostheses, prosthetic devices, and orthotic devices.

(3) Disclaimer of Authorization of Services. 101 CMR 334.00 is not authorization for or approval of the procedures 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.

(4) Coding Updates and Corrections. The Executive Office of Health and Human Services (EOHHS) may publish procedure code updates and corrections in the form of an Administrative Bulletin. The publication of such updates and corrections will list:

- (a) codes for which the code numbers only changed, with the corresponding crosswalk;
- (b) codes for which the codes remain the same, but the descriptions have changed;
- (c) deleted codes for which there are no crosswalks; and
- (d) entirely new codes.

Pricing for new codes that have established Medicare fees as of the date of the Administrative Bulletin will have rates established at

- 1. 94.00% of the corresponding Medicare fee for any item described as being custom fabricated; or
- 2. 82.00% of the corresponding Medicare fee for any item described as being prefabricated; or
- 3. 70.76% of the corresponding Medicare fee for any item described as being off-the-shelf.

For new codes without Medicare fees as of the date of the Administrative Bulletin EOHHS will apply individual consideration in establishing payment for these services. These rates will remain until such time EOHHS adopts a revised regulation.

334.02: General Definitions

Terms used in 101 CMR 334.00 have the following meanings:

ABC. American Board for Certification in Orthotics and Prosthetics.

Additions to. If a code is listed as "Additions to", the code is added to the base procedure code if additional and more complicated services are provided. The value assigned to the "Additions to" codes does not represent the actual value of the component but only the difference in value between the base procedure code and the additional component.

334.02: continued

Adjusted Acquisition Cost (A.A.C.). The price paid to a supplier by a provider for prostheses, prosthetic devices and orthotic devices after adjusting for quantity discounts and excluding all associated costs such as, but not limited to, shipping, handling, and insurance costs, *etc.* A.A.C. does not exceed the price to the Provider as listed or determined in the manufacturer's current catalogue and must be evidenced by a current invoice. Where the manufacturer is the Provider, the A.A.C. cannot exceed the actual cost of raw materials. Low cost items (those with an A.A.C. less than \$5.00) may be grouped together and billed at \$5.00, plus the mark-up listed in 101 CMR 334.02: Individual Consideration.

AE (Above Elbow) Trans-humeral. Relating to prostheses or levels of amputation across the long axis of the humerus.

AFO. Ankle foot orthosis.

AK (Above Knee) Trans-femoral. Relating to prostheses or levels of amputation across the long axis of the femur.

Base Code. A code that describes the essential or fundamental design of a device.

BE (Below Elbow) Trans-radial. Relating to prostheses or levels of amputation across the long axis of the radius/ulna.

Bilateral. Of, or pertaining to, both sides of the body.

BK (Below Knee) Trans-tibial. Relating to prostheses or levels of amputation across the long axis of the tibia/fibula.

BOC. Board for Orthotics/Prosthetic Certification.

BCP. Board for Certification in Pedorthics.

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

CO (Cervical Orthosis). Orthosis that traverses the cervical vertebrae.

CTLSO (Cervical-thoracic-lumbar-sacral Orthosis). Orthosis that traverses the listed areas.

CTO (Cervical-thoracic Orthosis). Orthosis that traverses the listed areas.

Custom Fabricated-device. A device or product made for a specific patient from his/her individual measurements and/or pattern.

Custom Fitted/Prefabricated. A prefabricated device or product that has been manufactured from standard molds or patterns and that requires modification for fitting by a certified orthotist or an individual who has equivalent specialized training.

Definitive Prosthesis. Prostheses intended for long-term use containing components suitable for the full range of functional activities the amputee may be able to perform.

Direct Formed. Material is molded over the involved portion of the patient's body and ultimately used as an essential part of the device.

Dynamic Response. A prosthetic foot with a spring keel which deflects under load and returns to neutral.

Early Fitting. A prosthetic device provided during the initial wound healing phase following amputation.

334.02 : continued

Elastic Keel Foot. *See* Flexible Keel Foot.

Elastic Type Material Being. Of, or with properties similar to, elastic.

Endoskeletal. A prosthesis composed of an internal pylon system which provides structural integrity to the device.

Energy Storing Foot. A prosthetic foot designed to collect a substantial amount of strain energy and return it to the gait cycle via deflection on the foot.

EO (Elbow Orthosis). Orthosis that traverses the elbow.

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

Exoskeletal. A prosthesis composed of a rigid external shell that provides structural integrity to the device.

Fabrication and Fitting. Time spent in examining the patient; making necessary patterns and measurements; and performing fittings, including static and dynamic alignments and fitting refinements.

Flexible. Referring to devices which are bendable in nature and occasionally reinforced with stays of metal or other semi-rigid materials.

Flexible Keel Foot. A prosthetic foot with a compliant, elastomeric keel which absorbs forces during rollover.

FO (Finger Orthosis or Foot Orthosis). Orthosis that traverses the finger or the foot. While this abbreviation represents two types of orthosis, these types are so different that the context will clearly indicate which is meant.

Governmental Unit. The Commonwealth, any department, agency, board or commission of the Commonwealth, and any political subdivision of the Commonwealth.

Heavy Duty. Being of stronger nature than standard.

HD (Hip Disarticulation). An amputation through the hip joint or to describe a prosthesis for this level of amputation.

Hemi Pelvectomy - Trans-pelvic. Relating to an amputation which is performed through a portion of the pelvis or a prosthesis for this type of amputation.

HKAFO (Hip-knee-ankle-foot Orthosis). Orthosis that traverses the listed areas.

HFO (Hand-finger Orthosis). Orthosis that traverses the listed areas.

HO (Hand Orthosis). Orthosis that encompasses the whole or any part of the hand.

Immediate Fitting. Beginning prosthetic management immediately following surgical closure of the wound.

Individual Consideration (I.C.). Services or devices designated I.C. are items individually considered by the purchasing governmental unit based on the provider's report of services. The purchasing governmental unit analyzes the provider's report of services submitted before making a determination. Providers must keep adequate records to substantiate their I.C. claims and must provide these documents including a copy of current invoice to the purchasing agency upon demand. Payment to a provider for I.C. is the lowest of:

334.02: continued

- (a) the provider's usual and customary charge;
- (b) the A.A.C. to the provider, plus a markup not to exceed:
 - 1. 70% for any item described as being custom fabricated;
 - 2. 50% for any item described as being prefabricated; or
 - 3. 40% for any item described as being off-the-shelf.
- (c) Such schedule of allowable fees as may be issued as an amendment or revision to 101 CMR 334.00.

Initial. Direct formed prosthetic devices provided as early as patient management.

Interface Material. Flexible lining material integral to the device.

KAFO (Knee-ankle-foot Orthosis). Orthosis that traverses the listed areas.

KD (Knee Disarticulation). Relating to an amputation that is performed through the knee joint or a prosthesis for his type of amputation.

KO (Knee Orthosis). Orthosis that traverses the knee.

LSO (Lumbar-sacral Orthosis). Orthosis that traverses the listed areas.

Molded to Patient. *See* Direct Formed.

Molded to Patient Model. Custom manufactured item individually fabricated over a positive model of the patient, based on a three-dimensional negative impression or digital scanning.

Multiaxial. Having two or more axes of rotation.

Multi-density. Composed of two or more materials of varying shore hardness.

Multidurometer. Composed of two or more materials, with sectional areas of differing shore hardness.

Molded Socket. In orthotics, this term implies that an impression was taken, modified, and a socket of thermoplastic or other material was made over the model. In prosthetics, this term implies that a generally accepted fitting procedure, such as PTB or quadrilateral socket, was molded over a modified patient model.

Non-removable. Attached to shoe when the device is permanently affixed and therefore a part of the shoe.

Off-the-shelf. A prefabricated device or product that requires minimal self-adjustment as defined at 42 CFR 414.402 for appropriate use, *i.e.*, does not require the services of a certified orthotist or an individual who has specialized training to adjust the device.

Orthosis. Externally applied device used to modify the structural and functional characteristics of the neuromuscular and skeletal systems.

Passive. A device that cannot be actively moved.

Polycentric. Having many centers of rotation in a single plane.

Prefabricated. A device that has been manufactured from standard molds or patterns.

Premolded. *See* Prefabricated.

Preparatory. A prosthetic device applied to prepare the limb for eventual fitting and to evaluate the appropriateness of selected technology and the patient's ability to use a definitive prosthesis.

334.02 : continued

Production. See Prefabricated.

Prosthesis. Externally applied device used to replace wholly, or in part, an absent or deficient body segment.

Provider. An eligible provider of prosthetic, orthotic or pedorthic services. An eligible prostheses provider is an ABC or BOC certified prosthetist or one who employs any ABC or BOC certified prosthetist who meets the conditions of participation adopted by the purchasing governmental unit. An eligible provider of orthotic services is an ABC or BOC certified orthotist or one who employs any ABC or BOC certified orthotist who meets the conditions of participation adopted by the purchasing governmental unit. An eligible provider of pedorthic services is a BCP certified pedorthist or one who employs any BCP certified pedorthist who meets the conditions of participation adopted by the purchasing governmental unit.

Publicly Aided Individual. A person for whose medical and other services a governmental unit is in whole or in part liable under a statutory program.

Rigid. Not bending; inflexible.

Semi-rigid. Partially rigid; having some rigid elements.

SEWHO (Shoulder-elbow-wrist-hand Orthosis). Orthosis that traverses the listed areas.

Single Axis. Having only one axis of rotation.

SO (Shoulder Orthosis). Orthosis that traverses the shoulder.

Thermoplastic. Able to be remolded with the application of heat.

THKAO (Thoracic-hip-knee-ankle Orthosis). An orthosis that traverses the listed areas. Non-standard acronym of a TLSHKAFO.

TLSO (Thoracic-lumbar-sacral Orthosis). An orthosis that traverses the listed areas.

TO (Thoracic Orthosis). An orthosis that traverses the thoracic vertebrae.

Ultra-light Material. Materials such as titanium, carbon fiber, or equal.

Unilateral. Being of, or pertaining to, one side of the body.

WO (Wrist Orthosis). Orthosis that traverses the wrist. Non-standard acronym for WHO.

WHO (Wrist-hand Orthosis). Orthosis that traverses the listed areas.

334.03: Rate Provisions

(1) General Rate Provisions for the Purchase of Prostheses and Prosthetic Devices. Payment to provider of prosthetic or orthotic devices or services shall be the lower of:

- (a) the provider's usual and customary charge; or
- (b) the rates set forth in 101 CMR 334.03(5).

(2) Effect of Rates. The rates of payment contained in 101 CMR 334.00 are maximum allowable rates that a governmental unit or purchaser under M.G.L. c. 152 may pay for prostheses, prosthetic devices, or orthotic devices. A governmental unit may pay less than the rates established for a provider under 101 CMR 334.00 provided that any such discount or reduction in charge by the provider is equally available to all governmental units purchasing prostheses, prosthetic devices and orthotic devices from the provider. No rate of payment under 101 CMR 334.00 shall exceed the provider's usual and customary charge for the same or similar device.

334.03: continued

(3) Terms and Warranties. All terms and warranties, expressed and implied, that are customarily extended by the provider or manufacturer must apply to purchases made under 130 CMR 334.00. A purchaser will not pay for replacement or repair of any item or service covered by such terms or warranties.

(4) Repairs. For repair services providers must maintain and submit adequate documentation on the repair performed as indicated by the purchasing governmental unit. Repair may be billed using codes for the labor component (L7520 for prosthetics or L4205 for orthotic devices) and the parts used in the repair (L7510 for prosthetics or L4210 for orthotic devices).

(5) Rates.

<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u>
A5500	\$66.53	Diabetics Only, Fitting/Follow-up, Off-the-shelf Depth Inlay Shoe to Accommodate Multiple-density Insert, per Shoe
A5501	\$199.57	Diabetics Only, Fitting/Follow-up, Prep and Supply of Shoe Molded from Casts of Patients Foot, per Shoe
A5503	\$32.82	Diabetics Only, Modification (Includes Fitting) of Off-the-shelf Depth Inlay Shoe or Custom Molded Shoe with Roller or Rigid Rocker Bottom, per Shoe
A5504	\$32.82	Diabetics Only, Modification (Includes Fitting) of Off-the-shelf Depth Inlay Shoe or Custom Molded Shoe with Wedge(s), per Shoe
A5505	\$32.82	Diabetics Only, Modification (Includes Fitting) of Off-the-shelf Depth Inlay Shoe or Custom Molded Shoe with Metatarsal Bar, Each Shoe
A5506	\$32.82	Diabetics Only, Modification (Includes Fitting) of Off-the-shelf Depth Inlay Shoe or Custom Molded Shoe with Offset Heel(s) per Shoe
A5507	\$32.82	Diabetics Only, Not Otherwise Specified Modification (Including Fit) of Off-the-shelf Depth Inlay Shoe or Custom Molded Shoe, per Shoe
A5508	A.A.C.+70%	For Diabetics Only, Deluxe Feature of Off-the-shelf Depth Inlay Shoe or Custom Molded Shoe, per Shoe
A5510	A.A.C.+50%	For Diabetics Only, Direct Formed, Compression Molded to Patient's Foot Without External Heat Source, Multiple-density Insert(s) Prefabricated, per Shoe
A5512	\$27.14	Diabetics Only, Multiple-density Insert, Direct Formed, Molded to Foot, after External Heat Source of 230°F or Higher, Total Contact, Prefabricated, Each
A5513	\$40.50	Diabetics Only, Multiple-density Insert, Custom Molded from Model of Foot, Total Contact, Custom Fabricated, Each
L6530	\$41.37	Gradient Comp Stkg, below Knee, 18-30mmhg, Each
A6531	\$39.49	Gradient Comp Stkg, below Knee, 30-40mmhg, Each
A6532	\$55.65	Gradient Comp Stkg, below Knee, 40-50mmhg, Each
A6533	\$70.93	Gradient Comp Stkg, Thigh Length, 18-30mmhg, Each
A6534	\$70.93	Gradient Comp Stkg, Thigh Length, 30-40mmhg, Each
A6535	\$61.48	Gradient Comp Stkg, Thigh Length, 40-50mmhg, Each
A6536	\$78.82	Gradient Comp Stkg, Full Length/Chap Style, 18-30mmhg, Each
A6537	\$78.82	Gradient Comp Stkg, Full Length/Chap Style, 30-40mmhg, Each
A6538	\$78.82	Gradient Comp Stkg, Full Length/Chap Style, 40-50mmhg, Each
A6539	\$159.60	Gradient Comp Stkg, Waist Length, 18-30mmhg, Each
A6540	A.A.C.+50%	Gradient Comp Stkg, Waist Length, 30-40mmhg, Each
A6541	\$159.60	Gradient Comp Stkg, Waist Length, 40-50mmhg, Each
A6544	\$23.64	Gradient Comp Stkg, Garter Belt
A6545	A.A.C.+40%	Gradient Compression Wrap, Non-elastic, below Knee, 30-50mm Hg, Each
A6549	A.A.C.+50%	Gradient Comp Stkg, Not Otherwise Specified
A8000	\$140.00	Helmet, Protective, Soft, Prefabricated, Includes All Components and Accessories
A8001	\$140.00	Helmet, Protective, Hard, Prefabricated, Includes All Components and Accessories
A8002	A.A.C.+70%	Helmet, Protective, Soft, Custom Fabricated, Includes All Components and Accessories
A8003	A.A.C.+70%	Helmet, Protective, Hard, Custom Fabricated, Includes All Components and Accessories
A8004	A.A.C.+40%	Soft Interface for Helmet, Replacement Only
A9283	A.A.C.+70%	Foot Pressure Off-loading/Supportive Device, Any Type, Each

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
A9285	A.A.C.+40%	Ankle Orthosis, Ankle Gauntlet or Similar, with or without Joints, Custom Fabricated
K0672	\$65.13	Addition to Lower Extremity Orthosis, Removable Soft Interface, All Components, Replacement Only, Each
L0112	\$1,232.74	Cranial Cervical Orthosis, with or without Soft Interface (Congenital Torticollis Type), Adjustable Rom Joint, Custom Fabricated
L0113	\$219.10	Cranial Cervical Orthosis, (Torticollis Type), with or without Joint, with or without Soft Interface Material, Prefabricated, Includes Fitting and Adjustments
L0120	\$16.85	Cervical, Flexible, Nonadjustable Prefabricated, Off-the-shelf (Foam Collar)
L0130	\$143.67	Cervical, Flexible, Thermoplastic Collar, Molded to Patient
L0140	\$60.91	Cervical, Semi-rigid, Adjustable (Plastic Collar)
L0150	\$104.02	Cervical, Semi-rigid, Adjustable Molded Chin Cup (Plastic Collar with Mandibular/Occipital Piece)
L0160	\$153.71	Cervical, Semi-rigid, Wire Frame Occipital/Mandibular Support Prefabricated, Off-the-shelf
L0170	\$693.91	Cervical, Collar, Molded to Patient Model
L0172	\$93.45	Cervical, Collar, Semi-rigid, Thermoplastic Foam, Two Piece, Prefabricated, Off-the-shelf
L0174	\$269.60	Cervical, Collar, Semi-rigid, Thermoplastic Foam, Two Piece with Thoracic Extension, Prefabricated, Off-the-shelf
L0180	\$363.64	Cervical, Multiple Post Collar, Occipital/Mandibular Supports, Adjustable
L0190	\$440.69	Cervical, Multiple Post Collar, Occipital/Mandibular Supports, Adjustable Cervical Bars (Somi, Guilford, Taylor Types)
L0200	\$413.28	Cervical, Multiple Post, Collar, Occipital/mandibular Supports, Adjustable Cervical Bars, and Thoracic Extension
L0220	\$112.24	Thoracic, Rib Belt, Custom Fabricated
L0450CG	\$147.18	TLSO, Flexible, Provides Trunk Support, Upper Thoracic Region, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Disks with Rigid Stays or Panel(s), Includes Shoulder Straps and Closures, Prefabricated, Off-the-shelf
L0452	A.A.C.+70%	TLSO, Flexible with Rigid Stays or Panel(s) (Upper Thoracic Region) Custom Fabricated
L0454CG	\$305.47	TLSO, Provides Trunk Support, Extends from Sacrococcygeal Junction to above T-9 Vertebra, Restricts Gross Trunk Motion in the Sagittal Plane, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Disks with Rigid Stays or Panel(s), Includes Shoulder Straps and Closures, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L0455	\$229.94	TLSO, Flexible, Provides Trunk Support, Extends from Sacrococcygeal Junction to above T-9 Vertebra, Restricts Gross Trunk Motion In The Sagittal Plane, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Disks with Rigid Stays or Panel(s), Includes Shoulder Straps and Closures, Prefabricated, Off-the-shelf
L0456	\$876.00	TLSO, Flexible, Provides Trunk Support, Thoracic Region, Rigid Posterior Panel and Soft Anterior Apron, Extends from the Sacrococcygeal Junction and Terminates Just Inferior to the Scapular Spine, Restricts Gross Trunk Motion in the Sagittal Plane, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Disks, Includes Straps and Closures, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L0457	\$659.39	TLSO, Flexible, Provides Trunk Support, Thoracic Region, Rigid Posterior Panel and Soft Anterior Apron, Extends from the Sacrococcygeal Junction and Terminates Just Inferior to the Scapular Spine, Restricts Gross Trunk Motion in the Sagittal Plane, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Disks, Includes Straps and Closures, Prefabricated, Off-the-shelf
L0458	\$685.22	TLSO, Two Rigid Plastic Shells, Overlapping with Stabilizing Closures, Prefabricated-anterior Extends to Xiphoid

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L0460	\$884.13	TLSO, Triplanar Control, Modular Segmented Spinal System, Two Rigid Plastic Shells, Posterior Extends from the Sacrococcygeal Junction and Terminates Just Inferior to the Scapular Spine, Anterior Extends from the Symphysis Pubis to the Sternal Notch, Soft Liner, Restricts Gross Trunk Motion in the Sagittal, Coronal, and Transverse Planes, Lateral Strength Is Provided by Overlapping Plastic and Stabilizing Closures, Includes Straps and Closures, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L0462	\$959.33	TLSO, Three Rigid Plastic Shells, Soft Liner, Anterior Extends to Sternal Notch, Overlapping Plastic, Prefabricated
L0464	\$1,142.07	TLSO, Four Rigid Plastic Shells, Soft Liner, Anterior Extends to Sternal Notch, Overlapping Plastic, Prefabricated
L0466	\$363.70	TLSO, Sagittal Control, Rigid Posterior Frame and Flexible Soft Anterior Apron with Straps, Closures and Padding, Restricts Gross Trunk Motion in Sagittal Plane, Produces Intracavitary Pressure to Reduce Load on Intervertebral Disks, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L0467	\$273.77	TLSO, Sagittal Control, Rigid Posterior Frame and Flexible Soft Anterior Apron with Straps, Closures and Padding, Restricts Gross Trunk Motion in Sagittal Plane, Produces Intracavitary Pressure to Reduce Load on Intervertebral Disks, Prefabricated, Off-the-shelf
L0468	\$409.96	TLSO, Sagittal Control, Rigid Posterior Frame and Flexible Soft Anterior Apron with Straps, Closures and Padding, Restricts Gross Trunk Motion in Sagittal Plane, Produces Intracavitary Pressure to Reduce Load on Intervertebral Disks, Prefabricated, Off-the-shelf
L0469	\$409.96	TLSO, Sagittal-coronal Control, Rigid Posterior Frame and Flexible Soft Anterior Apron with Straps, Closures and Padding, Extends from Sacrococcygeal Junction over Scapulae, Lateral Strength Provided by Pelvic, Thoracic, and Lateral Frame Pieces, Restricts Gross Trunk Motion in Sagittal and Coronal Planes, Produces Intracavitary Pressure to Reduce Load on Intervertebral Disks, Prefabricated, Off-the-shelf
L0470	\$582.23	TLSO, Triplanar Control, Rigid Posterior Frame/Flexible Soft Anterior Apron, Straps, Closures, Padding
L0472	\$354.74	TLSO, Triplanar Control, Hyperextension, Rigid Anterior and Lateral Frame, Prefabricated
L0480	\$1,405.24	TLSO, Triplanar Control, One Piece Rigid Plastic Shell without Interface, Custom Fabricated
L0482	\$1,466.32	TLSO, Triplanar Control, One Piece Rigid Plastic Shell with Interface, Custom Fabricated
L0484	\$1,999.34	TLSO, Triplanar Control, Two Piece Rigid Plastic Shell without Interface, Custom Fabricated
L0486	\$2,121.19	TLSO, Triplanar Control, Two Piece Rigid Plastic Shell with Interface, Custom Fabricated
L0488	\$771.26	TLSO, Triplanar Control, One Piece Rigid Plastic Shell with Interface, Prefabricated
L0490	\$217.36	TLSO, Sagittal-coronal Control, One Piece Rigid Plastic Shell with Overlapping Reinforced Anterior, Prefabricated
L0491	\$590.08	TLSO, Prefabricated, Sagittal-coronal Control, Modular Segmented Spinal System, Two Rigid Plastic Shells
L0492	\$388.30	TLSO Prefabricated Sagittal-coronal Control, Modular Segment Spinal System, Three Rigid Plastic Shells
L0621CG	\$79.52	Sacroiliac Orthosis, Flexible, Provides Pelvic-sacral Support, Reduces Motion about the Sacroiliac Joint, Includes Straps, Closures, May Include Pendulous Abdomen Design, Prefabricated, Off-the-shelf
L0622	\$290.64	Sacroiliac Orthosis, Flexible, Provides Pelvic-sacral Support, May Include Pendulous Abdomen Design, Custom Fabricated

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L0623	A.A.C.+50%	Sacroiliac Orthosis, Provides Pelvic-sacral Support, with Rigid or Semi-rigid Panels over the Sacrum and Abdomen, Reduces Motion about the Sacroiliac Joint, Includes Straps, Closures, May Include Pendulous Abdomen Design, Prefabricated, Off-the-shelf
L0624	A.A.C.+70%	Sacroiliac Orthosis, Provides Pelvic-sacral Support/Rigid Semi-rigid Panels, May Include Pendulous Abdomen Design, Custom Fabricated
L0625CG	\$42.31	Lumbar Orthosis, Flexible, Provides Lumbar Support, Posterior Extends from L-1 to below L-5 Vertebra, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Includes Straps, Closures, May Include Pendulous Abdomen Design, Shoulder Straps, Stays, Prefabricated, Off-the-shelf
L0626	\$59.88	Lumbar Orthosis, Sagittal Control, with Rigid Posterior Panel(s), Posterior Extends from L-1 to below L-5 Vertebra, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Includes Straps, Closures, May Include Padding, Stays, Shoulder Straps, Pendulous Abdomen Design, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L0627	\$315.83	Lumbar Orthosis, Sagittal Control, with Rigid Anterior and Posterior Panels, Posterior Extends from L-1 to below L-5 Vertebra, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Includes Straps, Closures, May Include Padding, Shoulder Straps, Pendulous Abdomen Design, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L0628CG	\$64.47	Lumbar-sacral Orthosis, Flexible, Provides Lumbo-sacral Support, Posterior Extends from Sacrococcygeal Junction to T-9 Vertebra, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Includes Straps, Closures, May Include Stays, Shoulder Straps, Pendulous Abdomen Design, Prefabricated, Off-the-shelf
L0629	A.A.C.+70%	Lumbar-sacral Orthosis, Flexible, Posterior Extends from Sacro-coccygeal Junction to T9 Vertebrae, Custom Fabricated
L0630	\$124.44	Lumbar-sacral Orthosis, Sagittal Control, with Rigid Posterior Panel(s), Posterior Extends from Sacrococcygeal Junction to T-9 Vertebra, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Includes Straps, Closures, May Include Padding, Stays, Shoulder Straps, Pendulous Abdomen Design, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L0631	\$788.75	Lumbar-sacral Orthosis, Sagittal Control, with Rigid Anterior and Posterior Panels, Posterior Extends from Sacrococcygeal Junction to T-9 Vertebra, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Includes Straps, Closures, May Include Padding, Shoulder Straps, Pendulous Abdomen Design, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L0632	A.A.C.+70%	Lumbar-sacral Orthosis, Sagittal Control/Rigid Anterior and Post Panels, from Sacrococcygeal Junction-T9, Custom Fabricated
L0633	\$220.33	Lumbar-sacral Orthosis, Sagittal Control, with Rigid Anterior and Posterior Panels, Posterior Extends from Sacrococcygeal Junction to T-9 Vertebra, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Includes Straps, Closures, May Include Padding, Shoulder Straps, Pendulous Abdomen Design, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L0634	A.A.C.+70%	Lumbar-sacral Orthosis, Sagittal-coronal Control/Rigid Post Frame/Panel(s), Custom Fabricated
L0635	\$719.94	Lumbar-sacral Orthosis, Sagittal-coronal Control, Lumbar Flex, Rigid Post Frame/Panel(s), Lateral Artic Design, Prefabricated
L0636	\$1,329.34	Lumbar-sacral Orthosis, Sagittal-coronal Control, Lumbar Rigid Post Frame/Panel(s), Lateral Artic Design, Custom Fabricated

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L0637	\$899.66	Lumbar-sacral Orthosis, Sagittal-coronal Control, with Rigid Anterior and Posterior Frame/panels, Posterior Extends from Sacrococcygeal Junction to T-9 Vertebra, Lateral Strength Provided by Rigid Lateral Frame/panels, Produces Intracavitary Pressure to Reduce Load on Intervertebral Discs, Includes Straps, Closures, May Include Padding, Shoulder Straps, Pendulous Abdomen Design, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L0638	\$1,161.65	Lumbar-sacral Orthosis, Sagittal-coronal Control/Rigid Ant and Post Frame/panel(s), from Sacrococcygeal Junction-T9, Custom Fabricated
L0639	\$899.66	Lumbar-sacral Orthosis, Sagittal-coronal Control, Rigid Shell(s)/Panel(s), Posterior Extends from Sacrococcygeal Junction to T-9 Vertebra, Anterior Extends from Symphysis Pubis to Xyphoid, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Overall Strength Is Provided by Overlapping Rigid Material and Stabilizing Closures, Includes Straps, Closures, May Include Soft Interface, Pendulous Abdomen Design, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L0640	\$921.65	Lumbar-sacral Orthosis, Sagittal-coronal Control, Rigid Shell(s)/Panel(s), May Include Interface, Custom Fabricated
10641	\$59.88	Lumbar Orthosis, Sagittal Control, with Rigid Posterior Panel(s), Posterior Extends from L-1 to below L-5 Vertebra, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Includes Straps, Closures, May Include Padding, Stays, Shoulder Straps, Pendulous Abdomen Design, Prefabricated, Off-the-shelf
L0642	\$315.83	Lumbar Orthosis, Sagittal Control, with Rigid Anterior and Posterior Panels, Posterior Extends from L-1 to below L-5 Vertebra, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Includes Straps, Closures, May Include Padding, Shoulder Straps, Pendulous Abdomen Design, Prefabricated, Off-the-shelf
L0643	\$107.37	Lumbar-sacral Orthosis, Sagittal Control, with Rigid Posterior Panel(s), Posterior Extends from Sacrococcygeal Junction to T-9 Vertebra, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Includes Straps, Closures, May Include Padding, Stays, Shoulder Straps, Pendulous Abdomen Design, Prefabricated, Off-the-shelf
L0648	\$788.75	Lumbar-sacral Orthosis, Sagittal Control, with Rigid Anterior and Posterior Panels, Posterior Extends from Sacrococcygeal Junction to T-9 Vertebra, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Includes Straps, Closures, May Include Padding, Shoulder Straps, Pendulous Abdomen Design, Prefabricated, Off-the-shelf
L0649	\$190.12	Lumbar-sacral Orthosis, Sagittal Coronal Control, with Rigid Posterior Frame/panel(s), Posterior Extends from Sacrococcygeal Junction to T-9 Vertebra, Lateral Strength Provided by Rigid Lateral Frame/Panels, Produces Intracavitary Pressure to Reduce Load on Intervertebral Discs, Includes Straps, Closures, May Include Padding, Stays, Shoulder Straps, Pendulous Abdomen Design, Prefabricated, Off-the-shelf
L0650	\$776.31	Lumbar-sacral Orthosis, Sagittal-coronal Control, with Rigid Anterior and Posterior Frame/Panel(s), Posterior Extends from Sacrococcygeal Junction to T-9 Vertebra, Lateral Strength Provided by Rigid Lateral Frame/Panel(s), Produces Intracavitary Pressure to Reduce Load on Intervertebral Discs, Includes Straps, Closures, May Include Padding, Shoulder Straps, Pendulous Abdomen Design, Prefabricated, Off-the-shelf
L0651	\$899.66	Lumbar-sacral Orthosis, Sagittal-coronal Control, Rigid Shell(s)/Panel(s), Posterior Extends from Sacrococcygeal Junction to T-9 Vertebra, Anterior Extends from Symphysis Pubis to Xyphoid, Produces Intracavitary Pressure to Reduce Load on the Intervertebral Discs, Overall Strength Is Provided by Overlapping Rigid Material and Stabilizing Closures, Includes Straps, Closures, May Include Soft Interface, Pendulous Abdomen Design, Prefabricated, Off-the-shelf

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L0700	\$1,895.25	Cervical-thoracic-lumbar-sacral Orthosis (CTLSO), Anterior-posterior-lateral Control, Molded to Patient Model (Minerva)
L0710	\$2,044.83	CTLSO, Anterior-posterior-lateral Control, Molded to Patient Model, with Interface Material (Minerva Type)
L0810	\$2,853.63	Halo Procedure, Cervical Halo Incorporated into Jacket Vest
L0820	\$2,430.17	Halo Procedure, Cervical Halo Incorporated into Plaster Body Jacket
L0830	\$3,160.52	Halo Procedure, Cervical Halo Incorporated into Milwaukee Type Orthosis
L0859	\$1,092.05	Addition to Halo Procedure, MRI Compatible System, Rings any Pins, Any Material (Jerome Medical)
L0861	\$165.60	Addition to Halo Procedure, Replacement Liner/Interface Material
L0970	\$84.12	TLSO, Corset Front
L0972	\$75.75	LSO, Corset Front
L0974	\$166.05	TLSO, Full Corset
L0976	\$125.80	LSO, Full Corset
L0978	\$152.37	Auxillary Crutch Extension
L0980	\$17.14	Peroneal Straps, Prefabricated, Off-the-shelf, Pair
L0982	\$15.98	Stocking supporter Grips, Prefabricated, Off-the-shelf, Set of Four
L0984	\$50.34	Protective Body Sock, Prefabricated, Off-the-shelf, Each
L0999	A.A.C.+50%	Addition to Spinal Orthosis - Unspecified
L1000	\$2,161.55	Cervical-thoracic-lumbar-sacral Orthosis (CTLSO), (Milwaukee) Inclusive of Furnishing Initial Orthosis, Including Model
L1001	A.A.C + 50%	Cervical-thoracic-lumbar-sacral Orthosis (CTLSO), Immobilizer, Infant Size, Prefabricated, Includes Fitting and Adjustment
L1005	\$2,459.16	Tension Based Scoliosis Orthosis and Accessory Pads, Includes Fitting and Adjustment
L1010	\$62.49	Addition to Cervical-thoracic-lumbar-sacral Orthosis (CTLSO) or Scoliosis Orthosis, Axilla Sling
L1020	\$72.93	Addition to CTLSO or Scoliosis Orthosis, Kyphosis Pad
L1025	\$113.00	Addition to CTLSO or Scoliosis Orthosis, Kyphosis Pad, Floating
L1030	\$53.67	Addition to CTLSO or Scoliosis Orthosis, Lumbar Bolster Pad
L1040	\$65.83	Addition to CTLSO or Scoliosis Orthosis, Lumbar or Lumbar Rib Pad
L1050	\$70.26	Addition to CTLSO or Scoliosis Orthosis, Sternal Pad
L1060	\$83.90	Addition to CTLSO or Scoliosis Orthosis, Thoracic Pad
L1070	\$75.92	Addition to CTLSO or Scoliosis Orthosis, Trapeze Sling
L1080	\$49.72	Addition to CTLSO or Scoliosis Orthosis, Outtrigger
L1085	\$129.88	Addition to CTLSO or Scoliosis Orthosis, Outtrigger, Bilateral with Vertical Extensions
L1090	\$77.34	Addition to CTLSO or Scoliosis Orthosis, Lumbar Sling
L1100	\$163.21	Addition to CTLSO or Scoliosis Orthosis, Ring Flange, Plastic or Leather
L1110	\$254.32	Addition to CTLSO or Scoliosis Orthosis, Ring Flange, Plastic or Leather, Molded to Patient Model
L1120	\$33.51	Addition to CTLSO or Scoliosis Orthosis, Cover for Upright, Each
L1200	\$1,569.34	Thoracic-lumbar-sacral Orthosis (TLSO), Inclusive of Furnishing Initial Orthosis Only
L1210	\$220.79	Addition to TLSO (Low Profile), Lateral Thoracic Extension
L1220	\$186.93	Addition to TLSO (Low Profile), Anterior Thoracic Extension
L1230	\$539.33	Addition to TLSO (Low Profile), Milwaukee Type Superstructure
L1240	\$71.22	Addition to TLSO (Low Profile), Lumbar Derotation Pad
L1250	\$71.19	Addition to TLSO (Low Profile), Anterior Asis Pad
L1260	\$71.22	Addition to TLSO (Low Profile), Anterior Thoracic Derotation Pad
L1270	\$71.22	Addition to TLSO (Low Profile), Abdominal Pad
L1280	\$97.06	Addition to TLSO (Low Profile), Rib Gusset (Elastic), Each
L1290	\$71.22	Addition to TLSO (Low Profile), Lateral Trochanteric Pad
L1300	\$1,499.32	Other Scoliosis Procedure, Body Jacket Molded to Patient Model
L1310	\$1,613.64	Other Scoliosis Procedure, Post-operative Body Jacket
L1499	A.A.C.+70%	Unlisted Procedures for Spinal Orthosis

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L1600	\$130.66	Hip Orthosis (HO), Abduction Control of Hip Joints, Flexible, Frejka Type with Cover, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L1610	\$34.92	HO, Abduction Control of Hip Joints, Flexible, (Frejka Cover Only), Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L1620	\$132.99	HO, Abduction Control of Hip Joints, Flexible, (Pavlik Harness), Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L1630	\$190.64	HO, Abduction Control of Hip Joints, Semi-flexible (Von Rosen Type) Custom Fabricated
L1640	\$519.12	HO, Abduction Control of Hip Joints, Static, Pelvic Band or Spreader Bar, Thigh Cuffs, Custom Fabricated
L1650	\$225.42	HO, Abduction Control of Hip Joints, Static, Adjustable, (Ilfeld Type), Prefabricated, Includes Fitting and Adjustment
L1652	\$273.88	Hip Orthosis, Bilateral Thigh Cuffs/Adjustment, Abduction Spreader Bar Adult Size, Prefabricated
L1660	\$154.87	HO, Abduction Control of Hip Joints, Static, Plastic Prefabricated, Includes Fitting and Adjustment
L1680	\$1,028.08	HO, Abduction Control of Hip Joints, Dynamic, Pelvic Control Adjustable Hip Motion Control, Thigh Cuffs (Rancho Type) Custom Fabricated
L1685	\$1,338.22	HO, Abduction Control of Hip Joint, Post-operative Hip (Abduction Type), Custom Fabricated
L1686	\$740.26	HO, Abduction Control of Hip Joint, Post-operative Hip (Abduction Type), Prefabricated, Includes Fitting and Adjustment
L1690	\$1,485.76	Combination, Bilateral, Lumbo-sacral, Hip, Femur Orthosis Providing Adduction and Internal Rotation Control, Prefabricated
L1700	\$1,637.37	Legg Perthes Orthosis, (Toronto Type), Custom Fabricated
L1710	\$2,011.17	Legg Perthes Orthosis, (Newington Type), Custom Fabricated
L1720	\$1,137.34	Legg Perthes Orthosis, Trilateral (Tachdijan Type), Custom Fabricated
L1730	\$1,195.75	Legg Perthes Orthosis, (Scottish Rite Type), Custom Fabricated
L1755	\$1,781.21	Legg Perthes Orthosis, (Patten Bottom Type), Custom Fabricated
L1810	\$87.23	Knee Orthosis (KO), Elastic with Joints, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L1812	\$65.66	KO, Elastic with Joints, Prefabricated, Off-the-shelf
L1820	\$112.04	KO, Elastic with Condylar Pads and Joints, Prefabricated with or without Patellar Control
L1830	\$55.57	KO, Adjustable Knee Joints (Unicentric or Polycentric), Positional Orthosis, Rigid Support, Prefabricated, Off-the Shelf
L1831	\$226.13	KO, Locking Knee Joint(s), Positional Orthosis, Prefabricated, Includes Fitting and Adjustment
L1832	\$584.29	KO, Adjustable Knee Joints (Unicentric or Polycentric), Positional Orthosis, Rigid Support, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L1833	\$504.18	KO, Adjustable Knee Joints (Unicentric or Polycentric), Positional Orthosis, Rigid Support, Prefabricated, Off-the-shelf
L1834	\$873.33	KO, without Knee Joint, Rigid, Molded to Patient Model
L1836	\$102.52	KO, Rigid, without Joint(s), Includes Soft Interface Material, Prefabricated, Off-the-shelf
L1840	\$823.05	KO, Derotation, Medial-lateral, Anterior Cruciate Ligament, Custom Fabricated
L1843	\$689.40	KO, Single Upright, Thigh and Calf, with Adjustable Flexion and Extension Joint (Unicentric or Polycentric), Medial-lateral and Rotation Control, with or without Varus/Valgus Adjustment, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L1844	\$1,441.10	KO, Single Upright, Thigh and Calf, with Adjustable Flexion and Extension Joint Medial-lateral and Rotational Control, with or without Varus/Valgus Adjustment, Custom Fabricated
L1845	\$641.04	KO, Double Upright, Thigh and Calf, with Adjustable Flexion and Extension Joint (Unicentric or Polycentric), Medial-lateral and Rotation Control, with or without Varus/Valgus Adjustment, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L1846	\$1,093.71	KO, Double Upright, Thigh and Calf, with Adjustable Flexion and Extension Joint, Medial-lateral and Rotation Control, Custom Fabricated
L1847	\$441.92	KO, Double Upright with Adjustable Joint, with Inflatable Air Support Chamber(s), Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L1848	\$381.33	KO, Double Upright with Adjustable Joint, with Inflatable Air Support Chamber(s), Prefabricated, Off-the-shelf
L1850	\$224.84	KO, (Swedish Type), Prefabricated, Off-the-shelf
L1851	\$594.88	KO, Single Upright, Thigh and Calf, with Adjustable Flexion and Extension Joint (Unicentric or Polycentric), Medial-lateral and Rotation Control, with or without Varus/Valgus Adjustment, Prefabricated, Off-the-shelf
L1852	\$553.14	KO, Double Upright, Thigh and Calf, with Adjustable Flexion and Extension Joint (Unicentric or Polycentric), Medial-lateral and Rotation Control, with or without Varus/Valgus Adjustment, Prefabricated, Off-the-shelf
L1860	\$957.28	KO, Modification of Supracondylar Prosthetic Socket, Custom Fabricated (SK)
L1900	\$267.99	Ankle Foot Orthosis (AFO), Spring Wire, Dorsiflexion Assist, Calf Band, Custom Fabricated
L1902	\$67.68	AFO, Ankle Gauntlet, Prefabricated, Includes Fitting and Adjustment
L1904	\$529.04	Ankle Orthosis, Ankle Gauntlet or Similar, with or without Joints, Custom Fabricated
L1906	\$99.12	Ankle Foot Orthosis, Multiligamentous Ankle Support, Prefabricated, Off-the-shelf
L1907	\$495.60	Ankle Orthosis, Supramalleolar with Straps, with or without Interface/Pads, Custom Fabricated
L1910	\$233.37	AFO, Posterior, Single Bar, Clasp Attachment to Shoe Counter Prefabricated, Includes Fitting and Adjustment
L1920	\$392.06	AFO, Single Upright with Static or Adjustable Stop (Phelps or Perlstein Type), Custom Fabricated
L1930	\$200.95	AFO, Plastic or Other Material, Prefabricated, Includes Fitting and Adjustment
L1932	\$685.63	AFO, Rigid Anterior Tibial Section, Total Carbon Fiber or Equal, Prefabricated, Includes Fitting and Adjustment
L1940	\$556.39	AFO, Plastic or Other Material, Custom Fabricated
L1945	\$1,041.44	AFO Molded to Patient Model, Plastic, Rigid Anterior Tibial Section (Floor Reaction)
L1950	\$804.70	AFO, Spiral, Molded to Patient Model (IRM Type), Plastic, Custom Fabricated
L1951	\$645.27	AFO, Spiral (Institute of Rehabilitation Medicine Type), Plastic or Other Material, Prefabricated, Includes Fitting and Adjustment
L1960	\$623.60	Ankle Foot Orthosis (AFO), Posterior Solid Ankle, Plastic, Custom Fabricated
L1970	\$800.54	AFO, Plastic with Ankle Joint, Custom Fabricated
L1971	\$360.14	AFO, Plastic or Other Material with Ankle Joint, Prefabricated, Includes Fitting and Adjustment
L1980	\$400.57	AFO, Single Upright, Free Plantar Dorsiflexion, Solid Stirrup, Calf Band/Cuff (Single Bar BK Orthosis) Custom Fabricated
L1990	\$476.54	AFO, Double Upright, Free Plantar Dorsiflexion, Solid Stirrup Calf Band/Cuff (Double Bar BK Orthosis), Custom Fabricated
L2000	\$971.58	KAFO, Single Upright, Free Knee, Free Ankle, Solid Stirrup, Thigh and Calf Bands/Cuffs (Single Bar AK Orthosis) Custom Fabricated
L2005	\$3,609.16	KAFO, Any Material, Single or Double Upright Stance Control Auto Lock and Swing Phase Release/Ankle Joint, Mechanical, Custom Fabricated
L2010	\$883.10	KAFO, Single Upright, Free Ankle, Solid Stirrup, Thigh and Calf Bands/Cuffs (Single Bar AK Orthosis), without Knee Joint, Custom Fabricated

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L2020	\$1,253.08	KAFO, Double Upright, Free Knee, Free Ankle, Solid Stirrup, Thigh and Calf Bands/Cuffs (Double Bar AK Orthosis), Custom Fabricated
L2030	\$1,016.32	KAFO, Double Upright, Free Ankle, Solid Stirrup, Thigh and Calf Bands/Cuffs (Double Bar AK Orthosis), without Knee Joint, Custom Fabricated
L2034	\$1,762.39	KAFO, Full Plastic, Single Upright, with or without Free Motion Knee, Medial-lateral Rotational Control, with or without Free Motion Ankle, Custom Fabricated
L2035	\$135.37	KAFO, Full Plastic, Static, (Pediatric Size) Prefabricated without Free Motion Ankle
L2036	\$2,087.31	KAFO, Full Plastic, Double Upright, Free Knee, Custom Fabricated with or without Free Motion Ankle
L2037	\$1,873.85	KAFO, Full Plastic, Single Upright, Free Knee, Custom Fabricated, with or without Free Motion Ankle
L2038	\$1,608.51	KAFO, Full Plastic, without Knee Joint, Multi-axis Ankle, Custom Fabricated
L2040	\$191.53	HKAFO, Torsion Control, Bilateral Rotation Straps, Pelvic Band/Belt, Custom Fabricated
L2050	\$535.92	HKAFO, Torsion Control, Bilateral Torsion Cables, Hip Joint, Pelvic Band/Belt, Custom Fabricated
L2060	\$545.54	KAFO, Torsion Control, Bilateral Torsion Cables, Ball Bearing Hip Joint, Pelvic Band/Belt, Custom Fabricated
L2070	\$131.69	HKAFO, Torsion Control, Unilateral Rotation Straps, Pelvic Band/Belt, Custom Fabricated
L2080	\$404.65	HKAFO, Torsion Control, Unilateral Torsion Cable, Hip Joint, Pelvic Band/Belt, Custom Fabricated
L2090	\$388.90	HKAFO, Torsion Control, Unilateral Torsion Cable, Ball Bearing Hip Joint, Pelvic Band/Belt, Custom Fabricated
L2106	\$764.93	AFO, Fracture Orthosis, Tibial Fracture Cast Orthosis, Thermoplastic Type Casting Material, Custom Fabricated
L2108	\$1,162.02	AFO, Fracture Orthosis, Tibial Fracture Cast Orthosis, Custom Fabricated
L2112	\$416.09	AFO, Fracture Orthosis, Tibial Fracture Orthosis, Soft Prefabricated, Includes Fitting and Adjustment
L2114	\$502.57	AFO, Fracture Orthosis, Tibial Fracture Orthosis, Semi-rigid Prefabricated, Includes Fitting and Adjustment
L2116	\$645.42	AFO, Fracture Orthosis, Tibial Fracture Orthosis, Rigid Prefabricated, Includes Fitting and Adjustment
L2126	\$1,211.64	KAFO, Fracture Orthosis, Femoral Fracture Cast Orthosis, Thermoplastic Type Casting Material, Custom Fabricated
L2128	\$1,929.14	KAFO, Fracture Orthosis, Femoral Fracture Cast Orthosis, Custom Fabricated
L2132	\$621.77	KAFO, Fracture Orthosis, Femoral Fracture Cast Orthosis, Soft Prefabricated, Includes Fitting and Adjustment
L2134	\$875.25	KAFO, Fracture Orthosis, Femoral Fracture Cast Orthosis, Semi-rigid Prefabricated, Includes Fitting and Adjustment
L2136	\$978.32	KAFO, Fracture Orthosis, Femoral Fracture Cast Orthosis,
L2180	\$101.69	Addition to Lower Extremity Fracture Orthosis, Plastic Shoe Insert with Ankle Joints
L2182	\$103.07	Addition to Lower Extremity Fracture Orthosis, Drop Lock Knee Joint
L2184	\$108.19	Addition to Lower Extremity Fracture Orthosis, Limited Motion Knee Joint
L2186	\$130.60	Addition to Lower Extremity Fracture Orthosis, Adjustable Motion Knee Joint, (Lerman Type)
L2188	\$276.58	Addition to Lower Extremity Fracture Orthosis, Quaddilateral Brim
L2190	\$85.71	Addition to Lower Extremity Fracture Orthosis, Waist Belt
L2192	\$317.02	Addition to Lower Extremity Fracture Orthosis, Hip Joint Pelvic Band, Thigh Flange, and Pelvic Belt
L2200	\$40.12	Addition to Lower Extremity, Limited Ankle Motion, Each Joint
L2210	\$56.72	Addition to Lower Extremity, Dorsiflexion Assist (Plantar Flexion Resist), Each Joint
L2220	\$69.10	Addition to Lower Extremity, Dorsiflexion and Plantar Flexion Assist/Resist, Each Joint

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L2230	\$64.74	Addition to Lower Extremity, Split Flat Caliper Stirrups and Plate Attachment
L2232	\$87.66	Addition to Lower Extremity Orthosis, Rocker Bottom for Total Contact AFO, for Custom Fabricated Orthosis Only
L2240	\$86.82	Addition to Lower Extremity, Round Caliper and Plate Attachment
L2250	\$299.82	Addition to Lower Extremity, Foot Plate, Molded to Patient Model, Stirrup Attachment
L2260	\$169.14	Addition to Lower Extremity, Reinforced Solid Stirrup Scott-Craig Type
L2265	\$132.49	Addition to Lower Extremity, Long Tongue Stirrup
L2270	\$52.99	Addition to Lower Extremity, Varus/Valgus Correction (T) Strap, Padded/Lined or Malleolus Pad
L2275	\$111.09	Addition to Lower Extremity Varus/Valgus, Correction, Plastic Modification, Padded/Lined
L2280	\$421.56	Addition to Lower Extremity, Molded Inner Boot
L2300	\$227.18	Addition to Lower Extremity, Abduction Bar (Bilateral Hip Involvement), Jointed, Adjustable
L2310	\$103.80	Addition to Lower Extremity, Abduction Bar, Straight
L2320	\$212.82	Addition to Lower Extremity, Non-molded Lacer for Custom Fabricated Orthosis Only
L2330	\$370.76	Addition to Lower Extremity, Lacer Molded to Patient Model for Custom Fabricated, Orthosis Only
L2335	\$253.28	Addition to Lower Extremity, Anterior Swing Band
L2340	\$377.11	Addition to Lower Extremity, Pre-tibial Shell, Molded to Patient Model
L2350	\$751.85	Addition to Lower Extremity, (Prosthetic Type) BK Socket, Molded to Patient Model (Used for PTB AFO Orthoses)
L2360	\$43.65	Addition to Lower Extremity, Extended Steel Shank
L2370	\$216.60	Addition to Lower Extremity, Patten Bottom
L2375	\$102.13	Addition to Lower Extremity, Torsion Control, Ankle Joint and Half Solid Stirrup
L2380	\$103.88	Addition to Lower Extremity, Torsion Control, Straight Knee Joint, Each Joint
L2385	\$144.06	Addition to Lower Extremity, Straight Knee Joint, Heavy Duty Each Joint
L2387	\$186.19	Addition to Lower Extremity Orthosis, Polycentric Knee Joint, for Custom Fabricated KAFO, Each Joint
L2390	\$123.16	Addition to Lower Extremity, Offset Knee Joint, Each Joint
L2395	\$176.02	Addition to Lower Extremity, Offset Knee Joint, Heavy Duty, Each Joint
L2397	\$90.76	Lower Extremity (LE) Orthotic Add-on, Suspension Sleeve
L2405	\$76.78	Addition to Knee Joint Lock, Drop, Stance or Swing Phase, Each Joint "Addition to Knee Joint, Drop Lock, Each"
L2415	\$106.97	Addition to Knee Lock with Integrated Release Mechanism (Bail, Cable, or Equal), Any Material, Each Joint.
L2425	\$126.25	Addition to Knee Joint, Disc or Dial Lock for Adjustable Knee Flexion, Each Joint
L2430	\$126.25	Addition to Knee Joint, Ratchet Lock for Active and Progressive Knee Extension, Each Joint
L2492	\$100.10	Addition to Knee Joint, Lift Loop for Drop Lock Ring
L2500	\$354.93	Addition to Lower Extremity, Thigh/Weight Bearing, Gluteal/Ischial Weight Bearing, Ring
L2510	\$682.55	Addition to Lower Extremity, Thigh/Weight Bearing, Quadrilateral Brim, Molded to Patient Model
L2520	\$502.79	Addition to Lower Extremity, Thigh/Weight Bearing, Quadrilateral Brim, Custom Fitted
L2525	\$1,371.41	Addition to Lower Extremity, Thigh/Weight Bearing, Ischial Containment/Narrow M-l Brim, Molded to Patient Model
L2526	\$745.28	Addition to Lower Extremity, Thigh/Weight Bearing, Ischial Containment/Narrow M-l Brim, Custom Fitted
L2530	\$224.85	Addition to Lower Extremity, Thigh/Weight Bearing, Lacer, Non-molded
L2540	\$475.65	Addition to Lower Extremity, Thigh/Weight Bearing, Lacer Molded to Patient Model
L2550	\$242.34	Addition to Lower Extremity, Thigh/Weight Bearing, High Roll Cuff

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L2570	\$401.90	Addition to Lower Extremity, Pelvic Control, Hip Joint, Clevis Type, Two Position Joint, Each
L2580	\$436.95	Addition to Lower Extremity, Pelvic Control, Pelvic Sling
L2600	\$173.29	Addition to Lower Extremity, Pelvic Control, Hip Joint, Clevis Type, or Thrust Bearing, Free, Each
L2610	\$204.91	Addition to Lower Extremity, Pelvic Control, Hip Joint Clevis Type, or Thrust Bearing, Lock, Each
L2620	\$300.81	Addition to Lower Extremity, Pelvic Control, Hip Joint Heavy Duty, Each
L2622	\$344.84	Addition to Lower Extremity, Pelvic Control, Hip Joint Adjustable Flexion, Each
L2624	\$279.42	Addition to Lower Extremity, Pelvic Control, Hip Joint, Adjustable Flexion, Extension, Abduction Control, Each
L2627	\$1,928.65	Addition to Lower Extremity, Pelvic Control, Plastic, Molded to Patient Model, Reciprocating Hip Joint and Cables
L2628	\$1,648.55	Addition to Lower Extremity, Pelvic Control, Metal Frame, Reciprocating Hip Joint and Cables
L2630	\$259.05	Addition to Lower Extremity, Pelvic Control, Band and Belt, Unilateral
L2640	\$371.31	Addition to Lower Extremity, Pelvic Control, Band and Belt, Bilateral
L2650	\$101.52	Addition to Lower Extremity, Pelvic and Thoracic Control, Gluteal Pad, Each
L2660	\$209.42	Addition to Lower Extremity, Thoracic Control, Thoracic Band
L2670	\$143.93	Addition to Lower Extremity, Thoracic Control, Paraspinal Uprights
L2680	\$132.04	Addition to Lower Extremity, Thoracic Control, Lateral Support Uprights
L2750	\$94.04	Addition to Lower Extremity Orthosis, Plating Chrome or Nickel, per Bar
L2755	\$115.04	Addition to Lower Extremity Orthosis, High Strength, Light Weight Material, Hybrid Lam/prepreg Composite per Segment, Custom Fabricated Only
L2760	\$51.27	Addition to Lower Extremity Orthosis, Extension, per Bar for Lineal Adjustment for Growth
L2768	\$114.75	Orthotic Side Bar Disconnect Device, per Bar
L2780	\$76.14	Addition to Lower Extremity Orthosis, Non-corrosive Finish, per Bar
L2785	\$28.92	Addition to Lower Extremity Orthosis, Drop Lock Retainer, Each
L2795	\$95.60	Addition to Lower Extremity Orthosis, Knee Control, Full Kneecap
L2800	\$120.00	Addition to Lower Extremity Orthosis, Knee Control, Kneecap Medial or Lateral Pull, for Use with Custom Fabricated Orthosis Only
L2810	\$87.87	Addition to Lower Extremity Orthosis, Knee Control, Condylar Pad
L2820	\$97.30	Addition to Lower Extremity Orthosis, Soft Interface for Molded Plastic, below Knee Section
L2830	\$105.69	Addition to Lower Extremity Orthosis, Soft Interface for Molded Plastic, above Knee Section
L2840	\$32.27	Addition to Lower Extremity Orthosis, Tibial Length Sock, Fracture or Equal, Each
L2850	\$58.36	Addition to Lower Extremity Orthosis, Femoral Length Sock, Fracture or Equal, Each
L2999	A.A.C.+50%	Unlisted Procedures for Lower Extremity Orthosis
L3000	\$276.68	Foot, Insert, Removable, Molded to Patient Model, (UCB Type), Berkley Shell, Each
L3001	\$116.50	Foot, Insert, Removable, Molded to Patient Model, Spenco, Each
L3002	\$142.25	Foot, Insert, Removable, Molded to Patient Model, Plastazote or Equal, Each
L3003	\$153.49	Foot, Insert, Removable, Molded to Patient Model, Silicone Gel, Each
L3010	\$153.49	Foot, Insert, Removable, Molded to Patient Model, Longitudinal Arch Support, Each
L3020	\$174.75	Foot, Insert, Removable, Molded to Patient Model, Longitudinal/Metatarsal Support, Each
L3030	\$67.22	Foot, Insert, Removable, Formed to Patient Foot, Each
L3031	A.A.C.+70%	Foot, Insert/Plate, Removable, Addition to Lower Extremity Orthosis, High Strength, Lightweight Material, All Hybrid Lamination, Each
L3040	\$36.15	Foot, Arch Support, Removable, Premolded, Longitudinal, Each
L3050	\$36.15	Foot, Arch Support, Removable, Premolded, Metatarsal, Each
L3060	\$56.66	Foot, Arch Support, Removable, Premolded, Longitudinal/Metatarsal, Each
L3070	\$24.40	Foot, Arch Support, Non-removable Attached to Shoe, Longitudinal, Each
L3080	\$24.40	Foot, Arch Support, Non-removable Attached to Shoe, Metatarsal, Each

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L3090	\$31.27	Foot, Arch Support, Non-removable Attached to Shoe, Longitudinal/Metatarsal, Each
L3100	\$28.66	Foot, Insert, Removable, Molded To Patient Model, Ucb Type, Berkley Shell, Each
L3140	\$68.41	Foot, Abduction Rotation Bar, Including Shoes
L3150	\$62.54	Foot, Abduction Rotation Bar without Shoes
L3160	A.A.C.+50%	Foot, Adjustable, Shoe Style Positioning Device
L3170	\$33.74	Foot, Plastic Heel Stabilizer "Silcone or Equal, Each"
L3201	\$61.12	Orthopedic Shoe, Oxford with Supinator or Pronator, Infant
L3202	\$53.48	Orthopedic Shoe, Oxford with Supinator or Pronator, Child
L3203	\$64.49	Orthopedic Shoe, Oxford with Supinator or Pronator, Junior
L3204	A.A.C.+50%	Orthopedic Shoe, Hightop with Supinator or Pronator, Infant
L3206	A.A.C.+50%	Orthopedic Shoe, Hightop with Supinator or Pronator, Child
L3207	A.A.C.+50%	Orthopedic Shoe, Hightop with Supinator or Pronator, Junior
L3208	A.A.C.+50%	Surgical Boot, Each, Infant
L3209	A.A.C.+50%	Surgical Boot, Each, Child
L3211	A.A.C.+50%	Surgical Boot, Each, Junior
L3212	A.A.C.+50%	Benesch Boot, Pair, Infant
L3213	A.A.C.+50%	Benesch Boot, Pair, Child
L3214	A.A.C.+50%	Benesch Boot, Pair, Junior
L3215	A.A.C.+50%	Orthopedic Footwear, Ladies Shoes, Oxford "Each"
L3216	A.A.C.+50%	Orthopedic Footwear, Ladies Shoes, Depth Inlay "Each"
L3217	A.A.C.+50%	Orthopedic Footwear, Ladies Shoes, Hightop, Depth Inlay "Each"
L3219	A.A.C.+50%	Orthopedic Footwear, Mens Shoes, Oxford "Each"
L3221	A.A.C.+50%	Orthopedic Footwear, Mens Shoes, Depth Inlay "Each"
L3222	\$122.24	Orthopedic Footwear, Mens Shoes, Hightop, Depth Inlay "Each"
L3224	\$62.89	Orthopedic Footwear, Woman's Shoe, Oxford, Used as an Integral Part of a Brace (Orthosis)
L3225	\$76.10	Orthopedic Footwear, Man's Shoe, Oxford, Used as an Integral Part of a Brace (Orthosis)
L3230	A.A.C.+70%	Orthopedic Footwear, Custom Shoes, Depth Inlay "Each"
L3250	\$383.81	Orthopedic Footwear, Custom Molded Shoe, Removable Inner Mold, Prosthetic Shoe, Each
L3251	A.A.C.+70%	Foot, Shoe Molded to Patient Model, Silicone Shoe, Each
L3252	\$389.36	Foot, Shoe Molded to Patient Model, Plastazote (or Similar), Custom Fabricated, Each
L3253	A.A.C.+50%	Foot, Molded Shoe, Plastazote (or Similar) Custom Fitted, Each
L3254	A.A.C.+70%	Non-standard Size or Width
L3255	A.A.C.+70%	Non-standard Size or Length
L3257	A.A.C.+70%	Orthopedic Footware, Additional Charge for Split Size
L3260	A.A.C.+70%	Ambulatory Surgical Boot, Each
L3265	A.A.C.+50%	Plastazote Sandal, Each
L3300	\$45.92	Lift, Elevation, Heel, Tapered to Metatarsals, per Inch
L3310	\$71.69	Lift, Elevation, Heel and Sole, Neoprene, per Inch
L3320	\$59.11	Lift Elevation, Heel and Sole, Cork, per Inch
L3330	\$498.47	Lift, Elevation, Metal Extension (Skate)
L3332	\$64.95	Lift, Elevation, Inside Shoe, Tapered, up to One-half Inch
L3334	\$33.62	Lift, Elevation, Heel, per Inch
L3340	\$75.08	Heel Wedge, Sach
L3350	\$20.18	Heel Wedge
L3360	\$31.36	Sole Wedge, outside Sole
L3370	\$43.65	Sole Wedge, between Sole
L3380	\$43.65	Clubfoot Wedge
L3390	\$43.65	Outflare Wedge
L3400	\$35.85	Metatarsal Bar Wedge, Rocker
L3410	\$81.76	Metatarsal Bar Wedge, between Sole
L3420	\$48.18	Full Sole and Heel Wedge, between Sole
L3430	\$141.14	Heel, Counter, Plastic Reinforced
L3440	\$67.22	Heel, Counter, Leather Reinforced

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L3450	\$92.98	Heel, Sach Cushion Type
L3455	\$35.85	Heel, New Leather, Standard
L3460	\$30.22	Heel, New Rubber, Standard
L3465	\$51.53	Heel, Thomas with Wedge
L3470	\$54.89	Heel, Thomas Extended to Ball
L3480	\$54.89	Heel, Pad and Depression for Spur
L3485	\$17.73	Heel, Pad-removeable for Spur
L3500	\$25.76	Misc Shoe Addition, Insole, Leather
L3510	\$25.76	Misc Shoe Addition, Insole, Rubber
L3520	\$27.97	Misc Shoe Addition, Insole, Felt Covered with Leather
L3530	\$27.97	Misc Shoe Addition, Sole, Half
L3540	\$44.83	Misc Shoe Addition, Sole, Full
L3550	\$7.82	Misc Shoe Addition, Toe Tap, Standard
L3560	\$20.18	Misc Shoe Addition, Toe Tap, Horseshoe
L3570	\$75.08	Orthopedic Shoe Addition, Special Extension to Instep Leather with Eyelets
L3580	\$57.12	Orthopedic Shoe Addition, Convert Instep to Velcro Closure
L3590	\$47.05	Orthopedic Shoe Addition, Convert Firm Shoe Counter to Soft Counter
L3595	\$36.95	Orthopedic Shoe Addition, March Bar
L3600	\$67.22	Transfer of an Orthosis from One Shoe to Another, Caliper Plate Existing
L3610	\$88.48	Transfer of an Orthosis from One Shoe to Another, Caliper Plate New
L3620	\$67.22	Transfer of an Orthosis from One Shoe to Another, Solid Stirrup Existing
L3630	\$88.48	Transfer of an Orthosis from One Shoe to Another, Solid Stirrup New
L3640	\$38.08	Transfer of an Orthosis from One Shoe to Another, Dennis Brown Splint (Riveton), Both Shoes
L3649	A.A.C.+70%	Orthopedic Shoe Modification, Addition or Transfer
L3650	\$52.95	Shoulder Orthosis (SO), Abduction Restrainer Prefabricated, Includes Fitting and Adjustments
L3660	\$98.70	Shoulder Orthosis, Abduction Restrainer, Prefabricated, Includes Fitting and Adjustments
L3670	\$81.45	Shoulder Orthosis, Acromio/Clavical (Canvas and Webbing Type) Prefabricated, Includes Fitting and Adjustments
L3671	\$722.30	Shoulder Orthosis, Shoulder Joint Design, without Joints, May Include Soft Interface, Straps, Custom Fabricated, Includes Fitting and Adjustments
L3674	\$947.50	Shoulder Orthosis, Abduction Positioning (Airplane Design), Thoracic Component and Support Bar, with or without Non-torsion Joint/Turnbuckle, May Include Soft Interface, Straps, Custom Fabricated, Includes Fitting and Adjustments
L3675	\$140.67	Shoulder Orthosis, (Vest Type) Abduction Restrainer, Canvas
L3677	A.A.C.+50%	Shoulder Orthosis, Shoulder Joint Design, without Joints, May Include Soft Interface, Straps, Prefabricated, Includes Fitting and Adjustments
L3678	A.A.C.+40%	Shoulder Orthosis, Shoulder Joint Design, Without Joints, May Include Soft Interface, Straps, Prefabricated, Off-the-shelf
L3702	\$231.46	Elbow Orthosis (EO) Without Joints, May Include Soft Interface, Straps Custom Fabricated, Includes Fitting and Adjustments
L3710	\$111.82	EO, Elastic with Metal Joints, Prefabricated, Includes Fitting and Adjustment
L3720	\$540.06	EO, Double Upright with Forearm/Arm Cuffs, Free Motion, Custom Fabricated
L3730	\$992.41	EO, Double Upright with Forearm/Arm Cuffs, Extension Flexion Assist, Custom Fabricated
L3740	\$1,176.59	EO, Double Upright with Forearm/Arm Cuffs, Adjustable Position Lock with Active Control, Custom Fabricated
L3760	\$349.68	EO, with Adjustable Position Locking Joint(s), Prefabricated, Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L3761	\$353.53	EO, with Adjustable Position Locking Joint(s), Prefabricated, Off-the-shelf
L3762	\$75.19	EO, Rigid, without Joints, Includes Interface Prefabricated
L3763	\$583.23	Elbow-wrist-hand Orthosis, Rigid, without Joints

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L3764	\$762.16	Elbow-wrist-hand Orthosis, Includes One or more non-torsion Joints, Elastic Bands, Turnbuckles, May Include Soft Interface, Straps, Custom Fabricated, Includes Fitting and Adjustments
L3765	\$1,027.81	Elbow-wrist-hand-finger Orthosis, Rigid without Joints, May Include Soft Interface, Straps, Custom Fabricated, Including Fitting and Adjustments
L3766	\$1,088.38	Elbow Wrist Hand Finger Orthosis, Includes One or More non-torsion Joints, Elastic Bands, Turnbuckles, May Include Soft Interface, Straps, Custom Fabricated, Includes Fitting and Adjustments
L3806	\$364.12	WHFO, Includes One or More Nontorsion Joint(s), Elastic Bands, Turnbuckles, May Include Soft Interface Material, Straps, Custom Fabricated, Includes Fitting and Adjustments
L3807	\$174.85	WHFO, without Joint(s), Prefabricated Includes Fitting and Adjustment, Any Type
L3808	\$338.64	WHFO, Rigid without Joints, May Include Soft Interface Material, Straps, Custom Fabricated, Includes Fitting and Adjustments
L3809	A.A.C.+40%	Shoulder Orthosis, Shoulder Joint Design, without Joints, May Include Soft Interface, Straps, Prefabricated, Off-the-shelf
L3900	\$1,074.20	WHFO, Dynamic Flexor Hinge, Reciprocal Wrist, Ext/Flex Finger Flex/Ext, Wrist or Finger Driven, Custom Fabricated
L3901	\$1,326.89	WHFO, Dynamic Flexor Hinge, Reciprocal Wrist, Ext/Flex Finger Flexion Extension, Cable Driven, Custom Fabricated
L3904	\$2,544.34	WHFO, External Powered, Electric, Custom Fabricated
L3905	\$794.94	Wrist Hand Orthosis, Includes One or More non-torsion Joints, Elastic Bands, Turnbuckles, May Include Soft Interface, Straps, Custom Fabricated, Includes Fitting and Adjustments
L3906	\$387.34	WHFO, Wrist, Gauntlet, Custom Fabricated "without Joints, May Include Soft Interface, Straps"
L3908	\$57.54	Wrist Extension Control Cock-up, Non-molded, Prefabricated, Includes Fitting and Adjustments
L3912	\$68.31	HFO, Flexion Glove with Elastic Finger Control, Pre-fabricated, Includes Fitting and Adjustments
L3913	\$217.10	HFO, without Joints, May Include Soft Interface, Straps, Custom Fabricated, Includes Fitting and Adjustments
L3915	\$371.69	WHFO, Includes One or More Non-torsion Joint(s), Elastic Bands, Turnbuckles, May Include Soft Interface Material, Straps, Prefabricated, Includes Fitting and Adjustments
L3916	A.A.C.+40%	Wrist Hand Orthosis, Includes One or More Nontorsion Joint(s), Elastic Bands, Turnbuckles, May Include Soft Interface, Straps, Prefabricated, Off-the-shelf
L3917	\$73.89	Hand Orthosis, Metacarpal FX Orthosis, Prefabricated, Includes Fitting and Adjustments
L3918	A.A.C.+40%	Hand Orthosis, Metacarpal Fracture Orthosis, Prefabricated, Off-the-shelf
L3919	\$217.10	Hand Orthosis without Joints, May Include Soft Interface, Straps Custom Fabricated, Includes Fitting and Adjustments
L3921	\$257.48	Hand-finger Orthosis, Includes One or More non-torsion Jts, Elastic Bands, Turnbuckles, May Include Soft Interface, Straps, Custom Fabricated, Includes Fitting and Adjustments
L3923	\$83.54	Hand Finger Orthosis, without Joint(s), Prefabricated, Includes Fitting and Adjustment "May Include Soft Interface and Straps"
L3924	A.A.C.+40%	Hand Finger Orthosis, without Joints, May Include Soft Interface, Straps, Prefabricated, Off-the-shelf
L3925	\$37.59	Finger Orthosis, Proximal Interphalangeal (PIP)/distal Interphalangeal (DIP), Non-torsion Joint/Spring, Extension/flexion, May Include Soft Interface Material Prefabricated, Includes Fitting and Adjustments
L3927	\$24.43	Finger Orthosis, Proximal Interphalangeal (Pip)/Distal Interphalangeal (Dip), Without Joint/Spring, Extension/Flexion (e.g., Static or Ring Type), May Include Soft Interface Material, Prefabricated, Includes Fitting and Adjustments

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L3929	\$56.30	Hand Finger Orthosis, Includes One or More Non-torsion Joint(s), Turnbuckles, Elastic Bands/Springs, May Include Soft Interface Material, Straps, Prefabricated, Includes Fitting and Adjustments
L3930	A.A.C.+40%	Hand-finger Orthosis, Includes One or More Non-torsion Joint(s), Turnbuckles, Elastic Bands/Springs, May Include Soft Interface Material, Straps, Prefabricated, Off-the-shelf
L3931	\$148.65	Wrist-hand-finger Orthosis, Includes One or More Non-torsion Joint(s), Turnbuckles, Elastic Bands/Springs, May Include Soft Interface Material, Straps, Prefabricated, Includes Fitting and Adjustments
L3933	\$171.01	Finger Orthosis Without Joints, May Include Soft Interface, Custom Fabricated, Includes Fitting and Adjustments
L3935	\$177.08	Finger Orthosis, Non-torsion Joint, May Include Soft Interface, Custom Fabricated Includes Fitting and Adjustments
L3956	A.A.C.+50%	Addition of Joint to Upper Extremity Orthosis, Any Material per Joint
L3960	\$628.93	Shoulder-elbow-wrist-hand Orthosis (SEWHO), Abduction, Positioning, Airplane Design, Prefabricated, Includes Fitting and Adjustments
L3961	\$1,174.82	Shoulder-elbow-wrist-hand Orthosis, Shoulder Cap Design, without Joints, May Include Soft Interface, Straps, Custom Fabricated, Includes Fitting and Adjustments
L3962	\$689.05	Shoulder-elbow-wrist-hand Orthosis (SEWHO), Abduction Positioning, Erbs Palsey Design, Prefabricated Includes Fitting and Adjustments
L3967	\$1,590.05	Shoulder-elbow-wrist-hand Orthosis, Abduction Positioning, (Airplane Design) Thoracic Comp and Support Bar, Includes Non-torsion, Joint/Turnbuckle, May Include Custom Fabricated, Includes Fitting and Adjustments
L3971	\$1,509.34	Shoulder-elbow-wrist-hand Orthosis, Shoulder Cap Design, Includes One or More Non-torsion Joints, Elastic Bands, Turnbuckles, May Include Soft Interface Custom Fabricated, Includes Fitting and Adjustments
L3973	\$1,590.05	Shoulder-elbow-wrist-hand Orthosis, ABD Posit (Airplane Des) Thoracic Comp and Support Bar, Includes One or More Non-torsion Joints, Elastic Bands, Custom Fabricated, Includes Fitting and Adjustments
L3975	\$1,346.75	Shoulder-elbow-wrist-hand-finger Orthosis, Shoulder Cap Des without Jointss, May Include Custom Fabricated, Includes Fitting and Adjustment
L3976	\$1,346.75	Shoulder-elbow-wrist-hand-finger Orthosis, Abduction Position (Airplane Design), Thor Comp and Support Bar, without Joints, May Include Custom Fabricated, Includes Fitting and Adjustments
L3977	\$1,509.34	Shoulder-elbow-wrist-hand-finger Orthosis, Shoulder Cap Des, Includes One or More Non-torsion Joints, Elastic Bands, Turnbuckles, May Include Custom Fabricated, Includes Fitting and Adjustments
L3978	\$1,590.05	Shoulder-elbow-wrist-hand-finger Orthosis, Abduction Position (Airplane Design), Thor Comp and Support Bar, without Joints, May Include Custom Fabricated, Includes Fitting and Adjustments
L3980	\$296.89	Upper Extremity Fracture Orthosis, Humeral Prefabricated, Includes Fitting and Adjustments
L3981	\$703.85	Upper Extremity Fracture Orthosis, Humeral, Prefabricated, Includes Shoulder Cap Design, with or without Joints, Forearm Section, May Include Soft Interface, Straps, Includes Fitting and Adjustments
L3982	\$312.92	Upper Extremity Fracture Orthosis, Radius/Ulnar Prefabricated, Includes Fitting and Adjustments
L3984	\$311.29	Upper Extremity Fracture Orthosis, Wrist Prefabricated, Includes Fitting and Adjustments
L3995	\$31.41	Upper Extremity Fracture Orthosis, Sock Fracture or Equal, Each
L3999	A.A.C.+50%	Unlisted Procedures for Upper Limb Orthosis
L4000	\$1,289.60	Replace Girdle for Spinal Orthosis
L4002	A.A.C.+70%	Replacement Strap, Any Orthosis, Includes All Components, Any Length, Any Type
L4010	\$566.27	Replace Trilateral Socket Brim
L4020	\$734.12	Replace Quadrilateral Socket Brim, Molded to Patient Model
L4030	\$426.01	Replace Quadrilateral Socket Brim, Custom Fitted
L4040	\$377.10	Replace Molded Thigh Lacer, Custom Fabricated, Orthosis Only

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L4045	\$369.04	Replace Non-molded Thigh Lacer, for Custom Fabricated Orthosis Only
L4050	\$424.28	Replace Molded Calf Lacer, for Custom Fabricated Orthosis Only
L4055	\$300.75	Replace Non-molded Calf Lacer, for Custom Fabricated Orthosis Only
L4060	\$280.84	Replace High Roll Cuff
L4070	\$265.84	Replace Proximal and Distal Upright for KAFO
L4080	\$113.80	Replace Metal Bands KAFO, Proximal Thigh
L4090	\$88.64	Replace Metal Bands KAFO-AFO, Calf or Distal Thigh
L4100	\$99.60	Replace Leather Cuff KAFO, Proximal Thigh
L4110	\$85.61	Replace Leather Cuff KAFO-AFO, Calf or Distal Thigh
L4130	\$418.63	Replace Pretibial Shell
L4205	\$19.05	Repair of Orthotic Device, Labor Component, per 15 Minutes
L4210	A.A.C.+70%	Repair of Orthotic Device, Repair or Replace Minor Parts
L4350	\$76.43	Ankle Control Orthosis, Stirrup Style, Rigid, Includes Any Type Interface (<i>e.g.</i> , Pneumatic, Gel), Prefabricated, Off-the-shelf
L4360	\$271.75	Walking Boot, Pneumatic and/or Vacuum, with or Without Joints, with or Without Interface Material, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L4361	\$271.75	Walking Boot, Pneumatic and/or Vacuum, with or without Joints, with or without Interface Material, Prefabricated, Off-the-shelf
L4370	\$185.28	Pneumatic Full Leg Splint, Prefabricated, Off-the-shelf
L4386	\$121.82	Walking Boot, Non-pneumatic, with or without Joints, with or without Interface Material, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L4387	\$105.12	Walking Boot, Non-pneumatic, with or without Joints, with or without Interface Material, Prefabricated, Off-the-shelf
L4392	\$18.88	Replacement, Soft Interface Material, Static AFO
L4394	\$13.78	Replace Soft Interface Material, Foot Drop Splint
L4396	\$134.69	Static or Dynamic Ankle Foot Orthosis, Including Soft Interface Material, Adjustable for Fit, for Positioning, May Be Used for Minimal Ambulation, Prefabricated Item That Has Been Trimmed, Bent, Molded, Assembled, or Otherwise Customized to Fit a Specific Patient by an Individual with Expertise
L4397	\$116.23	Static or Dynamic Ankle Foot Orthosis, Including Soft Interface Material, Adjustable for Fit, for Positioning, May Be Used for Minimal Ambulation, Prefabricated, Off-the-shelf
L4398	\$62.02	Foot Drop Splint, Recumbent Positioning Device, Prefabricated, Off-the-shelf
L4631	\$1,444.74	Ankle Foot Orthosis, Walking Boot Type, Varus/Valgus Correction, Rocker Bottom, Anterior Tibial Shell, Soft Interface, Custom Arch Support, Plastic or Other Material, Includes Straps and Closures, Custom Fabricated
L5000	\$454.20	Partial Foot, Shoe Insert with Longitudinal Arch, Toe Filler
L5010	\$1,100.93	Molded Socket, Ankle Height, with Toe Filler
L5020	\$1,873.02	Partial Foot, Molded Socket, Tibial Tubercle Height, with Toe Filler
L5050	\$2,449.06	Ankle, Symes, Molded Socket, Sach Foot
L5060	\$2,482.89	Ankle, Symes, Metal Frame, Molded Leather Socket, Articulated Ankle/Foot
L5100	\$2,511.29	Below Knee, Molded Socket, Shin, Sach Foot
L5105	\$3,824.93	Below Knee, Plastic Socket, Joints and Thigh Lacer, Sach Foot
L5150	\$3,229.15	Knee Disarticulation (or Through Knee), Molded Socket, External Knee Joints, Shin, Sach Foot
L5160	\$3,786.82	Knee Disarticulation (or Through Knee), Molded Socket, Bent Knee Configuration, External Knee Joints, Shin, Sach Foot
L5200	\$3,765.76	Above Knee, Molded Socket, Single Axis Constant Friction Knee, Shin, Sach Foot
L5210	\$2,371.25	Above Knee, Short Prosthesis, No Knee Joint (Stubbies) with Foot Blocks, No Ankle Joints, Each
L5220	\$2,545.01	Above Knee, Short Prosthesis, No Knee Joint (Stubbies) with Articulated Ankle/Foot, Dynamically Aligned, Each
L5230	\$3,587.99	Above Knee, for Proximal Femoral Focal Deficiency, Constant Friction Knee, Shin, Sach Foot

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L5250	\$5,008.54	Hip Disarticulation, Canadian Type, Molded Socket, Hip Joint Single Axis Constant Friction Knee, Shin, Sach Foot
L5270	\$5,377.30	Hip Disarticulation, Tilt Table Type; Molded Socket, Locking Hip Joint, Single Axis Constant Friction Knee, Sach Foot
L5280	\$5,386.44	Hemipelvectomy, Canadian Type, Molded Socket, Hip Joint, Single Axis Constant Friction Knee, Shin, Sach Foot
L5301	\$2,205.14	Below Knee, Molded Socket, Shin, Sach Foot, Endoskeletal System
L5312	\$2,965.15	Knee Disarticulation (or Through Knee), Molded Socket, Single Axis Knee, Pylon, Sach Foot, Endoskeletal System
L5321	\$3,110.84	Above Knee, Molded Socket, Open End, Sach Foot, Endoskeletal System, Single Axis Knee
L5331	\$4,635.56	Hip Disarticulation, Canadian Type, Molded Socket, Endoskeletal System, Single Axis Knee
L5341	\$4,543.22	Hemipelvectomy, Canadian Type, Molded Socket, Endoskeletal System, Hip Joint, Single Axis Knee, Sach Foot
L5400	\$1,081.91	Application of Initial Rigid Dressing, Including Fitting Alignment, Suspension, and One Cast Change, below Knee
L5410	\$413.14	Application of Initial Rigid Dressing, Including Fitting Alignment and Suspension, below Knee, Each Additional Cast Change
L5420	\$1,366.40	Application of Initial Rigid Dressing, Including Fitting, Alignment, Suspension, and One Cast Change, AK or Knee Disarticulation
L5430	\$473.28	Application of Initial Rigid Dressing, Including Fitting Alignment, Suspension, AK or Knee Disarticulation, Each Additional Cast Change
L5450	\$366.23	Application of Non-weight Bearing Rigid Dressing, below Knee
L5460	\$538.47	Application of Non-weight Bearing Rigid Dressing, above Knee
L5500	\$1,314.89	Initial, below Knee PTB Type Socket, Usmc or Equal Pylon, No Cover, Sach Foot, Plaster Socket, Direct Formed
L5505	\$1,840.60	Initial, AK Knee Disarticulation, Ischial Level Socket, Usmc or Equal Pylon, No Cover, Sach Foot, Plaster Socket, Direct Formed
L5510	\$1,639.32	Prep, below Knee PTB Type Socket, USMC or Equal Pylon No Cover, Sach Foot, Plaster Socket, Molded to Model
L5520	\$1,716.92	Prep, below Knee PTB Type Socket, USMC or Equal Pylon, No Cover, Sach Foot, Thermoplastic or Equal, Direct Formed
L5530	\$1,870.96	Prep, below Knee PTB Type Socket, USMC or Equal Pylon, No Cover, Sach Foot, Thermoplastic or Equal, Molded to Model
L5535	\$1,702.61	Prep, below Knee PTB Type Socket, USMC or Equal Pylon, No Cover, Sach Foot, Prefabricated, Adjustable Open End Socket
L5540	\$1,855.80	Prep, below Knee PTB Type Socket, USMC or Equal Pylon No Cover, Sach Foot, Laminated Socket, Molded to Model
L5560	\$1,767.50	Prep, AK Disarticulation, Ischial Level Socket, USMC or Equal Pylon, No Cover, Sach Foot, Plaster Socket Molded to Model
L5570	\$2,131.63	Prep, AK Disarticulation, Ischial Level Socket, USMC or Equal Pylon, No Cover, Sach Foot, thermoplastic or Equal, Direct Formed
L5580	\$2,210.73	Prep, AK Disarticulation, Ischial Level Socket, USMC or Equal Pylon, No Cover, Sach Foot, Thermoplastic or Equal, Molded to Model
L5585	\$2,158.71	Prep, AK Disarticulation, Ischial Level Socket, USMC or Equal Pylon, No Cover, Sach Foot, Prefabricated Adjustable Open End Sock
L5590	\$2,492.96	Prep, AK Disarticulation, Ischial Level Socket, USMC or Equal Pylon, No Cover, Sach Foot, Laminated Socket, Molded to Model
L5595	\$4,445.62	Prep, AK Disarticulation, Hemipelvectomy, Pylon, No Cover, Sach Foot Thermoplastic or Equal, Molded to Patient Model
L5600	\$5,256.77	Prep, AK Disarticulation, Hemipelvectomy, Pylon, No Cover, Sach Foot Laminated Socket, Molded to Patient Model
L5610	\$2,223.88	Above Knee, Hydracadence System
L5611	\$1,931.14	AK - Knee Disarticulation, OHC 4- Bar Linkagee, with Friction Swing Phase Control
L5613	\$2,937.38	AK - Knee Disarticulation, OHC 4-Bar Linkagee, with Hydraulic Swing Phase Control

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L5614	\$1489.16	LE Add-on AK Knee Disarticulation, 4-Bar Pneumatic
L5616	\$1,378.31	Above Knee, Universal Multiplex System, Friction Swing Phase Control
L5617	\$518.68	Addition to Lower Extremity, Quick Change Self-aligning Unit above Knee or below Knee, Each
L5618	\$337.08	Test Socket, Symes
L5620	\$333.23	Test Socket, below Knee
L5622	\$406.22	Test Socket, Knee Disarticulation
L5624	\$435.76	Test Socket, above Knee
L5626	\$518.94	Test Socket, Hip Disarticulation
L5628	\$491.69	Test Socket, Hemipelvectomy
L5629	\$380.91	Below Knee, Acrylic Socket
L5630	\$459.41	Symes Type, Expandable Wall Socket
L5631	\$526.64	Above Knee or Knee Disarticulation, Acrylic Socket
L5632	\$227.49	Symes Type, PTB Brim Design Socket 26
L5634	\$355.77	Symes Type, Posterior Opening (Canadian) Socket
L5636	\$305.40	Symes Type, Medial Opening Socket
L5637	\$299.00	Below Knee, Total Contact
L5638	\$437.49	Below Knee, Leather Socket
L5639	\$1,343.83	Below Knee, Wood Socket
L5640	\$574.81	Knee Disarticulation with Leather Socket
L5642	\$556.95	Above Knee, Leather Socket
L5643	\$1,865.53	Hip Disarticulation, Flexible Inner Socket, External Frame
L5644	\$696.71	Above Knee, Wood Socket
L5645	\$798.83	Below Knee, Flexible Inner Socket, External Frame
L5646	\$656.71	Add to BK, Air, Fluid, Gel or Equal Cushion Socket
L5647	\$953.42	Below Knee, Suction Socket
L5648	\$591.84	Add to without, Air, Fluid, Gel or Equal, Cushion Socket
L5649	\$1,711.52	Ischial Containment/Narrow M-I Socket
L5650	\$438.85	Total Contact, above Knee or Knee Disarticulation Socket
L5651	\$1,439.40	Above Knee, Flexible Inner Socket, External Frame
L5652	\$484.26	Suction Suspension, above Knee or Knee Disarticulation Socket
L5653	\$547.86	Knee Disarticulation with Expandable Wall Socket
L5654	\$397.50	Socket Insert, Symes (Kemblo, Pelite, Aliplast, Plastazote, or Equal)
L5655	\$283.78	Socket Insert, below Knee (Kemblo, Pelite, Aliplast, Plastazote or Equal)
L5656	\$336.69	Knee Disarticulation Socket Liner, Kemblo, Pelite, Aliplast Plastazote or Equal
L5658	\$380.08	Socket Insert, above Knee (Kemblo, Pelite, Aliplast, Plastazote or Equal)
L5661	\$729.39	Socket Insert, Multi-durometer, Symes
L5665	\$613.71	Socket Insert, Multi-durometer, below Knee
L5666	\$76.81	Below Knee, Cuff Suspension
L5668	\$111.37	Below Knee, Molded Distal Cushion
L5670	\$259.08	Below Knee, Molded Supracondylar Suspension (PTS or Similar)
L5671	\$447.14	Addition to Lower Extremity, BK/AK Suspension Locking Mechanism (Shuttle, Lanyard or Equal (Excludes Socket Insert)
L5672	\$315.16	Below Knee, Removable Medial Brim Suspension
L5673	\$709.20	Add to BK/AK, Custom Fabricated from Existing Mold or Prefabricated, Socket Insert, Silicone Gel, Elastomeric/Equal with Lock Mech.
L5676	\$426.70	Below Knee, Knee Joints, Single Axis, Pair
L5677	\$590.97	Below Knee, Knee Joints, Polycentric, Pair
L5678	\$35.69	Below Knee, Joint Covers, Pair
L5679	\$590.96	Add to BK/AK, Custom Fab from Existing Mold or Prefababricated Socket Insert, Silicone Gel, Elastomeric/Equal without Lock Mech.
L5680	\$310.62	Below Knee, Thigh Lacer, Non-molded
L5681	\$1,160.82	Add to BK/AK, Custom Fabricated Socket Insert for Congenital/Atypical Traumatic Amputee, with or without Locking Mechanism, Initial Only
L5682	\$749.58	Below Knee, Thigh Lacer, Gluteal/Ischial, Molded
L5683	\$1,160.82	Add to BK/AK, Custom Fabricated Socket Insert, Other than Congenital or Atypical Traumatic Amputee, with or without Locking Mechanism

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L5684	\$54.20	Below Knee, Fork Strap
L5685	\$113.04	Addition to Lower Extremity Prosthesis, BK, Suspension Sealing Sleeve, with or without Valve, Any Material, Each
L5686	\$54.13	Below Knee, Back Check (Extension Control)
L5688	\$63.84	Below Knee, Waist Belt, Webbing
L5690	\$117.28	Below Knee, Waist Belt, Padded and Lined
L5692	\$141.28	Above Knee, Pelvic Control Belt, Light
L5694	\$217.44	Above Knee, Pelvic Control Belt, Padded and Lined
L5695	\$165.06	Above Knee, Pelvic Control, Sleeve Suspension, Neoprene or Equal, Each
L5696	\$213.15	Above Knee or Knee Disarticulation, Pelvic Joint
L5697	\$96.22	Above Knee or Knee Disarticulation, Pelvic Band
L5698	\$108.01	Above Knee or Knee Disarticulation, Silesian Bandage
L5699	\$216.83	All Lower Extremity Prostheses, Shoulder Harness
L5700	\$2,619.43	Replacement Socket BK, Molded to Patient Model
L5701	\$3,249.63	Replacement Socket AK/KD, with Attach Plate Molded
L5702	\$4,095.66	Replacmnt Socket Hip Dis, with Hip Joint Molded
L5703	\$2,125.29	Ankle, Symes, Molded to Pt Model Socket without Sach Foot, Replacement Only
L5704	\$534.11	Custom-shape Protective Cover, below Knee
L5705	\$979.18	Custom-shaped Protective Cover, above Knee
L5706	\$955.07	Custom-shaped Protective Cover, Knee Disartic.
L5707	\$1,283.14	Custom-shaped Protective Cover, Hip Disarticulation.
L5710	\$365.06	Exoskeletal Knee-shin System, Single Axis, Manual Lock
L5711	\$612.40	Exoskeletal Knee-shin System, Single Axis, Manual Lock, Ultra-light Material
L5712	\$486.59	Exoskeletal Knee-shin System, Single Axis, Friction Swing and Stance Phase Control (Safety Knee)
L5714	\$438.09	Exoskeletal Knee-shin System, Single Axis, Variable Friction Swing Phase Control
L5716	\$787.09	Exoskeletal Knee-shin System, Polycentric, Mechanical Stance Phase Lock
L5718	\$945.41	Exoskeletal Knee-shin System, Polycentric, Friction Swing and Stance Phase Control
L5722	\$887.02	Exoskeletal Knee-shin System, Single Axis, Pneumatic Swing, Friction Stance Phase Control
L5724	\$1,631.63	Exoskeletal Knee-shin System, Single Axis, Fluid Swing Phase Control
L5726	\$2,026.88	Exoskeletal Knee-shin System, Single Axis, External Joints, Fluid Swing Phase Control
L5728	\$2,852.04	Exoskeletal Knee-shin System, Single Axis, Fluid Swing and Stance Phase Control
L5780	\$1,096.89	Exoskeletal Knee-shin System, Single Axis, Pneumatic/Hydrapneumatic Swing Phase Control
L5781	\$3,530.98	Addition to Lower Limb Prosthesis, Vacuum Pump, Residual Limb Volume Management and Moisture Evacuation System
L5782	\$3,722.46	Addition to Lower Limb Prosthesis, Vacuum Pump, Residual Limb Volume Management and Moisture Evacuation System, heavy Duty
L5785	\$622.73	Exoskeletal System, below Knee, Ultra-light Material Titanium, Carbon Fiber or Equal
L5790	\$861.81	Exoskeletal System, above Knee, Ultra-light Material Titanium, Carbon Fiber or Equal
L5795	\$1,286.91	Hip Disarticulation, Ultra-light Material (Titanium, Carbon, Fiber or Equal)
L5810	\$583.55	Endoskeletal Knee-shin System, Single Axis, Manual Lock
L5811	\$874.14	Endoskeletal Knee-shin System, Single Axis, Manual Lock, Ultra-light Material
L5812	\$661.28	Single Axis, Friction Swing and Stance Phase Control, Safety Knee
L5814	\$3,277.42	Endo Knee Single Axis Variable Swing Phase Control
L5816	\$824.36	Endoskeletal Knee-shin System, Polycentric, Mechanical Stance Phase Lock
L5818	\$1,151.03	Endoskeletal Knee-shin System, Polycentric, Friction Swing and Stance Phase Control
L5822	\$2,041.08	Endoskeletal Knee-shin System, Single Axis, Pneumatic Swing, Friction Stance Phase Control
L5824	\$1,601.73	Endoskeletal Knee-shin System, Single Axis, Fluid Swing Phase Control
L5826	\$2,802.82	Addition, Endoskeletal Knee-shin System, single Axis Hydraulic Swing Phase Control with Miniature High Activity Frame

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L5828	\$3,384.73	Single Axis, Fluid Swing and Stance Phase Control
L5830	\$2,274.37	Single Axis, Pneumatic Swing Phase Control
L5840	\$3,330.29	Addon Endo Knee-shin System, Multiaxial Pneumatic
L5845	\$1,581.75	Addition, Endoskeletal, Knee-shin System, Stance Flexion Feature, Adjustable
L5848	\$948.97	Addition to Endoskeletal, Knee-shin System, Hydraulic Stance Extension, Dampening Feature, with or without Adjustability
L5850	\$115.00	Above Knee or Hip Disarticulation, Knee Extension Assist
L5855	\$277.62	Addon Endo System Hip Disarticulation, Mechanical Hip Ext Assis
L5856	\$21,426.33	Add to Lower Extremity Prosthesis Endoskeletal Knee-shin System, Microprocessor Control Feature, Swing/Stance Phase with Sensors
L5857	\$7,758.64	Add to Lower Extremity Prosthesis, Endoskeletal Knee-shin System microprocessor Control Feature, Swing Phase Only/Electronic Sensor(s)
L5858	\$16,401.24	Addition to Lower Extrem Prosthesis, Endoskeletal Knee-shin System, Microprocessor Control Feature, Stance Phase Only, Includes Electronic Sensor(s) Any Type
L5859	A.A.C.+40%	Addition to Lower Extremity Prosthesis, Endoskeletal Knee-shin System, Powered and Programmable Flexion/Extension Assist Control, Includes Any Type Motor(s)
L5910	\$434.10	Below Knee, Alignable System
L5920	\$635.97	Above Knee or Hip Disarticulation, Alignable System
L5925	\$302.05	Add-on Endoskeletal System, AK KD or Hip Disarticulation Manual
L5930	\$3,120.28	Additional Endoskeletal System-high Activity Knee Control Frame
L5940	\$450.92	Below Knee, Ultra-light Material (Titanium, Carbon Fiber, or Equal)
L5950	\$878.15	Above Knee, Ultra-light Material (Titanium, Carbon Fiber or Equal)
L5960	\$965.93	Endoskeletal System, Hip Disarticulation, Ultra-light Material Titanium, Carbon Fiber or Equal
L5961	\$4,102.86	Addition, Endoskeletal System, Polycentric Hip Joint, Pneumatic or Hydraulic Control, Rotation Control, with or without Flexion and/or Extension Control
L5962	\$528.39	Add-on Endoskeletal System - BK, Nuskin Finish or Equivalent
L5964	\$957.30	Add-on Endoskeletal System - AK, Nuskin Finish or Equivalent
L5966	\$1,233.16	Add-on Endoskeletal System Hip Disarticulation, Nuskin Finish or Equivalent
L5968	\$3,206.90	All Lower Extremity Prosthesis, Ankle, Multiaxial Shock Absorbing System
L5969	\$11,837.76	Addition, Endoskeletal Ankle-foot or Ankle System, Power Assist, Includes Any Type Motor(s)
L5970	\$243.42	All Lower Extremity Prostheses, Foot, External Keel Sach Foot - Used to Be L5700
L5971	\$243.42	All Lower Extrem Prosthesis, Sach Foot, Replacement Only
L5972	\$369.31	All Lower Extremity Prostheses, Foot, Flexible Keel
L5973	\$15,483.00	Endoskeletal Ankle Foot System, Microprocessor Controlled Feature, Dorsiflexion and/or Plantar Flexion Control, Includes Power Source
L5974	\$273.10	Foot, Single Axis Ankle/Foot - Used to Be L5702 Equal
L5975	\$409.11	All Lower Extremity Prosthesis, Combination Single Axis Ankle and Flexible Keel Foot
L5976	\$617.66	Energy Storing Foot (Seattle, Carbon Copy II or Equal) Recorked Replacement for L5703
L5978	\$333.88	Foot, Multiaxial Ankle/Foot (Greissinger or Equal - Used to Be L5704)
L5979	\$2,129.17	Multiaxial Ankle/Foot, Dynamic - All LE Prosthesis
L5980	\$3,912.68	Flex Foot System - Used to Be L5705
L5981	\$2,913.94	Flex-walk System or, Equal - All LE Prosthesis
L5982	\$690.02	Axial Rotation Unit - Used to Be L5706
L5984	\$622.29	All Endoskeletal Prostheses, Axial Rotation Unit with or without Adjustability
L5985	\$261.77	All Endoskeletal Lower Extremity Prostheses, Dynamic Prosthetic Pylon
L5986	\$583.12	Multi-axial Rotation Unit MCP or Equal
L5987	\$6,348.37	All Lower Extrem Prost, Shank Foot System with Vertical Loading Pylon
L5988	\$1,762.96	All Lower Extremity Prosthesis, Combination Vertical Shock and Multiaxial Rotation/Torsional Force Reducing Pylon
L5990	\$1,601.04	Addition to Lower Extremity Prosthesis, User Adjustable Heel Height
L5999	A.A.C.+50%	Unlisted Procedures for Lower Extremity Prosthesis

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L6000	\$1,194.41	Partial Hand, Robin-aids with Thumb Remaining (or Equal)
L6010	\$1,329.19	Partial Hand, Robin-aids, Fifth and/or Ring Finger Remaining or Equal)
L6020	\$1,239.26	Partial Hand, Robin-aids, No Finger Remaining (or Equal)
L6026	\$3,803.01	Transcarpal/Metacarpal or Partial Hand Disarticulation Prosthesis, External Power, Self-suspended, Inner Socket with Removable Forearm Section, Electrodes and Cables, Two Batteries, Charger, Myoelectric Control of Terminal
L6050	\$1,891.80	Molded Socket, Flexible Elbow Hinges, Triceps Pad
L6055	\$2,986.57	Molded Socket with Expandable Interface, Flexible Elbow Hing <i>e.g.</i> , Triceps Pad
L6100	\$1,903.68	Below Elbow, Molded Socket, Flexible Elbow Hinge, Triceps Pad
L6110	\$1,900.45	Below Elbow, Molded Socket (Muenster or Northwestern Suspension Types)
L6120	\$2,401.62	Below Elbow, Molded Double Wall Split Socket, Step-up Hinges, Half Cuff
L6130	\$2,610.05	Below Elbow, Molded Double Wall Splint Socket, Stump Activated Locking Hinge, Half Cuff
L6200	\$2,987.97	Elbow Disarticulation, Molded Socket, Between Locking Hinge, Forearm
L6205	\$4,142.01	Elbow Disarticulation, Molded Socket with Expandable Interface, Between Locking Hinges, Forearm
L6250	\$2,476.53	Molded Double Wall Socket, Internal Locking Elbow, Forearm
L6300	\$4,462.77	Molded Socket, Shoulder Bulkhead, Humeral Section, Internal Locking Elbow, Forearm
L6310	\$2,727.93	Shoulder Disarticulation, Passive Restoration (Complete Prosthesis)
L6320	\$1,543.30	Shoulder Disarticulation, Passive Restoration (Shoulder Cap Only)
L6350	\$3,521.09	Interscapular Thoracic, Molded Socket, Shoulder Bulkhead, Humeral Section, Internal Locking Elbow, Forearm
L6360	\$2,863.29	Interscapular Thoracic, Passive Restoration (Complete Prosthesis)
L6370	\$1,883.40	Interscapular Thoracic, Passive Restoration (Shoulder Cap Only)
L6380	\$1,054.67	Immediate Post Surgical or Early Fitting, Application of Initial Rigid Dressing, One Cast Change, Wrist, below Elbow
L6382	\$1,374.52	Immediate Post Surgical or Early Fitting, Application of Initial Rigid Dressing One Cast Change, above Elbow
L6384	\$1,713.93	Immediate Post Surgical or Early Fitting, Application of Initial Rigid Dressing, One Cast Change, Shoulder
L6386	\$406.57	Immediate Post Surgical or Early Fitting, Each Additional Cast Change and Realignment
L6388	\$526.93	Immediate Post Surgical or Early Fitting, Application of Rigid Dressing Only
L6400	\$2,085.90	Below Elbow, Molded Socket, Endoskeletal System, Including Soft Prosthetic Tissue Shaping
L6450	\$3,629.64	Elbow Disarticulation, Molded Socket, Endoskeletal System, Including Soft Prosthetic Tissue Shaping
L6500	\$3,128.65	Above Elbow, Molded Socket, Endoskeletal System, Including Soft Prosthetic Tissue Shaping
L6550	\$3,679.23	Shoulder Disarticulation, Molded Socket, Endoskeletal System Including Soft Prosthetic Tissue Shaping
L6570	\$4,997.16	Interscapular Thoracic, Molded Socket, Endoskeletal System, Including Soft Prosthetic Tissue Shaping
L6580	\$1,458.15	Preparatory, Wrist Disarticulation or below Elbow, Single Wall Plastic Socket, Friction Wrist, Flexible Elbow Hinges
L6582	\$1,290.35	Preparatory, Wrist Disarticulation or below Elbow, Single Wall Socket, Friction Wrist, Flexible Elbow Hinges, Figure Eight
L6584	\$2,134.08	Friction Wrist, Locking Elbow, Figure Eight Harnes, Fair Lead Control, USMC or Equal Pylon, No Cover Molded to Patient
L6586	\$1,865.51	Elbow Disarticulation or above Elbow, Single Wall Socket, Friction Wrist, Locking Elbow, Figure Eight Harness, Direct Formed
L6588	\$3,137.60	Shoulder Disarticulation, Single Wall Socket, Shoulder Joint, Locking Elbow, Friction Wrist, Chest Strap, Molded to Patient
L6590	\$2,770.04	Shoulder Disarticulation, Single Wall Socket, Shoulder Joint Locking Elbow, Friction Wrist, Chest Strap, Direct Formed

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334.03: continued

<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L6600	\$168.62	Upper Extremity Additions, Polycentric Hinge, Pair
L6605	\$166.49	Upper Extremity Additions, Single Pivot Hinge, Pair
L6610	\$149.67	Upper Extremity Additions, Flexible Metal Hinge, Pair
L6611	\$363.36	Addition to Upper Extremity Prosthesis, External Powered, Additional Switch, Any Type
L6615	\$156.16	Upper Extremity Addition, Disconnect Locking Wrist Unit
L6616	\$56.29	Upper Extremity Addition, Additional Disconnect Insert for Locking Wrist Unit, Each
L6620	\$289.60	Upper Extremity Addition, Flexion/Extension Wrist Unit, with or without Friction
L6621	\$2,018.53	Upper Extremity Prosthesis Addition, Flexion/Extension Assist Wrist with or without Friction, for Use with External Powered TD's by Motion Control
L6623	\$634.09	Upper Extremity Addition, Spring Assisted Rotational Wrist Unit with Latch Release
L6624	\$3,323.56	Upper Extremity Addition, Flexion/Extension and Rotation Wrist Unit
L6625	\$637.47	Upper Extremity Addition, Rotation Wrist Unit with Cable Lock
L6628	\$511.36	Upper Extremity Addition, Quick Disconnect Hook Adapter, Otto Bock or Equal
L6629	\$135.82	Upper Extremity Addition, Quick Disconnect Lamination Collar with Coupling Piece, Otto Bock or Equal
L6630	\$258.32	Upper Extremity Addition, Stainless Steel, Any Wrist with Coupling Piece, Otto Bock or Equal
L6632	\$62.78	Upper Extremity Addition, Latex Suspension Sleeve, Each
L6635	\$161.99	Upper Extremity Addition, Lift Assist for Elbow
L6637	\$440.11	Upper Extremity Addition, Nudge Control Elbow Lock
L6638	\$2,206.88	Upper Extremity Addition to Prosthesis Electric Locking Feature for Use with Manually Powered Elbow
L6640	\$251.81	Upper Extremity Addition, Shoulder Abduction Joint, Pair
L6641	\$170.91	Upper Extremity Addition, Excursion Amplifier, Pulley Type
L6642	\$239.08	Upper Extremity Addition, Excursion Amplifier, Lever Type
L6645	\$286.97	Upper Extremity Addition, Shoulder Flexion-abduction Joint, Each
L6646	\$2,783.37	Upper Extremity Addition, Shoulder Joint, Multipositional Locking, Flexion, Adjustable Abduction Friction Control, Body/External Power
L6647	\$458.21	Upper Extremity Addition, Shoulder Lock Mechanism, Body Powered Actuator
L6648	\$2,870.65	Upper Extremity Addition, Shoulder Lock Mechanism, External Powered Actuator
L6650	\$331.80	Upper Extremity Addition, Shoulder Universal Joint, Each
L6655	\$73.90	Upper Extremity Addition, Teflon, or Equal, Cable Lining
L6660	\$104.67	Heavy Duty Control Cable
L6665	\$50.34	Cable Lining, Teflon or Equal
L6670	\$46.03	Upper Extremity Addition, Hook to Hand, Cable Adapter
L6672	\$151.58	Upper Extremity Addition, Harness, Chest or Shoulder, Saddle Type
L6675	\$143.97	Upper Extremity Addition, Harness, (e.g., Figure of Eight Type) Single Cable Design
L6676	\$114.04	Upper Extremity Addition, Harness (e.g., Figure of Eight Type) Dual Cable Design
L6677	\$261.79	Upper Extremity Addition, Harness, Triple Control, Simultaneous Operation of Terminal Device and Elbow Triple Control Harness by Ottobock
L6680	\$212.23	Upper Extremity Addition, Test Socket, Wrist Disarticulation or below Elbow
L6682	\$258.25	Upper Extremity Addition, Test Socket, Elbow Disarticulation or above Elbow
L6684	\$386.23	Upper Extremity Addition, Test Socket, Elbow Disarticulation or Interscapular Thoracic
L6686	\$707.60	Upper Extremity Addition, Suction Socket
L6687	\$518.52	Frame Type Socket, below Elbow or Wrist Disarticulation
L6688	\$503.27	Upper Extremity Addition, Frame Type Socket, above Elbow or Elbow Disarticulation
L6689	\$618.94	Upper Extremity Addition, Frame Type Socket, Shoulder Disarticulation
L6690	\$649.10	Upper Extremity Addition, Frame Type Socket, Interscapular-thoracic
L6691	\$413.74	Upper Extremity Addition, Removable Insert, Each
L6692	\$559.79	Upper Extremity Addition, Silicone Gel Insert or Equal, Each
L6693	\$2,505.39	Upper Extremity Addition, External Locking Elbow, Forearm Counterbalance
L6694	\$709.20	Add to Upper Extremity Prosthesis, BE/AE, Custom Fabricated from Existing Mold or Prefabricated, Socket Insert, Silicone Gel or Equal/Lock
L6695	\$590.96	Add to Upper Extremity Prosthesis, BE/AE Custom Fabricated from Existing Mold or Prefabricated Socket Insert Silicone Gel or Equal No Lock

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (Continued)
L6696	\$1,160.82	Add to Upper Extremity Prosthesis, BE/AE, Custom. Fabricated Socket Insert, with or without Lock, Silicone Gel, Elastomeric or Equal, Initial Only
L6697	\$1,160.82	Add to Upper Extremity Prosthesis BE/AE, Custom Fabricated Socket Insert Not for Cong/Atypical Trauma Amp, Silicone Gel with or without Lock
L6698	\$447.14	Add to Upper Extremity Prosthesis, BE/AE, Locking Mechanism, Excludes Socket Insert
L6703	\$347.84	Terminal Device, Sport/Recreational/Work Attachment, Any Material, Any Size
L6704	\$526.46	Terminal Device, Hook, Mechanical, Voluntary Opening, Any Material, Any Size, Lined or Unlined
L6706	\$359.53	Terminal Device, Hook, Mechanical, Voluntary Opening, Any Material, Any Size, Lined or Unlined
L6707	\$1,294.97	Terminal Device, Hook, Mechanical, Voluntary Closing, Any Material, Any Size, Lined or Unlined
L6708	\$778.97	Terminal Device, Hand, Mechanical, Voluntary Opening, Any Material, Any Size
L6709	\$1,089.10	Terminal Device, Hand, Mechanical, Voluntary Closing, Any Material, Any Size
L6711	\$517.55	Terminal Device, Hook, Mechanical, Voluntary Opening, Any Material, Any Size, Lined or Unlined, Pediatric
L6712	\$952.94	Terminal Device, Hook, Mechanical, Voluntary Closing, Any Material, Any Size, Lined or Unlined, Pediatric
L6713	\$1,202.73	Terminal Device, Hand, Mechanical, Voluntary Opening, Any Material, Any Size, Pediatric
L6714	\$1,018.69	Terminal Device, Hand, Mechanical, Voluntary Closing, Any Material, Any Size, Pediatric
L6715	A.A.C.+70%	Terminal Device, Multiple Articulating Digit, Includes Motor(s), Initial Issue or Replacement
L6721	\$1,810.61	Terminal Device, Hook or Hand, Heavy Duty, Mechanical, Voluntary Opening, Any Material, Any Size, Lined or Unlined
L6722	\$1,560.89	Terminal Device, Hook or Hand, Heavy Duty, Mechanical, Voluntary Closing, Any Material, Any Size, Lined or Unlined
L6805	\$325.07	Terminal Device, Modificationier Wrist Flexion Unit
L6810	\$167.87	Terminal Device, Pincher Tool, Otto Bock or Equal
L6880	A.A.C.+70%	Electric Hand, Switch or Myoelectric Controlled, Independently Articulating Digits, Any Grasp Pattern or Combination of Grasp Patterns, Includes Motor(s)
L6881	\$3,607.83	Automatic Grasp Feature, Addition to Upper Limb Prosthetic Terminal Device
L6882	\$2,736.71	Microprocessor Control Feature, Addition to Upper Limb Prosthetic Terminal Device
L6883	\$1,426.52	Replacement Socket, below Elbow/Wrist Disarticulation, Molded to PT Model, for Use with/without External Power
L6884	\$2,024.23	Replacement Socket, above Elbow Disarticulation, Molded to PT Model for Use with or without External Power
L6885	\$2,863.29	Replacement Socket, Shoulder Disartic/Interscapular Thoracic Molded to PT Model, for Use with or without External Power
L6890	\$147.49	Glove for Terminal Device, Any Material Prefabricated
L6895	\$669.28	Glove for Terminal Device, Any Material Custom Fabricated
L6900	\$1,357.82	Hand Restoration (Casts, Shading and Measurements Included) Partial Hand, with Glove, Thumb or One Finger Remaining
L6905	\$1,319.84	Hand Restoration (Casts, Shading and Measurements Included), Partial Hand, with Glove, Multiple Fingers Remaining
L6910	\$1,285.79	Hand Restoration (Casts, Shading and Measurements Included), Partial Hand, with Glove, No Fingers Remaining
L6915	\$604.16	Hand Restoration (Shading and Measurements Included), Replacement Glove for above
L6920	\$6,856.22	Wrist Disarticulation, External Power, Self Suspended Inner Socket, Removable Forearm Shell, Two Batteries and One Charger
L6925	\$7,971.14	Wrist Disarticulation, External Power, Self-suspended Inner Socket, Removable Forearm Shell, Myoelectronic Control

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L6930	\$6,684.73	Below Elbow, External Power, Self-suspended Inner Socket Removable Forearm Shell, Two Batteries and One Charger
L6935	\$7,782.50	Below Elbow, External Power, Self-suspended Inner Socket, Removable Forearm Shell, Otto Bock or Equal Electrodes
L6940	\$8,532.15	Elbow Disarticulation, External Power, Molded Inner Socket, Removable Forearm Shell, Otto Bock/Equal Electrodes,
L6945	\$9,711.56	Elbow Disarticulation, External Power, Molded Inner Socket, Removable Humeral Shell, Between Locking Hinges
L6950	\$8,970.72	Above Elbow, External Power, Molded Inner Socket, Removable Humeral Shell, Internal Locking Elbow, Forearm, Otto Bock
L6955	\$10,860.69	Above Elbow, External Power, Molded Inner Socket, Removable Humeral Shell, Internal Locking Elbow, Forearm, Otto Bock
L6960	\$11,971.39	Shoulder Disarticulation, External Power, Molded Inner Socket, Removable Shoulder Shell, Shoulder Bulkhead,
L6965	\$14,046.10	Shoulder Disarticulation, External Power, Molded Inner Socket, Removable Shoulder Shell, Shoulder Bulkhead,
L6970	\$15,035.01	Interscapular-thoracic, External Power, Molded Inner Socket, Removable Shoulder Shell, Shoulder Bulkhead
L6975	\$16,946.22	Interscapular-thoracic, External Power, Molded Inner Socket, Removable Shoulder Shell, Shoulder Bulkhead
L7007	\$3,258.98	Electric Hand, Switch or Myoelectric Controlled, Adult
L7008	\$5,506.67	Electric Hand, Switch or Myoelectric Controlled, Pediatric
L7009	\$3,416.45	Electric Hook, Switch or Myoelectric Controlled, Adult
L7040	\$2,611.85	Prehensile Actuator, Hosmer or Equal, Switch Controlled
L7045	\$1,452.99	Electronic Hook, Child, Michigan or Equal, Switch Controlled
L7170	\$5,322.18	Electronic Elbow, Hosmer or Equal, Switch Controlled
L7180	\$33,836.78	Electronic Elbow, Microprocessor Sequential Control of Elbow and Terminal Device
L7181	\$35,359.68	Electronic Elbow, Microprocessor Simultaneous Control of Elbow and Terminal Device
L7185	\$5,543.67	Electronic Elbow, Adolescent, Variety Village or Equal, Switch Controlled
L7186	\$8,748.52	Electronic Elbow, Child, Variety Village or Equal, Switch Controlled
L7190	\$7,429.37	Electronic Elbow, Adolescent, Variety Village or Equal, Myoelectronically Controlled
L7191	\$9,209.95	Electronic Elbow, Child, Variety Village or Equal, Myoelectronically Controlled
L7259	A.A.C.+70%	Electronic Wrist Rotator, Any Type
L7360	\$242.00	Electronic Wrist Rotator, Otto Bock Or Equal
L7362	\$250.12	Battery Charger, Six Volt, Otto Bock or Equal
L7364	\$452.61	Twelve Volt Battery, Utah or Equal, Each
L7366	\$616.17	Battery Charger, 12 Volt, Utah or Equal
L7367	\$343.58	Lithium Ion Battery, Rechargeable, Replacement
L7368	\$445.38	Lithium Ion Battery, Charger
L7400	\$270.48	Addition to Upper Extremity Prosthesis, below Elbow/Wrist Disarticulation Ultra-light Material, (Titanium, Carbon Fiber or Equal)
L7401	\$302.80	Addition to Upper Extremity Prosthesis, above Elbow Disarticulation, Ultra-light Material, (Titanium, Carbon Fiber or Equal)
L7402	\$327.00	Addition to Upper Extremity Prosthesis, Shoulder Disarticulation/Interscap Thoracic, Ultra-light Material (Titanium, Carbon Fiber or Equal)
L7403	\$324.98	Addition to Upper Extrem Prosthesis, below Elbow/Wrist Disarticulation Acrylic Material
L7404	\$490.51	Addition to Upper Extremity Prosthesis, above Elbow Disarticulation, Acrylic Material
L7405	\$641.51	Addition to Upper Extremity Prosthesis, Shoulder Disarticulation/Interscap Thoracic, Acrylic Material
L7499	A.A.C.+50%	Unlisted Procedures for Upper Extremity Prosthesis
L7510	A.A.C.+70%	Repair of Prosthetic Device, Repair or Replace Minor Parts
L7520	\$26.57	Repair Prosthetic Device, Labor Component, per 15 Minutes
L7600	A.A.C.+70%	Prosthetic Donning Device, Any Material, Each
L7700	\$99.36	Gasket or Seal, For Use with Prosthetic Socket Insert, Any Type, Each
L7900	\$464.69	Male Vacuum Erection System

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<u>CODE</u>	<u>RATE</u>	<u>DESCRIPTION</u> (continued)
L7902	A.A.C.+70%	Tension Ring, for Vacuum Erection Device, Any Type, Replacement Only, Each
L8000	\$29.16	Breast Prosthesis, Mastectomy Bra, without Integrated Breast Prosthesis Form, Any Size, Any Type
L8001	\$96.56	Breast Prosthesis, Mastectomy Bra, with Integrated Breast Prosthesis Form, Unilateral, Any Size, Any Type
L8002	\$127.00	Breast Prosthesis, Mastectomy Bra, with Integrated Breast Form, Bilateral, Any Size, Any Type
L8010	\$48.33	Lymphedema Sleeve
L8015	\$46.15	External Breast Prosthesis Garment, with Mastectomy Form Post Mastectomy (Softie)
L8020	\$157.32	Mastectomy Form
L8030	\$284.63	Silicone or Equal Breast Prosthesis
L8031	\$284.63	Breast Prosthesis, Silicone or Equal, with Integral Adhesive
L8032	\$26.02	Nipple Prosthesis, Reusable, Any Type, Each
L8035	\$3,233.12	Custom Breast Prosthesis, Post Mastectomy, Molded to Patient Model
L8039	A.A.C.+50%	Breast Prosthesis, Not Otherwise Specified
L8300	\$66.15	Truss, Single with Standard Pad
L8310	\$104.44	Truss, Double with Standard Pads
L8320	\$55.53	Truss, Addition to Standard Pad, Water Pad
L8330	\$51.62	Truss, Addition to Standard Pad, Scrotal Pad
L8400	\$14.05	Prosthetic Sheath, below Knee, Each
L8410	\$21.66	Prosthetic Sheath, above Knee, Each
L8415	\$22.41	Prosthetic Sheath, Upper Limb, Each
L8417	\$57.80	Prosthetic Sock/Sheath - AK/BK - with Gel Cushion Layer
L8420	\$16.30	Prosthetic Sock, Wool, below Knee, Each
L8430	\$19.09	Prosthetic Sock, Wool, above Knee, Each
L8435	\$21.29	Prosthetic Sock, Wool, Upper Limb, Each
L8440	\$36.88	Prosthetic Shrinker, below Knee, Each
L8460	\$60.13	Prosthetic Shrinker, above Knee, Each
L8465	\$46.07	Prosthetic Shrinker, Upper Limb, Each
L8470	\$5.23	Prosthetic Sock, Single Ply, Fitting, below Knee, Each
L8480	\$9.15	Prosthetic Sock, Single Ply, Fitting, above Knee, Each
L8485	\$9.17	Stump Sock Single Ply, Fitting Upper Limb, Each
L8499	A.A.C.+40%	Unlisted Procedure for Miscellaneous Prosthetic Services
L8600	\$493.94	Implantable Breast Prosthesis, Silicone or Equal
L8603	\$296.30	Injectable Bulking Agent, Collagen Implant, Urinary Tract, 2.5 ML Syringe, Includes Shipping and Necessary Supplies
L8604	A.A.C.+40%	Injectable Bulking Agent, Dextranomer/Hyaluronic Acid Copolymer Implant, Urinary Tract, 1 ML, Includes Shipping and Necessary Supplies
L8605	\$475.78	Injectable Bulking Agent, Dextranomer/Hyaluronic Acid Copolymer Implant, Anal Canal, 1 ML, Includes Shipping and Necessary Supplies
L8606	\$145.62	Injectable Bulking Agent, Synthetic Implant, Urinary Tract, 1 ML Syringe, Includes Shipping and Necessary Supplies
L8609	\$5,015.79	Artificial Cornea
L8610	\$459.00	Ocular Implant
L8612	\$562.64	Aqueous Shunt
L8613	\$245.01	Ossicula Implant
L8614	\$15,014.06	Cochlear Device, Includes All Internal and External Components
L8615	\$299.60	Headset/Headpiece for Use with Cochlear Implant Device, Replacement
L8616	\$69.79	Microphone for Use with Cochlear Implant Device, Replacement
L8617	\$60.95	Transmitting Coil for Use with Cochlear Implant Device, Replacement
L8618	\$17.42	Transmitter Cable for Use with Cochlear Implant Device, Replacement
L8619	\$6,445.44	Cochlear Implant External Speech Processor, Replacement
S1040	\$1,540.95	Cranial Remolding Orthosis (Helmet) Rigid, with Soft Interface Material

334.04: Reporting Requirements

(1) Required Reports. All providers must comply with the requirements of 957 CMR 6.00: *Cost Reporting Requirements*.

(2) Penalty for Noncompliance. The purchasing governmental unit may impose a penalty in the amount of up to 15% of its payments to any provider that fails to submit required information. The purchasing governmental unit will notify the provider in advance of its intention to impose a penalty under 101 CMR 334.04(2).

334.05: Severability of Provisions

The provisions of 101 CMR 334.00 are severable. If any provision of 101 CMR 334.00 or the application of any provision to the sale of prostheses, prosthetic devices or orthotic devices is held invalid or unconstitutional, such determination will not affect the validity or constitutionality of any other provision of 101 CMR 334.00 or the application of any other provision.

REGULATORY AUTHORITY

101 CMR 334.00: M.G.L. c. 118E.

NON-TEXT PAGE



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 101 CMR 346.00

CHAPTER TITLE: Rates for Certain Substance-related and Addictive Disorders Programs

AGENCY: Executive Office of Health and Human Services

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

101 CMR 346.00 governs the payment rates for certain substance-related and addictive disorders programs provided to publicly aided individuals by governmental units.

REGULATORY AUTHORITY: M.G.L. c. 118E

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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.*

Executive Order 145 notifications: September 7, 2018

Executive Order 562 approval: December 11, 2018

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: October 12, 2018

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

For the first and second year: estimated total annualized increase of \$830,135

For the first five years: _____

No fiscal effect: _____

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

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

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:*

101 CMR 346.00 is being amended.

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: Dec 14 2018

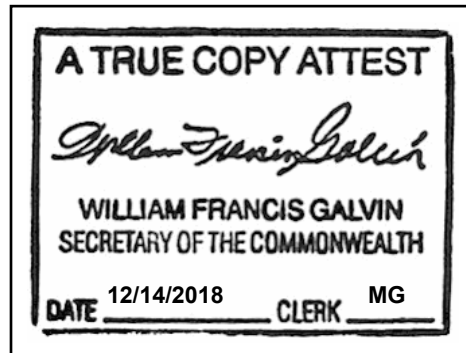
Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1381 DATE: 12/28/2018

EFFECTIVE DATE: 12/28/2018

CODE OF MASSACHUSETTS REGULATIONS

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901 - 906	901 - 906
907 - 910	907 - 910



101 CMR 346.00: RATES FOR CERTAIN SUBSTANCE-RELATED AND ADDICTIVE DISORDERS PROGRAMS

Section

- 346.01: General Provisions
- 346.02: Definitions
- 346.03: Filing and Reporting Requirements
- 346.04: Rate Provisions
- 346.05: Severability

346.01: General Provisions

- (1) Scope. 101 CMR 346.00 governs the payment rates for certain substance-related and addictive disorders services purchased by a governmental unit. The rates for health care services set forth in 101 CMR 346.00 also apply to individuals covered by the Workers' Compensation Act, M.G.L. c. 152.
- (2) Effective Date. The effective date for rates under 101 CMR 346.00 is as provided under 101 CMR 346.04(4), unless otherwise specifically noted.
- (3) Disclaimer of Authorization of Services. 101 CMR 346.00 is neither authorization for nor approval of the services for which rates are determined pursuant to 101 CMR 346.00. Governmental units that purchase the services described in 101 CMR 346.00 are responsible for the definition, authorization, and approval of services extended to clients.
- (4) Coding Updates and Corrections. EOHHS may publish procedure code updates and corrections in the form of an administrative bulletin. The publication of such updates and corrections will list
 - (a) codes for which only the code numbers change, with the corresponding cross references between existing and new codes;
 - (b) deleted codes for which there are no corresponding new codes; and
 - (c) codes for entirely new services that require pricing. EOHHS will list these codes and apply individual consideration (I.C.) reimbursement for these codes until appropriate rates can be developed.
- (5) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on substantive provisions of 101 CMR 346.00.

346.02: Definitions

As used in 101 CMR 346.00, unless the context requires otherwise, terms have the meanings in 101 CMR 346.02.

Acute Treatment Provider (ATP). An eligible provider of acute treatment services.

Acute Treatment Services (Inpatient). Those medically managed and/or monitored acute intervention and stabilization services that provide supervised detoxification to individuals in acute withdrawal from alcohol or other drugs and address the biopsychosocial problems associated with alcoholism and other drug addictions requiring a 24-hour supervised inpatient stay.

Approved Program Rate. The rate per service unit approved by EOHHS and filed with the Secretary of the Commonwealth.

Case Consultation. A meeting with a professional of another agency to resolve treatment issues or to exchange other relevant client information. Case consultation may be billed only for face-to-face meetings that are necessary as a result of the inability or inappropriateness of other forms of communication, such as telephone and letter. Such circumstances and services must be documented in the client's record and be available as part of any record audit that the purchasing agency may perform.

346.02: continued

Case Management. Services, as specified by the MassHealth program, that coordinate the substance-related and addictive disorders treatment of pregnant women with other medical and community services that are critical to the needs of the woman and her pregnancy. Case management is billable only for women enrolled in the Day Treatment Program. Service is limited to one hour per week per enrollee, provided in no less than 15-minute increments.

Child Enhancement for Residential Rehabilitation Services. A supplemental rate to reflect the costs of young children who may be accompanying their parents in the program.

Client. An individual that receives substance-related and addictive disorders services purchased by a governmental unit.

Client Resources. Revenue received in cash or in kind from publicly assisted clients to defray all or a portion of the cost of program services. Client resources may include payments made by publicly assisted clients to defray the room and board expense of residential services, clients' food stamps, or payments made by clients according to ability to pay or sliding fee scale.

Clinical Case Management Master's Level. Individualized case management provided as part of a clinical outpatient service that facilitates ongoing engagement in community-based treatment and recovery services; links to community resources such as housing, employment, education, and health care; and facilitates access to mainstream benefits and includes evidence-based models that integrate clinical treatment and case management services.

Clinical Case Management Non-master's Level. Individualized case management provided as part of a clinical outpatient service that facilitates ongoing engagement in community-based treatment and recovery services; links to community resources such as housing, employment, education, and health care; and facilitates access to mainstream benefits.

Clinically Managed Detoxification Services. Medical assessment, intensive counseling, and case management services to clients who are not intoxicated or have been safely withdrawn from alcohol or other drugs or are addicted to a drug that does not require medical withdrawal. These clients require a 24-hour supervised inpatient stay to address the acute emotional, behavioral, or biomedical distress resulting from an individual's use of alcohol or other drugs. This level of service includes four hours of nursing services seven days a week. These services are governed by the Massachusetts Department of Public Health at 105 CMR 164.133(A)(1)(c): *Clinically Managed Detoxification*.

Cost Report. The document used to report costs and other financial and statistical data. The Uniform Financial Statements and Independent Auditor's Report (UFR) are used when required.

Couple Counseling. Therapeutic counseling provided to a couple whose primary complaint or concern is disruption of their relationship or family due to substance-related and addictive disorders.

Day Treatment. A highly structured day treatment program for substance-related and addictive disorders that meets the service criteria set forth by the Massachusetts Department of Public Health pursuant to 105 CMR 164.231, 164.232(A) through (C) and MassHealth. A Day Treatment Program operates at least 3½ hours a day, five days a week.

Driver Alcohol Education. The program of services, provided through licensed outpatient substance-related and addictive disorders counseling programs, legislated by M.G.L. c. 90, § 24D to first offender drunk drivers adjudicated in Massachusetts courts.

Educational/Motivational Session. A meeting between staff of a Driver Alcohol Education Program and not more than 15 clients. Clients are required to participate in 32 hours of this interactive group programming through 16 two-hour groups.

346.02: continued

Enhanced Acute Treatment Services. A program that is medically managed and/or monitored acute intervention and stabilization services, provides supervised detoxification to dually diagnosed individuals in acute withdrawal from alcohol or other drugs, and addresses the mental health needs and biopsychosocial problems associated with alcoholism and other drug addictions requiring a 24-hour supervised inpatient stay.

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

Established Charge. The lowest fee that is charged or accepted as payment by the provider to the general public or any third party payer, other than a governmental unit, for the provision of services. Fees based upon the client's ability to pay, as in the case of a sliding fee scale, and fees subject to EOHHS review and approval are not established charges.

Extraordinary Circumstances/Flex Funding. A method whereby a purchasing governmental unit may provide resource allocations to a client and/or provider for specific support services in order to address extraordinary circumstances.

Family Counseling. The therapeutic counseling of more than one member of a family at the same time in the same session, where the primary complaint or concern is disruption of the family due to substance-related and addictive disorders.

Family Residential Treatment Service. A structured and comprehensive rehabilitative environment in programs ranging in size from 11 to 16 family units. Such services support a resident's recovery from alcohol and/or other drug problems, support the family's recovery from the effects of substance-related and addictive disorders, and encourage movement toward independence.

Family Sober Living Program. A transitional sober living environment for families recovering from substance-related and addictive disorders that assists and supports families in their recovery to achieve self-sufficiency and independent living. This is achieved through

- (a) case management services within an alcohol- and drug-free living environment that supports the active search for permanent housing and employment and reinforces recovery; and
- (b) establishing community-based supports to maintain ongoing goals in the recovery process.

Federally Qualified Health Centers (FQHCs) Office Based Opioid Treatment (OBOT). Community-based programs offering medication-assisted treatment (MAT) options in Federally Qualified Health Centers (FQHCs), community health centers (CHCs), or entities fully licensed under 105 CMR 164.00: *Licensure of Substance Abuse Treatment Programs*, 130.00: *Hospital Licensure*, or 140.00: *Licensure of Clinics* who are in good standing.

Governmental Unit. The Commonwealth, any board, commission, department, division, or agency of the Commonwealth and any political subdivision of the Commonwealth.

Group Counseling. Therapeutic counseling to an unrelated group of people having a common problem or concern that is associated with substance-related and addictive disorders.

Individual Consideration (I.C.). Payment rates for certain services are designated as individual consideration (I.C.). Where I.C. rates are designated, the purchasing governmental unit will determine the appropriate payment as the actual cost of the item or service as evidenced by invoice, published tuition amount, or other price reasonably obtained by a competitive market for the product or service.

Individual Counseling. A therapeutic meeting between the staff of an eligible provider and an individual whose primary complaint or concern is his or her substance-related and addictive disorder or that of a significant other.

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Individual Assessment Session. A meeting between a clinician and a client to explore the client's current and past substance-related and addictive disorders, psychosocial history, and motivation for change and to make recommendations for an appropriate level of care for treatment. Full assessment documentation is required.

In-home Therapy. A therapeutic counseling service for substance-related and addictive disorders provided in the home by a clinician. In-home therapy is allowed when specific barriers to accessing services at a clinic site are identified for the client. The need for in-home therapy is reassessed at least every 90 days.

Jail Diversion. A continuum of services prescribed by the courts as an alternative to jail. The first phase consists of approximately three months in a 24-hour, structured, therapeutic, semi-secure residential setting. Evidence-based treatment services are provided to address resistance to care, co-occurring disorders, criminogenic issues, and prepare individuals to engage in ongoing substance-related and addictive disorders treatment. In the second phase, a case manager is assigned to each client for approximately nine months to assist the client's transition to community treatment and ancillary services.

Medically Monitored Inpatient Detoxification Services. Acute detoxification and related treatment services provided to individuals whose current or potential withdrawal symptoms constitute a risk to the patient's health and well-being and require medical monitoring. These services are governed by the Massachusetts Department of Public Health at 105 CMR 164.133(A)(1)(b): *Medically Monitored Inpatient Detoxification Services*.

Medical Services Visit. A medical services visit to an opioid treatment program includes medical assessment, medical case management, and dispensing of medication to opiate-addicted individuals who require support of opioid substitution therapy, as noted in the Department of Public Health's standard RFR program description of Opioid Treatment Programs and pursuant to 105 CMR 164.302: *Provision of Services - All Opioid Treatment* and 164.303: *Additional Service Requirements for Opioid Detoxification*.

Office-based Opioid Treatment (OBOT). These programs provide medically monitored treatment services for clients who are addicted to opiate drugs such as heroin or pain medications in a primary care setting. Services combine medical and pharmacological interventions with case management and supportive services. Services are offered on both a short and long-term basis.

Office-based Opioid Treatment (OBOT) Wraparound Services. Services that provide administrative support to OBOT programs and case management services to individuals who are participating in an OBOT program utilizing medication-assisted treatment (MAT).

Operating Agency. An individual, group, partnership, corporation, trust, or other legal entity that operates a program.

Opioid Treatment. Medically monitored treatment services for opiate-addicted clients that combines medical and pharmacological interventions with professional counseling, education, and vocational services. Services are offered on both a short-term (detoxification) and long-term (treatment) basis. Any individuals who are addicted to opiate drugs and are medically screened as appropriate are eligible.

P4P Eligible Provider (P4PEP). A provider that provides a P4P eligible service.

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P4P Eligible Service. A substance-related and addictive disorders treatment class of services, such as transitional support services or acute treatment services, that has been identified by the purchasing governmental unit as eligible for participation in a P4P program.

Pay for Performance (P4P). A value-based purchasing program implemented by a purchasing governmental unit to pay providers to perform activities related to improving the quality of care delivered to clients.

Postpartum Enhancement for Residential Rehabilitation Services. A supplemental rate to cover the additional staffing and other costs necessary to meet the needs of postpartum women and their infants in the program.

Pregnant Enhancement for Residential Rehabilitation Services. A supplemental rate to cover the additional staffing and other costs necessary to meet the needs of pregnant women in the program.

Provider. Any individual, group, partnership, trust, corporation, or other legal entity that offers services for purchase by a governmental unit and that meets the conditions of purchase or licensure that have been adopted by a purchasing governmental unit.

Psycho-educational Group. An educational group that provides intervention and motivation for individuals who may need substance-related and addictive disorders treatment/intervention services or who are family members of those in need of addiction treatment services.

Publicly Assisted Client. A person who receives program services for which a governmental unit is liable, in whole or in part, under a statutory program of financial assistance.

Purchasing Governmental Unit. A governmental unit that has purchased or is purchasing service units from an eligible provider.

Recovery Coaching. A non-clinical service provided by a trained recovery advocate who provides guidance and coaching for individuals to meet their recovery goals.

Related Party. A person or organization that is associated or affiliated with, has control of, or is controlled by the operating agency or any director, stockholder, partner, or administrator of the operating agency by common ownership or control or in a manner specified in §§ 267(b) and (c) of the Internal Revenue Code of 1954, provided, however, that 10% is the operative factor as set out in §§ 267(b)(2) and (3) and provided further that the definition of "family members" found in § 267(c)(4) of said code includes the following for the purpose of 101 CMR 346.00:

- (a) husband and wife;
- (b) natural parent, child, and sibling;
- (c) adopted child and adoptive parent;
- (d) stepparent and stepchild;
- (e) father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, and daughter-in-law; and
- (f) grandparent and grandchild.

Reporting Year. The operating agency's fiscal year for which costs incurred are reported to the Operational Services Division on the Uniform Financial Statements and Independent Auditor's Report (UFR), normally July 1st to June 30th.

Residential Rehabilitation. The program of services defined as organized substance-related and addictive disorders treatment and education services featuring a planned program of care in a 24-hour residential setting. These services are provided to clients who require safe and stable living environments in order to develop their recovery skills. Types of residential rehabilitation services are those designed for adult individuals, adults with their families, adolescents, and driving under the influence second offenders pursuant to the Massachusetts Department of Public Health at 105 CMR 164.000: *Licensure of Substance Abuse Treatment Programs.*

346.02: continued

Residential Rehabilitation Co-occurring Enhanced. The program of services defined as organized substance-related and addictive disorders treatment and education services featuring a planned program of care in a 24-hour residential setting for individuals with a moderate to severe substance use and mental health disorder. These services are provided to clients in a safe, structured, and developmentally appropriate environment. This specialized program offers appropriate psychiatric and substance use treatment services, including medication evaluation and laboratory services. These services are provided on-site and as appropriate to the severity and urgency of the patient's mental condition.

School-based Targeted Prevention. Developmentally focused, competency-enhancement programs targeting 6 through 12-year old elementary/middle school students who are at risk for early development of conduct problems, emotional dysregulation, or substance use. Program components may include needs assessment, case management, case consultation, individual counseling, psychoeducation groups, parent education and skills training, after-school and summer activities, education services, mentoring, and contingency management.

Second Offender Driver Alcohol Education Residential Rehabilitation. The program of services described in M.G.L. c. 90, § 24 and provided through licensed residential counseling programs to driving under the influence second offenders.

Substance-related and Addictive Disorders Outpatient Counseling. The services defined by the Massachusetts Department of Public Health at 105 CMR 164.200: *Outpatient Services*.

Supportive Case Management. A program for individuals and families residing in recovery-focused transitional and permanent housing settings that includes care coordination, recovery support, housing stabilization, and facilitated access to mainstream benefits, especially primary health care. There are seven services for supportive case management: Permanent Adult, Permanent Families, Permanent Young Adults, Transitional Adults, Transitional Families, Transitional Young Adults, and Low Threshold.

Telephone Recovery Support. A telephone support service provided by a counselor who is trained in an evidence-based model of telephone recovery support.

Transitional Support Services. Residential case management services provided to bridge the gap between detoxification and residential rehabilitation and/or community ambulatory aftercare services. This level of service includes four hours of nursing services seven days a week.

Transitional Support Services with Special Programming for Women. Residential case management services provided to bridge the gap between detoxification and residential rehabilitation and/or community ambulatory aftercare services, and that focus on the unique needs of women; are structured in a smaller residential setting (16 versus 36 beds); and offer more intensive services (more counseling and smaller staff/client ratio).

Treatment for Civilly Committed Persons Add-on. An enhanced level of care that includes transportation, extra medical, psychiatric, recovery specialist care, family counseling, and additional administrative staff for the intake for all civilly committed persons in the Commonwealth. May be purchased in addition to Medically Monitored Detoxification Services, Clinically Managed Detoxification Services, and Transitional Support Services for individuals who have been civilly committed by a district court of the Commonwealth, under M.G.L. c. 123, § 35.

Triage, Engagement, and Assessment Program. The Triage, Engagement, and Assessment (TEA) Program (formerly known as Substance Abuse Shelters for Individuals, or SASI) has as its focused populations homeless and chronically homeless adults active in their addiction who are under the influence at the point of contact with the program. Individuals are assessed, engaged, and stabilized with the intention of moving them into the substance use disorder continuum of care to provide treatment and with the intention of accessing permanent housing. The TEA Program provides a specialized setting for these individuals who often present as behaviorally difficult to manage due to active substance use and are often inappropriate (and frequently ineligible) for non-specialized shelter settings. Individuals in the TEA Program setting are treated with respect in a caring, judgment-free environment.

346.04: continued

(3) Payment Limitations. No purchasing governmental unit may pay less than or more than the approved program rate except as provided in 101 CMR 346.04(2) and (5).

(4) Approved Rates. The approved rate is the lower of the provider's charge or amount accepted as payment from another payer or the rate listed in 101 CMR 346.04. Refer to purchasers' manuals for special coding instructions and limitations on number of units.

(a) Rates Effective January 1, 2019.

Code	Rate	Description
Inpatient Services		
H0010	\$247.82	Alcohol and/or drug services; subacute detoxification (residential addiction program inpatient) (Clinically Managed Detoxification Services)
	\$10.17	Clinician add-on for alcohol and/or drug services; subacute detoxification (residential addiction program inpatient) (Clinically Managed Detoxification Services)
H0011	\$340.32	Alcohol and/or drug services; acute detoxification (residential addiction program inpatient) (Medically Monitored Inpatient Detoxification Services, Facility with 37 or fewer licensed beds)
H0011	\$340.32	Alcohol and/or drug services; acute detoxification (residential addiction program inpatient) (Medically Monitored Inpatient Detoxification Services, Facility with more than 37 licensed beds)
H0011-H9	\$36.03	Alcohol and/or drug services; acute detoxification (residential addiction program inpatient) (court ordered) (Treatment for Civilly Committed Persons Add-on)
Residential Services		
H0018	\$157.25	Behavioral health; short-term residential (nonhospital residential treatment program), <i>per diem</i> (Transitional Support Services, includes room and board)
H0018-H9	\$94.59	Behavioral health; short-term residential (nonhospital residential treatment program), <i>per diem</i> (court ordered) (Second Offender-driver Alcohol Education Residential, includes room and board)
H2034	\$102.53	Alcohol and/or drug abuse halfway house services, <i>per diem</i> (Residential Rehabilitation)
H0019-HD	\$26.20	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (pregnant/parenting women's program) (Residential Rehabilitation Pregnant Enhancement)
H0019-TH	\$83.70	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (obstetrical treatment/services, prenatal or postpartum) (Residential Rehabilitation Postpartum Enhancement)
H0019-HV	\$41.85	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (Residential Rehabilitation Child Enhancement)
H0019-H9	\$159.54	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (court ordered) (Jail Diversion - Phase I)
H0006-H9	\$53.89	Alcohol and/or drug services; case management (court ordered) (Jail Diversion - Phase II, per hour)

346.04: continued

H0019-HR	\$172.36	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (family/couple with client present) (Family Sober Living)
H0019-HF	\$261.12	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (substance abuse program) (Family Residential Treatment for 11 Families)
H0019-HF	\$244.58	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (substance abuse program) (Family Residential Treatment for 12 Families)
H0019-HF	\$230.60	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (substance abuse program) (Family Residential Treatment for 13 Families)
H0019-HF	\$218.60	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (substance abuse program) (Family Residential Treatment for 14 Families)
H0019-HF	\$208.21	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (substance abuse program) (Family Residential Treatment for 15 Families)
H0019-HF	\$199.12	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (substance abuse program) (Family Residential Treatment for 16 or More Families)
H0047-HR	\$50.41	Alcohol and/or drug abuse services, not otherwise specified (family/couple with client present) (Family Residential 2 nd Partner Enhancement, <i>per diem</i>)
H0019-HH	\$239.89	Alcohol and/or drug abuse halfway house services, <i>per diem</i> (Residential Rehabilitation Co-occurring Enhanced for 16 beds)

Opioid Treatment ServicesMedical Services Visit

H0020	\$10.77	Alcohol and/or drug services; methadone administration and/or service (provision of the drug by a licensed program) (dose only visit)
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Counseling

H0004-TF	\$19.39	Behavioral health counseling and therapy, per 15 minutes (opioid individual counseling, intermediate level of care, four units max per day)
H0005-HQ	\$16.84	Alcohol and/or drug services; group counseling by a clinician (group setting) (per 45 minutes, opioid group counseling, two units max per day)
T1006-HR	\$38.52	Alcohol and/or substance abuse services, family/couple counseling (family/couple with client present) (opioid family/couples counseling, per 30 minutes, two units max per day)

Ambulatory ServicesOutpatient Counseling

90882-HF	\$37.43	Environmental intervention for medical management purposes on a psychiatric patient's behalf with agencies, employers, or institutions (substance abuse program) (Consultation with another professional or involved party to clarify and coordinate the treatment of an individual receiving substance-related and addictive disorders treatment services, case consultation, per 30 minutes)
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346.04: continued

H0001	\$18.71	Alcohol and/or drug assessment (per 15 minutes)
H0004	\$18.71	Behavioral health counseling and therapy, per 15 minutes (individual counseling)
H0005	\$16.84	Alcohol and/or drug services; group counseling by a clinician (per 45 minutes)
T1006	\$38.52	Alcohol and/or substance abuse services; family/couple counseling (per 30 minutes)
H2015-HF	\$11.84	Comprehensive community support services, per 15 minutes (substance abuse program) (Telephone Recovery support service by a counselor trained in evidence-based model)
H2019-HF	\$21.00	Therapeutic behavioral services, per 15 minutes (substance abuse program) (in-home counseling by a clinician)
H2027	\$3.89	Psychoeducational service, per 15 minutes (Educational and motivational nonclinical group, per client)
H0038-HF	\$14.57	Self-help/peer service, per 15 minutes (substance abuse program) (recovery support service by a recovery advocate trained in Recovery Coaching)

Clinical Case Management

H0006-HO	\$20.93	Alcohol and/or drug services; case management (Substance-related and addictive disorders service by master's level clinician that uses an evidence-based model that integrates clinical and case management services, per 15 minutes)
H0006-HN	\$14.70	Alcohol and/or drug services; case management (Substance-related and addictive disorders service by non-master's level counselor to engage and link client to treatment and community resources, per 15 minutes)
H0001-H9	\$18.71	Alcohol and/or drug assessment (court ordered) (per 15 minutes)
H0004-H9	\$18.71	Behavioral health counseling and therapy, per 15 minutes (court ordered) (individual counseling)
H0005-H9	\$5.61	Alcohol and/or drug services; group counseling by a clinician (court ordered) (per 15 minutes)

Day Treatment

H2012-HF	\$84.11	Behavioral health day treatment (substance abuse program) (3.5 hours)
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Services for Pregnant/Postpartum ClientsInpatient Services

H0011-HD	\$305.55	Alcohol and/or drug services; acute detoxification (residential addiction program inpatient) (pregnant/parenting women's program) (Medically Monitored Inpatient Detoxification Services, Facility with 37 or fewer licensed beds)
H0011-HD	\$277.30	Alcohol and/or drug services; acute detoxification (residential addiction program inpatient) (pregnant/parenting women's program) (Medically Monitored Inpatient Detoxification Services, Facility with more than 37 licensed beds)

Outpatient Services

H0004-HD	\$18.71	Behavioral health counseling and therapy, per 15 minutes (pregnant/parenting women's program) (individual counseling)
H0005-HD	\$16.84	Alcohol and/or drug services; group counseling by a clinician (pregnant/parenting women's program) (per 45 minutes)
H0006-HD	\$14.70	Alcohol and/or drug services; case management (pregnant/parenting women's program) (per 15 minutes)
T1006-HD	\$38.52	Alcohol and/or substance abuse services; family/couple counseling (pregnant/parenting women's program) (per 30 minutes)

Day Treatment

H1005	\$84.11	Prenatal care, at-risk enhanced service package (includes H1001-H1004) (prenatal care, at-risk enhanced service, antepartum management, care coordination, education, follow-up home visit, individual counseling, per hour)
H1005-HQ	\$84.11	Prenatal care, at-risk enhanced service package (includes H1001-H1004) (group setting) (prenatal care, at-risk enhanced service, antepartum management, care coordination, education, follow-up home visit, day treatment, per 3.5 hours)

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

346.04: continued

Supportive Case Management Services

Unit	Rate	Service
Enrolled Client Day	\$11.37	Permanent Adult
Enrolled Client Day	\$22.92	Permanent Families
Enrolled Client Day	\$33.11	Permanent Young Adult
Enrolled Client Day	\$13.43	Transitional Adult
Enrolled Client Day	\$27.05	Transitional Families
Enrolled Client Day	\$37.23	Transitional Young Adult
Month	\$2,531	House Manager Add-on
Month	\$3,584	Outreach and Staffing Supports
Enrolled Client Day	\$46.42	Low Threshold
N/A	I.C.	Extraordinary Circumstances/Flex Funding
Month	\$15,385	School-based Targeted Prevention

Program	Model	Unit	Rate
Triage, Engagement, and Assessment Services	A	Monthly per slot	\$1,225
	B	Monthly per slot	\$1,556

Service	Tier	Monthly Rate
Office-based Opioid Treatment Programs (OBOTs) Federally Qualified Health Centers (FQHCs) Wraparound Services	Tier 1	\$2,176
	Tier 2	\$3,026
	Tier 3	\$3,875
	Tier 4	\$4,725
	Tier 5	\$5,575
	Tier 6	\$6,689
	Tier 7	\$7,804
	Tier 8	\$8,919
	Tier 9	\$10,034
	Tier 10	\$11,149
FQHCs 25 Client Add-on Rate	Tier 10	\$1,115
Office-based Opioid Treatment Programs (OBOTs) Hospital Wraparound Services	Tier 1	\$4,536
	Tier 2	\$7,643
	Tier 3	\$10,751
	Tier 4	\$13,858
	Tier 5	\$16,966
	Tier 6	\$20,359
	Tier 7	\$23,752
	Tier 8	\$27,145
	Tier 9	\$30,538
	Tier 10	\$33,931

346.04: continued

Service	Tier	Monthly Rate
Hospital 25 Client Add-on Rate	Tier 10	\$3,393
Service	Level	Monthly Rate
Federally Qualified Health Centers (FQHCs) Start-up	Level 1	\$6,554
	Level 2	\$9,566

(b) Rates Effective July 1, 2019.

Code	Rate	Description
Inpatient Services		
H0010	\$247.82	Alcohol and/or drug services; subacute detoxification (residential addiction program inpatient) (Clinically Managed Detoxification Services)
	\$10.17	Clinician add-on for alcohol and/or drug services; subacute detoxification (residential addiction program inpatient) (Clinically Managed Detoxification Services)
H0011	\$340.32	Alcohol and/or drug services; acute detoxification (residential addiction program inpatient) (Medically Monitored Inpatient Detoxification Services, Facility with 37 or fewer licensed beds)
H0011	\$340.32	Alcohol and/or drug services; acute detoxification (residential addiction program inpatient) (Medically Monitored Inpatient Detoxification Services, Facility with more than 37 licensed beds)
H0011-H9	\$36.03	Alcohol and/or drug services; acute detoxification (residential addiction program inpatient) (court ordered) (Treatment for Civilly Committed Persons Add-on)
Residential Services		
H0018	\$157.25	Behavioral health; short-term residential (nonhospital residential treatment program), <i>per diem</i> (Transitional Support Services, includes room and board)
H0018-H9	\$94.59	Behavioral health; short-term residential (nonhospital residential treatment program), <i>per diem</i> (court ordered) (Second Offender-driver Alcohol Education Residential, includes room and board)
H2034	\$102.53	Alcohol and/or drug abuse halfway house services, <i>per diem</i> (Residential Rehabilitation)
H0019-HD	\$26.20	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (pregnant/parenting women's program) (Residential Rehabilitation Pregnant Enhancement)
H0019-TH	\$83.70	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (obstetrical treatment/services, prenatal or postpartum) (Residential Rehabilitation Postpartum Enhancement)
H0019-HV	\$41.85	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (Residential Rehabilitation Child Enhancement)
H0019-H9	\$159.54	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (court ordered) (Jail Diversion-Phase I)
H0006-H9	\$53.89	Alcohol and/or drug services; case management (court ordered) (Jail Diversion-Phase II, per hour)
H0019-HR	\$172.36	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (family/couple with client present) (Family Sober Living)
H0019-HF	\$261.12	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (substance abuse program) (Family Residential Treatment for 11 Families)

346.04: continued

H0019-HF	\$244.58	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (substance abuse program) (Family Residential Treatment for 12 Families)
H0019-HF	\$230.60	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (substance abuse program) (Family Residential Treatment for 13 Families)
H0019-HF	\$218.60	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (substance abuse program) (Family Residential Treatment for 14 Families)
H0019-HF	\$208.21	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (substance abuse program) (Family Residential Treatment for 15 Families)
H0019-HF	\$199.12	Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, <i>per diem</i> (substance abuse program) (Family Residential Treatment for 16 or More Families)
H0047-HR	\$50.41	Alcohol and/or drug abuse services, not otherwise specified (family/couple with client present) (Family Residential 2nd Partner Enhancement, <i>per diem</i>)
H0019-HH	\$239.89	Alcohol and/or drug abuse halfway house services, <i>per diem</i> (Residential Rehabilitation Co-occurring Enhanced for 16 beds)

Opioid Treatment ServicesMedical Services Visit

H0020	\$10.77	Alcohol and/or drug services; methadone administration and/or service (provision of the drug by a licensed program) (dose only visit)
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Counseling

H0004-TF	\$19.39	Behavioral health counseling and therapy, per 15 minutes (opioid individual counseling, intermediate level of care, four units max per day)
H0005-HQ	\$16.84	Alcohol and/or drug services; group counseling by a clinician (group setting) (per 45 minutes, opioid group counseling, two units max per day)
T1006-HR	\$38.52	Alcohol and/or substance abuse services, family/couple counseling (family/couple with client present) (opioid family/couples counseling, per 30 minutes, two units max per day)

Ambulatory ServicesOutpatient Counseling

90882-HF	\$37.43	Environmental intervention for medical management purposes on a psychiatric patient's behalf with agencies, employers, or institutions (substance abuse program) (Consultation with another professional or involved party to clarify and coordinate the treatment of an individual receiving substance-related and addictive disorders treatment services, case consultation, per 30 minutes)
H0001	\$18.71	Alcohol and/or drug assessment (per 15 minutes)
H0004	\$18.71	Behavioral health counseling and therapy, per 15 minutes (individual counseling)
H0005	\$16.84	Alcohol and/or drug services; group counseling by a clinician (per 45 minutes)
T1006	\$38.52	Alcohol and/or substance abuse services; family/couple counseling (per 30 minutes)
H2015-HF	\$11.84	Comprehensive community support services, per 15 minutes (substance abuse program) (Telephone Recovery support service by a counselor trained in evidence-based model)
H2019-HF	\$21.00	Therapeutic behavioral services, per 15 minutes (substance abuse program) (in-home counseling by a clinician)

346.04: continued

H2027	\$3.89	Psychoeducational service, per 15 minutes (Educational and motivational nonclinical group, per client)
H0038-HF	\$14.57	Self-help/peer service, per 15 minutes (substance abuse program) (recovery support service by a recovery advocate trained in Recovery Coaching)

Clinical Case Management

H0006-HO	\$20.93	Alcohol and/or drug services; case management (Substance-related and addictive disorders service by master's level clinician that uses an evidence-based model that integrates clinical and case management services, per 15 minutes)
H0006-HN	\$14.70	Alcohol and/or drug services; case management (Substance-related and addictive disorders service by non-master's level counselor to engage and link client to treatment and community resources, per 15 minutes)
H0001-H9	\$18.71	Alcohol and/or drug assessment (court ordered) (per 15 minutes)
H0004-H9	\$18.71	Behavioral health counseling and therapy, per 15 minutes (court ordered) (individual counseling)
H0005-H9	\$5.61	Alcohol and/or drug services; group counseling by a clinician (court ordered) (per 15 minutes)

Day Treatment

H2012-HF	\$84.11	Behavioral health day treatment (substance abuse program) (3.5 hours)
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Services for Pregnant/Postpartum ClientsInpatient Services

H0011-HD	\$305.55	Alcohol and/or drug services; acute detoxification (residential addiction program inpatient) (pregnant/parenting women's program) (Medically Monitored Inpatient Detoxification Services, Facility with 37 or fewer licensed beds)
H0011-HD	\$277.30	Alcohol and/or drug services; acute detoxification (residential addiction program inpatient) (pregnant/parenting women's program) (Medically Monitored Inpatient Detoxification Services, Facility with more than 37 licensed beds)

Outpatient Services

H0004-HD	\$18.71	Behavioral health counseling and therapy, per 15 minutes (pregnant/parenting women's program) (individual counseling)
H0005-HD	\$16.84	Alcohol and/or drug services; group counseling by a clinician (pregnant/parenting women's program) (per 45 minutes)
H0006-HD	\$14.70	Alcohol and/or drug services; case management (pregnant/parenting women's program) (per 15 minutes)
T1006-HD	\$38.52	Alcohol and/or substance abuse services; family/couple counseling (pregnant/parenting women's program) (per 30 minutes)

Day Treatment

H1005	\$84.11	Prenatal care, at-risk enhanced service package (includes H1001-H1004) (prenatal care, at-risk enhanced service, antepartum management, care coordination, education, follow-up home visit, individual counseling, per hour)
H1005-HQ	\$84.11	Prenatal care, at-risk enhanced service package (includes H1001-H1004) (group setting) (prenatal care, at-risk enhanced service, antepartum management, care coordination, education, follow-up home visit, day treatment, per 3.5 hours)

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

346.04: continued

Supportive Case Management Services

Unit	Rate	Service
Enrolled Client Day	\$11.32	Permanent Adult
Enrolled Client Day	\$22.84	Permanent Families
Enrolled Client Day	\$33.02	Permanent Young Adult
Enrolled Client Day	\$13.39	Transitional Adult
Enrolled Client Day	\$26.96	Transitional Families
Enrolled Client Day	\$37.15	Transitional Young Adult
Month	\$2,515.00	House Manager Add-on
Month	\$3,570.00	Outreach and Staffing Supports
Enrolled Client Day	\$46.24	Low Threshold
N/A	I.C.	Extraordinary Circumstances/Flex Funding
Month	\$15,294.00	School-Based Targeted Prevention Program

Program	Model	Unit	Rate
Triage, Engagement, and Assessment Services	A	Monthly per slot	\$1,225
	B	Monthly per slot	\$1,556

Service	Tier	Monthly Rate	
Office-based Opioid Treatment Programs (OBOTs)	Tier 1	\$2,176	
	Tier 2	\$3,026	
	Tier 3	\$3,875	
	Tier 4	\$4,725	
	Tier 5	\$5,575	
	Tier 6	\$6,689	
	Tier 7	\$7,804	
	Tier 8	\$8,919	
	Tier 9	\$10,034	
	Tier 10	\$11,149	
FQHCs 25 Client Add-on Rate	Tier 10	\$1,115	
	Tier 1	\$4,536	
	Tier 2	\$7,643	
Office-based Opioid Treatment Programs (OBOTs)	Tier 3	\$10,751	
	Tier 4	\$13,858	
	Tier 5	\$16,966	
	Tier 6	\$20,359	
	Tier 7	\$23,752	
	Tier 8	\$27,145	
	Tier 9	\$30,538	
	Tier 10	\$33,931	
	Hospital Wraparound Services	Tier 6	\$20,359
		Tier 7	\$23,752
Hospital 25 Client Add-on Rate	Tier 7	\$23,752	
	Tier 8	\$27,145	
	Tier 9	\$30,538	
	Tier 10	\$33,931	

Service	Level	Monthly Rate
Federally Qualified Health Centers (FQHCs) Start-up	Level 1	\$6,554
	Level 2	\$9,566

346.04: continued

(5) Pay for Performance (P4P) Incentive Payments. Subject to a purchasing governmental unit's determination of the availability of funds, P4P providers receive incentive payments through the Pay for Performance (P4P) Program as defined by the purchasing governmental unit and as follows.

(a) Performance Indicators. Each performance indicator is calculated to produce aggregate numbers that will be used to establish baseline information, attainment thresholds, and performance benchmarks, relative to the distribution of P4P eligible providers. Performance indicator rates are calculated by dividing the numerator by the denominator for each measure to obtain a percentage. A measure's denominator is the number of clients served by a P4P eligible provider who are eligible for the performance measure and the numerator is the subset of the denominator who meets the measure's specific performance criteria.

(b) Payment Eligibility. To be eligible for payment for a performance indicator, a P4P eligible provider must

1. be an eligible provider as of a certain date, the date to be established by the purchasing governmental unit on an annual basis; and
2. have a minimum number (minimum to be established by the purchasing governmental unit) of clients who must meet specific performance indicator criteria during the date range for which performance is being measured.

(c) Performance Score. For each performance indicator for which the P4P eligible provider is eligible per 101 CMR 346.04(5), P4P eligible providers will earn points for either achieving a benchmark or for improving their performance over their previous year's performance. Points will be awarded to a P4P eligible provider for each indicator, according to the methodologies in 101 CMR 346.04(5)(c).

1. Attainment Points. P4P eligible providers may earn points based on where the P4P eligible provider's performance falls, relative to the attainment threshold and to the benchmark set for each performance indicator. The attainment threshold is set at the median of all P4P eligible providers' performance rates. The benchmark is set at the 75th percentile of all P4P eligible providers' performance rates. P4P eligible providers will receive attainment points between the range of zero and ten for each performance indicator, as noted in 101 CMR 346.04(5)(c).

- a. If a P4P eligible provider's performance rate is below the attainment threshold, it will receive zero attainment points.
- b. If a P4P eligible provider's performance rate is greater than or equal to the benchmark, it will receive ten attainment points.
- c. If a P4P eligible provider's performance rate is below the benchmark, but at or above the attainment threshold, the P4P eligible provider will receive anywhere from one to up to but less than ten attainment points, as calculated using the following formula.

P4P Eligible Provider's Attainment Points =

$$\left(\frac{(ATP's \text{ Performance Rate}) - (Attainment \text{ Threshold})}{(Benchmark \text{ Rate}) - (Attainment \text{ Threshold})} \times 9 \right) + 1$$

2. Improvement Points. P4P eligible providers may earn improvement points if the P4P eligible provider has demonstrated improvement from its previous year's performance rate. The P4P eligible provider's improvement points will be calculated based on the following formula:

P4P Eligible Provider's Improvement Points =

$$\left(\frac{(ATP's \text{ Performance Rate}) - (ATP's \text{ Previous Year Performance Rate})}{(Benchmark \text{ Rate}) - (ATP's \text{ Previous Year Performance Rate})} \right) \times 10$$

346.04: continued

3. P4P Eligible Provider Awarded Points. For each performance indicator, the awarded points are the higher of the attainment or improvement points earned by the P4P eligible provider. In no event will the number of points awarded exceed ten for each performance indicator. Each performance indicator's awarded points are then summed across all the indicators a P4P eligible provider is eligible for to determine the total awarded points for a P4P eligible provider.

$$\text{P4P Eligible Provider's Awarded Points} = (\text{Points Awarded Indicator 1}) + (\text{Points Awarded Indicator 2}) + \dots + (\text{Points Awarded Indicator N})$$

4. P4P Eligible Provider Potential Points. The total potential points for a P4P eligible provider is determined by multiplying the number of performance indicators the P4P eligible provider is eligible for (*see* 101 CMR 346.04(5)) by the maximum number of points per performance indicator 10.

$$\text{Potential Points} = (\text{Number of Performance Indicators for which a P4P Eligible Provider is Eligible}) \times 10$$

5. P4P Eligible Provider Performance Score. The P4P eligible provider's performance score reflects a percentage between 0% and 100%. The P4P eligible provider awarded points is divided by the P4P eligible provider potential points to obtain the P4P eligible provider performance score based on the following formula.

$$\text{P4P Eligible Provider Performance Score} = \frac{(\text{P4P Eligible Provider Awarded Points})}{(\text{P4P Eligible Provider Potential Points})}$$

(d) Per Client Payment Amount. The per client payment amount is determined as follows. The per client payment amount is determined by dividing the aggregate dollar figure determined by the purchasing governmental unit(s) to be available for incentive payments by the statewide adjusted clients calculated as described below.

$$\text{Per Client Payment Amount} = \frac{\text{Aggregate Dollar Amount Available for Incentive Payments}}{\text{Statewide Adjusted Clients}}$$

1. Statewide Adjusted Clients. The statewide adjusted clients figure is calculated by summing over all P4P eligible providers, each P4P eligible provider's adjusted clients number.

$$\text{Statewide Adjusted Clients} = (\text{P4PEP 1 Adjusted Clients}) + (\text{P4PEP 2 Adjusted Clients}) + \dots + (\text{P4PEP N Adjusted Clients})$$

2. P4P Eligible Provider Adjusted Clients. Each P4P eligible provider's number of clients served during the measurement period is multiplied by the P4P eligible provider's performance score to derive the "adjusted clients" figure.

(e) P4P Eligible Provider Total Performance Indicator Payment Amount. A P4P eligible provider's performance indicator incentive payment is calculated as the product of

1. the P4P eligible provider's performance score calculated as per 101 CMR 346.04(5)(c);
2. the number of P4P eligible provider clients served during the measurement period; and
3. the per member payment amount that is calculated as per 101 CMR 346.04(4).

$$\text{P4P Eligible Provider Total Performance Indicator Payment Amount} = (\text{P4P Eligible Provider Performance Score}) \times (\text{number of P4P Eligible Provider clients served}) \times (\text{Per Member Payment Amount})$$

346.05: Severability

The provisions of 101 CMR 346.00 are severable. If any provision of 101 CMR 346.00 or application of such provision to any eligible provider or fiscal intermediary is held invalid or unconstitutional, such determination will not affect the validity or constitutionality of any remaining provisions of 101 CMR 346.00 or application of such provisions to eligible providers or fiscal intermediaries in circumstances other than those held invalid.

REGULATORY AUTHORITY

101 CMR 346.00: M.G.L. c 118E.

NON-TEXT PAGE



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 105 CMR 100.000

CHAPTER TITLE: Determination of Need

AGENCY: Department of Public Health

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

Sets forth the requirements and process to obtain a Determination of Need, when required, for projects involving health care construction or substantial changes in service.

REGULATORY AUTHORITY: M.G.L. c. 111, §§ 25B through 25G, §§ 51 through 53, and § 71

AGENCY CONTACT: Rebecca Rodman PHONE: 617-994-9811

ADDRESS: 250 Washington Street, Boston, MA 02108

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.*

Department of Housing and Community Development 8/31/2018
Massachusetts Municipal Association 8/31/2018

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: 10/16/18

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

For the first and second year: minimal

For the first five years: minimal

No fiscal effect: _____

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: 12/12/18

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*
Health care facility, construction, substantial change in service

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:*

Amends 105 CMR 100.000.

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

SIGNATURE: _____ DATE: _____

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1381 DATE: 12/28/2018

EFFECTIVE DATE: 12/28/2018

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>
1 & 2	1 & 2
103 - 134	103 - 132

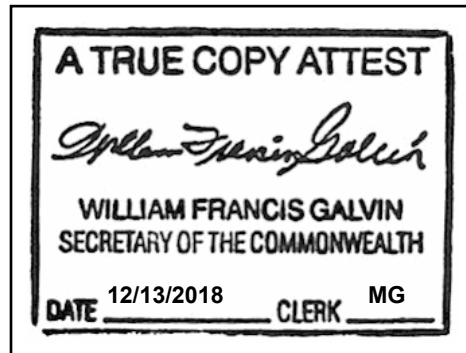


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105 CMR 100.000: DETERMINATION OF NEED

Section

- 100.001: General Provisions
- 100.100: Definitions
- 100.105: Computation of Time
- 100.210: Determination of Need Factors
- 100.310: Standard Conditions
- 100.360: Other Conditions
- 100.405: Filing of Applications for Determination of Need
- 100.415: Public Solicitation Requirements
- 100.425: Amendment of a Pending Application for Determination of Need
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- 100.726: Exemptions for Certain Substantial Capital Expenditures and Substantial Changes in Service
- 100.730: Determination of Need for Original Licensure
- 100.735: Transfer of Ownership - Applicability
- 100.740: Emergency Applications
- 100.745: Transfer of Site or Change of Designated Location
- 100.800: Expected and Appropriate Conduct by Applicants
- 100.805: Advisory Rulings
- 100.810: Sub-regulatory Guidelines and Interpretational Documentation
- 100.815: Waivers
- 100.820: Enforcement and Penalties
- 100.825: Severability

100.001: General Provisions

The purpose and objective of 105 CMR 100.000 is to encourage competition and the development of innovative health delivery methods and population health strategies within the health care delivery system to ensure that resources will be made reasonably and equitably available to every person within the Commonwealth at the lowest reasonable aggregate cost advancing the Commonwealth's goals for cost containment, improved public health outcomes, and delivery system transformation.

Any action taken by a Provider Organization, Health Care Facility, or other Entity in an effort to circumvent the purpose and objective of 105 CMR 100.000 is a violation of 105 CMR 100.000.

100.100: Definitions

As used in 105 CMR 100.000, the following terms have the following meanings unless otherwise interpreted by the Department:

Addition means:

- (1) The initial provision of a DoN-required Service or procedure, or acquisition of medical equipment defined as DoN-required Equipment; or

100.100: continued

(2) The initial provision of any services that may be provided by a Health Care Facility, including, but not limited to, a change from a single specialty to a multi-specialty Freestanding Ambulatory Surgery Center.

Affiliate. Any relationship between two organizations that reflects, directly or indirectly, a partial or complete controlling interest or partial or complete common control.

Ambulatory Surgery. Health care services restricted to those defined by the Department as surgical services, not requiring overnight stay, typically provided to ambulatory patients on an elective, urgent, or emergency basis, wherever provided.

Applicant. The Provider Organization that files the Application for Determination of Need with the Department for, or on behalf of, the Entity seeking a Notice of Determination of Need for a Proposed Project pursuant to 105 CMR 100.000. In instances where there is no Provider Organization, Applicant shall mean the Entity which files the Application for Determination of Need with the Department for itself or, on behalf of, an Affiliate seeking a Notice of Determination of Need for a Proposed Project pursuant to 105 CMR 100.000.

Application. A formal written request for a Determination of Need, submitted to the Department pursuant to 105 CMR 100.405.

Attorney General or AGO. The Massachusetts Attorney General or his or her designee. For the purposes of 105 CMR 100.000, the Attorney General may intervene in any hearing regarding an Application for Determination of Need, whether or not the Attorney General requested the hearing, by providing written notification of such intervention to the Department.

Bed Capacity. The capacity of a Health Care Facility to accommodate a bed and the necessary physical plant requirements, in accordance with all applicable standards, imposed as a condition of operation pursuant to all federal and state laws and regulations.

Capital Expenditure means:

(1) Any expenditure, or obligation to make an expenditure, past, present or future, which, under generally accepted accounting principles, is not properly chargeable as a cost of operation and maintenance, and which includes any fee(s) for architectural, engineering, legal, accounting, or any other professional services, any interest charges, and any other financing cost capitalized throughout the Construction period of the project, and any Site acquisition cost(s); or

(2) Any expenditure or obligation to make an expenditure, past, present, or future, for obtaining by lease, or comparable arrangement, capital equipment, or a building or part thereof; provided, that in both cases, such expenditure or obligation is incurred, or will be incurred, as an incident to Construction as defined in 105 CMR 100.100.

Every calculation of a Capital Expenditure must take into account all expenditures related to a Proposed Project. All calculations shall be based on costs as of the Application Filing Date, assuming Construction commenced on that date, with no inclusion of estimates regarding inflation. Calculations shall be subject, but are not limited, to the following parameters:

(a) In calculating a Capital Expenditure, Applicants shall account for all expected future expenditures in connection with a Proposed Project, as well as any past or present expenditures necessary for a Proposed Project's completion including, but not limited to: the purchase price of an earlier acquired Site; expenses related to completion of feasibility or other planning studies used in developing a project or preparing an Application; expenses incurred in seeking grants, loans, or other financing; legal or consultant fees; and, any other such expenditures which can be reasonably attributed to the completion of a Proposed Project.

(b) Where Construction is to be undertaken on leased property, or where leased equipment is to be installed, the fair market value of such property or equipment, as appropriate and in conformance with the terms of M.G.L. c. 111, § 25B, shall be used in calculating the proposed Capital Expenditure attributed to such property or equipment. See 105 CMR 100.100: Substantial Capital Expenditure.

100.100: continued

Center for Health Information and Analysis or CHIA. The Government Agency established pursuant to M.G.L. c. 12C.

Certified ACO. An Entity which is certified by the HPC as an accountable care organization pursuant to M.G.L. c. 6D, § 15 and which meets the HPC's Final Accountable Care Organization (ACO) Certification Standards.

Clinic. An Entity licensed by the Department pursuant to 105 CMR 140.000: *Licensure of Clinics*.

Commissioner. The Commissioner of Public Health or his or her designee.

Conditions. All terms and Conditions, both Standard and Other, included in a Notice of Determination of Need issued by the Department.

Conservation Project. Construction that consists solely of a project(s) that would Sustain or Restore a Health Care Facility or service for its designated purpose, and to its original functionality, without Modernization, Addition, or Expansion. For the purposes of Conservation Project, the following words shall mean:

- (1) Sustain. The maintenance and repair activities necessary to keep a Health Care Facility or service in good working order. It includes regularly scheduled adjustments and inspections, preventive maintenance tasks, and emergency response and service calls for minor repairs. It also includes major repairs or replacement of facility components that are expected to occur periodically throughout the life cycle of said Health Care Facility or service. This work includes, but is not limited to, regular roof replacement, refinishing of wall surfaces, repairing and replacement of heating and cooling systems, replacing tile and carpeting, and similar types of work. It does not include environmental compliance costs, facility leases, or other tasks associated with facilities operations, such as custodial services, grounds services, waste disposal, and the provision of central utilities.
- (2) Restore. To return a Health Care Facility or service to such a condition that it may be used for its designated purpose or to, but not beyond, restore the Health Care Facility or service's original functionality. This may include coming into compliance with all applicable federal, state, and local licensure, safety, and building requirements including nationally recognized Health Care facility construction guidelines and accreditation standards, such as those issued by the Facility Guidelines Institute, the American Institute of Architects, or the Joint Commission.
- (3) Modernization. The alteration, Addition, Expansion, or replacement of all, or part, of a Health Care Facility or service to accommodate new or increased functionality, or to replace components of a Health Care Facility or service beyond that necessary to Sustain or Restore said facility or service.

Construction. The Construction of a new Health Care Facility; the alteration of, Expansion of, making of major repairs to, remodeling of, renovation of, or replacement of an existing Health Care Facility; the initial, additional, or replacement equipping of any Health Care Facility; and the acquisition of consulting, architectural, engineering, legal, accounting, or any other professional services, and of a Site, when such acquisition is directed toward an undertaking sufficiently specific to constitute part of the subject matter of an Application for Determination of Need pursuant to 105 CMR 100.000.

Conversion. The substitution of a service or equipment that is defined as a Substantial Change in Service by the Department, in place of a current service or equipment.

Department. The Department of Public Health, which shall include the Public Health Council, pursuant to M.G.L. c. 17, § 1, except as otherwise specified.

Department Staff. Employees or agents acting on behalf of the Commissioner or the Department including, but not limited to, consultants hired to support staff review and staff report development of an Application for Determination of Need.

100.100: continued

Determination of Need Process. The process by which the Department reviews and evaluates the need for a Proposed Project pursuant to M.G.L. c. 111, §§ 25B through 25G, §§ 51 through 53, and § 71, or any applicable Government Agency requirement.

DoN-required Service. A service or procedure that for reasons of quality, access, cost, or health systems sustainability is determined by the Commissioner to require a Notice of Determination of Need. At a minimum, DoN-required Services shall include services or procedures for which the Commissioner has determined that there is evidence that the service(s) or procedure(s) do not lead to one or more of the following: improved Patient Panel health outcomes; increased access including, but not limited to, a decrease in price; or, a reduction in the Commonwealth's Total Health Care Expenditure. The Commissioner shall issue a list of DoN-required Services in the form of Guidelines. Said Guidelines shall be reviewed and evaluated annually. Persons may submit to the Commissioner requests that a certain service(s) or procedure(s) be considered for inclusion or exclusion from said Guidelines.

DoN-required Equipment. Equipment or services that for reasons of quality, access, cost, or health systems sustainability is determined by the Commissioner to require a Notice of Determination of Need. At a minimum, DoN-required Equipment shall include magnetic resonance imagers and linear accelerators, as well as any equipment and services for which the Commissioner has determined that there is evidence that the equipment or service(s) do not lead to one or more of the following: improved Patient Panel health outcomes; increased access including, but not limited to, a decrease in price; or, a reduction in the Commonwealth's Total Health Care Expenditure. The Commissioner shall issue a list of DoN-required Equipment in the form of Guidelines. Said Guidelines shall be reviewed and evaluated annually. Persons may submit to the Commissioner, requests that certain equipment or service(s) be considered for inclusion or exclusion from said Guidelines.

Emergency Situation. A situation involving either:

- (1) a Government Declaration of emergency or a Catastrophic Event; or
- (2) an existing Health Care Facility which the Commissioner determines has been destroyed, or otherwise substantially damaged, or where there is a clear and present danger of such damage, such that the damage could substantially impact public health. For the purposes of Emergency Situation, the following words shall mean:
 - (a) Government Declaration. A federal, state, municipal, or local declaration of emergency that takes effect pursuant to applicable federal or state law.
 - (b) Catastrophic Event. An unforeseen event that substantially affects or increases the need for health care services, such as a natural disaster, an act of terrorism, or an extended power outage. Examples of Catastrophic Events include, but are not limited to, events involving numerous serious injuries, such as fires or building collapse, a chemical spill or release, or widespread outbreak of disease or illness requiring emergency treatment or hospitalization.

Entity or Person. An individual or his or her estate upon his or her death, or a corporation, a Government Agency, a partnership, a trust, an association, or an organized group of Persons, whether incorporated or not, or any receiver, trustee, or other liquidating agent of any of the foregoing while acting in such capacity.

Expansion. Any increase or upgrade by a Health Care Facility to the existing functionality of a DoN-required Service or DoN-required Equipment; any increase or upgrade to the total number of beds, services, or stations; or any other change as further defined by the Department.

Expenditure Minimum.

- (1) Expenditure Minimum with Respect to Substantial Capital Expenditures. Expenditure Minimum with Respect to Substantial Capital Expenditures as defined in M.G.L. c. 111, § 25B, and that is adjusted annually by the Commissioner after consideration of any inflation index established by the U.S. Department of Health and Human Services or similarly reliable national index, and set forth by the Commissioner in a Guideline.

100.100: continued

(2) Expenditure Minimum with Regard to Substantial Change in Service or Increase in Staff. Expenditure Minimum with Regard to Substantial Change in Service or Increase in Staff as defined in M.G.L. c. 111, § 25B, and that is adjusted annually by the Commissioner after consideration of any inflation index established by the U.S. Department of Health and Human Services or similarly reliable national index, and set forth by the Commissioner in a Guideline.

Notwithstanding 105 CMR 100.100: Expenditure Minimum(1) and (2), a Proposed Project concerned solely with outpatient services other than Ambulatory Surgery, which are not otherwise defined as DoN-required Service or DoN-required Equipment, shall not require a Notice of Determination of Need, unless the expenditures and acquisitions are at least the amount that is adjusted annually by the Department after consideration of any inflation index established by the U.S. Department of Health and Human Services or similarly reliable national index, in which case, a Notice of Determination of Need shall be required.

Notwithstanding 105 CMR 100.100: Expenditure Minimum(1) and (2), expenditures for, or the acquisition of, any replacement of medical, diagnostic, or therapeutic equipment defined as a DoN-required Service or DoN-required Equipment for which a Notice of Determination of Need was previously issued, or for which the DoN-required Service or DoN-required Equipment was exempt from Determination of Need, shall not require an additional Notice of Determination of Need, and shall not be included in the calculation of the Expenditure Minimum, so long as the project(s) falls within the definition of a Conservation Project as determined by the Department.

Factor or Determination of Need Factor. Each of the standard requirements for evaluation of an Application for Determination of Need as established within 105 CMR 100.000.

Federal Fiscal Year. A 12-month period that starts on October 1st and ends on September 30th.

Filing Date. The date at which an Application for Determination of Need is deemed, by Department Staff, to be substantially complete and thus filed with the Department by an Applicant. The Filing and Submission Dates may be the same.

Final Action. Unless otherwise specified, the issuance of a Notice of Determination of Need, approval, disapproval or dismissal of an Application or request to amend a previously issued Notice of Determination of Need, or revocation of a Notice of Determination of Need by the Department or Commissioner.

Freestanding Ambulatory Surgery Center. An ambulatory surgery center licensed as a Clinic.

Good Cause Related to Project Implementation. The Applicant is unable to make Substantial and Continuing Progress within the period of the Notice of Determination of Need authorization due to:

- (1) Unreasonably excessive delay on the part of the Department in processing any Application or request;
- (2) Force majeure (*e.g.*, a government declaration, catastrophic event, labor strike, or other cause beyond the control of the Applicant and/or the Department that could not be reasonably avoided by the Applicant's exercise of due care);
- (3) Action of general application by any branch of federal, state, or local government;
- (4) Winter conditions that preclude making Substantial and Continuing Progress toward completion, provided that the Applicant would have made such Substantial and Continuing Progress within the period of authorization, but for such winter conditions;
- (5) Failure to obtain a financing commitment, provided that, within the period of the Notice of Determination of Need authorization, the Applicant has filed a firm commitment application with the United States Department of Housing and Urban Development or successor agency, in which case, the period of the Notice of Determination of Need authorization shall be extended for a period of not more than four months beyond the period authorized; or
- (6) Any other condition that may be specified by the Department; and

The Applicant is able to demonstrate to the Department that the project is diligently proceeding with the completion of all prerequisites to making Substantial and Continuing Progress within the period of the Notice of Determination of Need authorization.

100.100: continued

Good Cause Related to Project Implementation shall exclude Transfer of Ownership; transfer of Site; failure to obtain financing commitments under circumstances other than those described within 105 CMR 100.100: Good Cause Related to Project Implementation(5); an action taken by a Person related to zoning that has, or may have, the effect of limiting the Applicant's development rights with respect to a Site(s) in one city or town; and, any other reason deemed as applicable by the Department.

Government Agency. Any agency of the Commonwealth of Massachusetts or of any political subdivision of the Commonwealth of Massachusetts therein, including a city or a town, but does not mean an agency of the United States, even if such agency maintains a medical institution within Massachusetts.

Guideline. An enforceable sub-regulatory requirement that has been issued by the Commissioner pursuant to 105 CMR 100.000, but not promulgated as regulation. The Commissioner shall ensure that prior to issuance, all Guidelines have been put forth for public comment. The Commissioner shall notify the Public Health Council of any Guideline issued by the Department within 60 days of issuance.

Health Care Facility. A Hospital or a Clinic; a Long-term Care Facility; a clinical laboratory subject to licensure under M.G.L. c. 111D; a Public Medical Institution as defined in 105 CMR 100.100; or any other facility licensed by a Government Agency which requires a Notice of Determination of Need as a condition of licensure or other Government Agency requirement.

Health Policy Commission or HPC. The Government Agency established pursuant to M.G.L. c. 6D.

Health Priorities. Services or population health strategies that address identified regional, or statewide public health needs. Health Priorities shall be defined by the Commissioner in Guidelines and developed in consultation with relevant Government Agencies, community-based organizations, stakeholders, and the Public Health Council, may be guided by the state health plan pursuant to M.G.L. c. 6A, §16T and relevant community health needs assessments, and shall encourage the appropriate allocation of private and public health care resources consistent with M.G.L. c. 111, § 25C.

Holder. The Provider Organization which has been issued a Notice of Determination of Need by the Department pursuant to 105 CMR 100.000. In instances where there is no Provider Organization, Holder shall mean the Entity which has been issued a Notice of Determination of Need by the Department pursuant to 105 CMR 100.000.

Hospital. Any hospital licensed pursuant to M.G.L. c. 111, § 51.

Immaterial Change means:

- (1) An increase or decrease in cost allocation among or between architectural costs, Construction contract, fixed equipment, and Site services that does not result in any increase in the maximum Capital Expenditure;
- (2) A change in the proposed method of financing that does not result in any increase in the maximum Capital Expenditure or operating costs for interest in any year;
- (3) A change in the maximum Capital Expenditure to the extent of the inflation adjustment provided for within 105 CMR 100.310(A)(9);
- (4) For all Health Care Facilities other than Hospitals, a single increase, or cumulative series of increases, in Bed Capacity totaling not more than 12 beds to the licensed Bed Capacity of the entire Health Care Facility;
- (5) A change in the architectural design that does not result in any changes in the spatial allocation among different components of the project, aggregate gross square footage, Bed Capacity, or maximum Capital Expenditure. Any such change in the architectural design shall be subject to the Department's architectural plan approval as provided for within 105 CMR 100.310(A)(6);

100.100: continued

(6) An increase or decrease in the spatial allocation among different components of the project or the aggregate gross square footage of the project, provided that any such change does not result in any change in the Bed Capacity or any increase or decrease in the maximum Capital Expenditure over 10% of the inflation adjusted originally approved total expenditure, unless otherwise approved hereunder. Any such increase or decrease in the spatial allocation of the project's components or aggregate gross square footage of the project shall be subject to the Department's architectural plan approval as provided for in 105 CMR 100.310(6);

(7) Any increase or decrease in the maximum Capital Expenditure less than or equal to 10% of the inflation adjusted originally approved total expenditure. An increase shall be allowed only for contingencies that could not have been reasonably foreseen, that are not reasonably within the control of the Holder, as determined by the Commissioner, and for which the inflationary adjustment contained within 105 CMR 100.310(A)(9) is not appropriate;

(8) Any change in the type of equipment which the Commissioner determines not to be technologically different from that which received Notice of Determination of Need, provided that such a change does not result in any increase in the maximum Capital Expenditure, unless otherwise approved hereunder, or any increase in the likely operating costs; or

(9) Any alteration from the previously issued Notice of Determination of Need that the Commissioner determines to be an Immaterial Change in nature.

Location or Premises means:

(1) The street address(es) of the Health Care Facility; and

(2) In the case of a Health Care Facility located within a physically contiguous campus of an institution such as a school, university or Hospital, Location or Premises shall mean the campus.

Long-term Care Facility. A long-term care facility, including a convalescent or nursing home, or a rest home as defined in M.G.L. c. 111, § 71.

Notice of Determination of Need or Notice. A Final Action that represents the formal approval of the Department issued pursuant to 105 CMR 100.000. A Notice of Determination of Need shall include all applicable terms and Conditions, Standard or Other, as directed and attached to the Notice of Determination of Need by the Department.

Original License. The license issued to a Person for the Premises named therein, and is granted either upon initial licensure of a facility, change of Location, or Transfer of Ownership of a Health Care Facility.

Patient Panel. The total of the individual patients regardless of payer, including those patients seen within an emergency department(s) if applicable, seen over the course of the most recent complete 36-month period by the Applicant or Holder. Patient Panel also means:

(1) If the Applicant or Holder has no patient panel itself, the Patient Panel includes the Patient Panel of the health care facilities affiliated with the Applicant; or

(2) If the Proposed Project is for a new facility and there is no existing patient panel, Patient Panel means the anticipated patients; or

(3) In the case of a Transfer of Ownership, Patient Panel also includes the Patient Panel of the Entity to be acquired.

Party of Record. During the pendency of an Application for a Determination of Need, the Applicant or Holder, the Attorney General, CHIA, HPC, all Government Agencies with relevant oversight or licensure authority over the Proposed Project or components therein, and any Ten Taxpayer Groups duly registered. A Party of Record may review the Application for Determination of Need for which it is appropriately registered, as well as provide written comment for consideration by the Department, including written comment by the Attorney General, CHIA, and HPC as it relates to any independent cost-analyses made pursuant to 105 CMR 100.405.

100.100: continued

Primary Service Area. The geographic area in which a majority of patients who receive care at a Health Care Facility reside. The percentage of patients who are counted in determining the Primary Service Area will be set out in Guideline.

Proposed Project. Any Substantial Capital Expenditure, Substantial Change in Service including, but not limited to, DoN-required Service, DoN-required Equipment, Ambulatory Surgery, or any combination thereof; or Any Original License or Transfer of Ownership that is proposed within an Application for Determination of Need and filed with the Department pursuant to 105 CMR 100.000. A Proposed Project may include an Applicant's institutional master plan.

Provider Organization. Any corporation, partnership, business trust, association, or organized group of Persons, which is in the business of health care delivery or management, whether incorporated or not and is the sole corporate member or sole shareholder of one or more Health Care Facilities.

Public Medical Institution. Any medical institution, including an institution for the mentally ill or for individuals with intellectual disabilities, supported in whole or in part by public funds, either federal, state, or municipal, and staffed by professional medical and nursing personnel and providing medical care in accordance with standards established through licensure, approval, or certification by the Department for participation in programs administered under Titles XVIII or XIX of the Federal Social Security Act.

Significant Change means:

- (1) Any change, modification, or deletion of components within a previously issued Notice of Determination of Need that is not an Immaterial Change, as determined by the Commissioner;
- (2) Any increase or decrease in the maximum Capital Expenditure over 10% of the inflation adjusted originally approved total expenditure. An increase shall be allowed only for contingencies that could not have been reasonably foreseen, that are not reasonably within the control of the Holder, as determined by the Commissioner, and for which the inflationary adjustment contained within 105 CMR 100.310(A)(9) is not appropriate;
- (3) Any request for modification or deletion of any Standard or Other condition set forth within a Notice of Determination of Need that is determined to be material by the Department;
- (4) Unless otherwise approved by the Department, any extension of the authorization period of an approved project as specified in a Notice of Determination of Need; or
- (5) Any build-out of shell space that was subject to a Notice of Determination of Need.

Any change to a project the Commissioner deems to be so significant that it alters the previously issued Notice of Determination of Need to a degree that it constitutes a new project will require the issuance of a new Notice of Determination of Need.

Site. Land and any building or part thereof.

Solicitation of Funding. The act of approaching any member of the general public with a request or plea for a donation of funds to be used for a Proposed Project. For such purposes, Solicitation of Funding shall exclude ongoing Solicitation of Funding conducted on behalf of the Applicant and not directly related to the Proposed Project.

Submission Date. The date at which an Application is for Determination of Need is first submitted to the Department Staff. The Filing and Submission Dates may be the same.

100.100: continued

Substantial Capital Expenditure. Capital Expenditures that exceed, or may reasonably be regarded as likely to exceed, the Expenditure Minimum. Substantial Capital Expenditure shall also mean the obtaining of capital equipment or a building, or part thereof, by lease or comparable arrangement, by donation, or by transfer for less than fair market value in excess of the Expenditure Minimum. The fair market value of a lease of equipment or a building, or part thereof, shall be equal to its fair market value were it to be purchased. *See* 105 CMR 100.100: Capital Expenditure and Expenditure Minimum.

Substantial Change in Services means:

- (1) With regard to Hospitals only, the Addition or Expansion of, or Conversion to:
 - (a) A DoN-required Service, DoN-required Equipment, or Ambulatory Surgery, regardless of whether an Expenditure Minimum is exceeded; or
 - (b) Any services that may be provided by facilities that are not Hospitals.
- (2) For any Health Care Facility other than a Hospital:
 - (a) The Addition of a service or increase in staff that entails annual operating costs in excess of the Expenditure Minimum;
 - (b) Any increase in Bed Capacity, other than a single increase, or cumulative series of increases, totaling not more than 12 beds to the licensed Bed Capacity of the entire Health Care Facility;
 - (c) The Addition or Expansion of, or Conversion to, a DoN-required Service or DoN-required Equipment regardless of whether an Expenditure Minimum is exceeded;
 - (d) The Addition or Expansion of, or Conversion to, Ambulatory Surgery; or
 - (e) Upgrading Level IV beds to skilled nursing and intermediate care beds (Level II and III).
- (3) A transfer of Site of any Health Care Facility, DoN-required Service, DoN-required Equipment, or a project which has been previously issued a Notice of Determination of Need but is not yet licensed, or not yet operational if no Government Agency license, that is determined by the Department to result in a Substantial Change in Service.

Substantial and Continuing Progress means:

- (1) In the case of a project involving equipping of a Health Care Facility, such equipment shall have been installed and shall be operational;
- (2) In the case of a project involving the provision of a DoN-required Service or DoN-required Equipment, either:
 - (a) provision of such service or use of such equipment shall have commenced; or
 - (b) demonstration of a binding contract for the purchase or lease of the equipment with a party unrelated to the Holder or ultimate provider of the DoN-required Service or DoN-required Equipment;
- (3) In the case of a project involving the provision of a DoN-required Service or DoN-required Equipment subject to Department licensure, the project shall have received written, final plan approval from the Department;
- (4) In the case of a project involving an increase in the Bed Capacity, or licensed Bed Capacity of a Health Care Facility, or a service or unit thereof, but involving no Construction or renovation, a request for an increase in the Health Care Facility's licensed capacity for such beds shall have been submitted to the Department; however, if not required to be so licensed, such beds shall be in operation;
- (5) In the case of a project involving Construction, the following shall have occurred:
 - (a) commencement of demolition and the physical assembly of the foundation of the project for Construction and ground floor Addition projects when a foundation is part of the project;
 - (b) commencement of the physical assembly of the additional structure; or
- (6) In the case of a project involving renovation, progress beyond the removal and demolition of an existing facility, or of the component structures of an existing facility.

100.100: continued

Sufficient Interest means one of the following:

- (1) Clear legal title to the proposed Site, or a legally enforceable agreement to give such title;
- (2) In the case of a Hospital or Long-term Care Facility, a lease for at least five years with options to renew for not less than a total of 15 additional years, or a legally enforceable agreement to give such lease;
- (3) In the case of an Ambulatory Surgery center, a lease for at least one year with options to renew for not less than one additional year, or a legally enforceable agreement to give such lease;
- (4) In the case of a Clinic organized as a non-profit corporation under M.G.L. c. 180, permission to use the Premises for a period of at least two years; or
- (5) In the case of a Government Agency, recommendation of not more than four alternative Sites by an official Site selection committee and acceptance of that recommendation by the duly elected or appointed chief officer of that Government Agency and, in the case of a Government Agency within an executive office, acceptance of that recommendation by the Secretary of that executive office.

Taxpayer. Any individual residing within the Commonwealth of Massachusetts and who is subject to any Massachusetts state income, excise, or property tax during the calendar year in which he or she signs a written request for a public hearing, a statement of registration, or comments with respect to an Application filed pursuant to 105 CMR 100.000.

Ten Taxpayer Group. Any ten Taxpayers, organized as a group, which may participate in the review of an Application for Determination of Need or request to amend a previously issued Notice of Determination of Need. Said group must register with the Department at any time during the first 30 days following the Filing Date of an Application, or during the first ten days after a public hearing held pursuant to 105 CMR 100.445. Any such registration shall be signed by each Taxpayer and shall, in clearly legible print:

- (1) List each Taxpayer by name and resident address;
- (2) State whether or not each Taxpayer is acting as an agent for another party. If a Taxpayer is acting as an agent for another party, the Taxpayer must list that party's full name and address;
- (3) Identify the Application in which the Taxpayers are interested; and
- (4) Specify which Taxpayer is to be the recipient of all written communications concerning the Application on behalf of the Ten Taxpayer Group.

Upon receipt of any such registration, Department Staff shall promptly send a copy to each Party of Record. The Commissioner may revoke the Ten Taxpayer Group status of any group that has failed to comply with the requirements of 105 CMR 100.000.

Total Value. The sum of the total Capital Expenditure of a Proposed Project; or in the case of a Transfer of Ownership pursuant to 105 CMR 100.735, the total capital value or the last full year of reported net patient service revenue, whichever is greater, of the proposed facility or facilities to be acquired at the time of the Filing Date.

Transfer of Ownership shall include, but shall not be limited to, the following:

- (1) A transfer of a majority interest in the ownership of a Hospital or Clinic;
- (2) In the case of a privately-held for-profit corporation, transfer of a majority of any class of the stock thereof;
- (3) In the case of a partnership, transfer of a majority of trustees;
- (4) In the case of a trust, change of the trustee or a majority of trustees;
- (5) In the case of a nonprofit corporation, such changes in the corporate membership and/or trustees to constitute a shift in control of the Hospital or Clinic as determined by the Commissioner; or
- (6) In the case where foreclosure proceedings have been instituted by a mortgagee in possession of a Hospital or Clinic.

For the purposes of 105 CMR 100.000, Transfer of Ownership may also mean any change in the ownership interest or structure of the Hospital or Clinic, or of the Hospital or Clinic's organization or parent organization(s), such that the change results in a shift in control of the operation of the Hospital or Clinic, as determined by the Commissioner. The Commissioner may, based upon a review of the organizational structure and proposed change, determine that a proposed transaction does not rise to the level of a Transfer of Ownership.

100.105: Computation of Time

Time as specified within 105 CMR 100.000, or as otherwise used within the Determination of Need Process, shall include every calendar day, whether the Department is open for business on that day or not, except that, when the last day of a specified period of time falls on a day when the Department is closed for business, such period shall end, instead, on the next day on which the Department is open for business.

100.210: Determination of Need Factors

(A) The Department shall determine that need exists for a Proposed Project, on the basis of material in the record, where the Applicant makes a clear and convincing demonstration that the Proposed Project meets each Determination of Need Factor set forth within 105 CMR 100.210, unless otherwise expressly specified within 105 CMR 100.000.

(1) Applicant Patient Panel Need, Public Health Value, and Operational Objectives.

(a) The Applicant has demonstrated sufficient need for the Proposed Project by the Applicant's Patient Panel;

(b) The Applicant has demonstrated that the Proposed Project will add measurable public health value in terms of improved health outcomes and quality of life of the Applicant's Patient Panel, while providing reasonable assurances of health equity;

(c) The Department has determined that the Applicant has provided sufficient evidence that the Proposed Project will operate efficiently and effectively by furthering and improving continuity and coordination of care for the Applicant's Patient Panel, including, sufficient evidence that the Proposed Project will create or ensure appropriate linkages to patients' primary care services;

(d) The Applicant has provided evidence of consultation, both prior to and after the Filing Date, with all Government Agencies with relevant licensure, certification, or other regulatory oversight of the Applicant or the Proposed Project;

(e) The Applicant has provided evidence of sound community engagement and consultation throughout the development of the Proposed Project, including documentation of the Applicant's efforts to ensure engagement of community coalitions statistically representative of the Applicant's Patient Panel. Representation should consider age, gender and sexual identity, race, ethnicity, disability status, as well as socioeconomic and health status; and

(f) The Applicant has demonstrated that the Proposed Project will compete on the basis of price, total medical expenses, provider costs, and other recognized measures of health care spending.

(2) Health Priorities.

(a) The Applicant has sufficiently demonstrated that the Proposed Project will meaningfully contribute to the Commonwealth's goals for cost containment, improved public health outcomes, and delivery system transformation; and

(b) The Department has determined, either:

1. The Applicant's Proposed Project, in its entirety, meets one or more of the Health Priorities set out in Department Guideline, and therefore, is exempt from 105 CMR 100.210(A)(6); or

2. The Applicant has provided sufficient evidence that the Applicant's proposed fulfillment of 105 CMR 100.210(A)(6) will sufficiently advance one or more of the Health Priorities set out in Department Guideline.

(3) Compliance. The Department has determined, in consultation with all Government Agencies with relevant licensure, certification, or other regulatory oversight of the Applicant or the Proposed Project, that the Applicant has provided sufficient evidence of compliance and good standing with federal, state, and local laws and regulations including, but not limited to, compliance with all previously issued Notices of Determination of Need and the terms and Conditions attached therein.

(4) Financial Feasibility.

(a) The Department, in consultation with CHIA, has determined that the Applicant has provided sufficient documentation of the availability of sufficient funds for capital and ongoing operating costs necessary to support the Proposed Project without negative impacts or consequences to the Applicant's Patient Panel. Said documentation shall include an analysis by an independent certified public accountant (CPA). Said independent CPA's analysis shall include, but not be limited to: a review of the Applicant's and where appropriate, as a matter of standard accounting practices, its

100.210: continued

Affiliates, past and present operating and capital budgets; balance sheets; projected cash flow statements; proposed levels of financing for the Proposed Project, including a compilation of prospective financial information, such as a forecast or a projection, for the subsequent five-year period prepared in accordance with the attestation standards established by the American Institute of Certified Public Accountants, and any other relevant information required for the independent CPA to provide reasonable assurances to the Department that the Proposed Project is financially feasible and within the financial capability of the Applicant, and where appropriate, as a matter of standard accounting practice, its Affiliates; and

(b) If the Commissioner has determined that an independent cost-analysis is required pursuant to M.G.L. c. 111, § 25C(h), the analysis has demonstrated that the Proposed Project is consistent with the Commonwealth's efforts to meet the health care cost-containment goals.

(5) Relative Merit. The Applicant has provided sufficient evidence that the Proposed Project, on balance, is superior to alternative and substitute methods for meeting the Patient Panel needs identified by the Applicant pursuant to 105 CMR 100.210(A)(1). Evaluation of 105 CMR 100.210(A)(5) shall take into account, at a minimum, the quality, efficiency, and capital and operating costs of the Proposed Project relative to potential alternatives or substitutes, including alternative evidence-based strategies and public health interventions.

(6) Community-based Health Initiatives. For all Proposed Projects, consistent with M.G.L. c. 111, § 25C, and unless otherwise specified within 105 CMR 100.000, the Department has approved the Applicant's proposed plans for fulfilling its responsibilities set out in the Department's Community-based Health Initiatives Guideline. Said plans shall form the basis for funding projects which address one or more of the Health Priorities; shall be documented and enforceable as a Condition of any Notice of Determination of Need issued pursuant to 105 CMR 100.000; and for all Proposed Projects, unless otherwise specified within 105 CMR 100.000, such funding shall in total be greater than or equal to 5% of the total Capital Expenditure of the Proposed Project.

(a) For a Proposed Project on behalf of a Long-term Care Facility, which is not deemed a Conservation Project by the Department, funding shall be 3% of the total Capital Expenditure of the Proposed Project.

(b) For a Proposed Project on behalf of a Health Care Facility, other than a Long-term Care Facility deemed a Conservation Project by the Department, funding shall be 2.5% of the total Capital Expenditure of the proposed Conservation Project.

(c) For a Proposed Project on behalf of a Long-term Care Facility, which is deemed a Conservation Project by the Department, funding shall be 1% of the total Capital Expenditure of the proposed Conservation Project.

(B)(1) A Determination of Need Application for a Transfer of Ownership pursuant to 105 CMR 100.735 is exempt from the following Determination of Need Factors, unless otherwise specified in 105 CMR 100.210(A)(5), and (6).

(2) A Proposed Project deemed a Conservation Project by the Department is exempt from Factors in 105 CMR 100.210(A)(1), (2), and (5).

(3) Unless otherwise specified by the Department, an Emergency Application for Determination of Need pursuant to 105 CMR 100.740 shall be exempt from all Determination of Need Factors specified in 105 CMR 100.210

(C) Nothing in 105 CMR 100.210 shall be construed to prohibit the Department from issuing a Notice of Determination of Need for a project, or part thereof, where, in the case of an Applicant's failure to meet each applicable Factor, the Department determines that the defect can be sufficiently remedied by the setting of an appropriate Condition of approval pursuant to 105 CMR 100.360.

100.310: Standard Conditions

(A) Applicability. Unless otherwise expressly specified within 105 CMR 100.000, each Notice of Determination of Need issued by the Department shall be subject to the following Conditions. The Commissioner may specify additional Standard Conditions through Guideline which shall be attached to all Notices of Determination of Need, unless otherwise specified, and which shall be determined by the Commissioner as advancing the objectives of 105 CMR 100.000. Prior to issuance, such Guideline shall be developed through a public process that includes consultation with applicable Government Agencies, community-based organizations, relevant stakeholders, and the Public Health Council.

(1) The Notice of Determination of Need shall be subject to administrative review by the Health Facilities Appeals Board and may be stayed by the Health Facilities Appeals Board. If the Health Facilities Appeals Board is not constituted on the date of issuance of the Notice of Determination of Need, the Notice shall be considered a Final Action subject to review under M.G.L. c. 30A.

(2) The Notice of Determination of Need shall go into effect upon the Department's issuance of a written notification made pursuant to 105 CMR 100.625(A). The Holder shall submit an acknowledgment of receipt to the Department within 30 days of the written notification, signed by the Holder's chief executive officer and board chair, and returned to the Department and all Parties of Record. Unless extended for Good Cause Related to Project Implementation, or as a result of an approved amendment to a previously issued Notice of Determination of Need, the Notice of Determination of Need shall constitute a valid authorization for a period of not more than three years following the approval of the Department, unless otherwise expressly noted as an Other Condition, and shall only be for the purposes of the approved project, including for the identified and approved treatments and/or patient populations. No Notice of Determination of Need shall remain in authorization unless the Holder complies with all prescribed terms and Conditions set forth by the Department. Any Notice of Determination of Need issued to a Holder that is subject to a Cost and Market Impact Review pursuant to M.G.L. c. 6D, § 13 and 958 CMR 7.00: *Notices of Material Change and Cost and Market Impact Reviews* shall not go into effect until 30 days following HPC's completed Cost and Market Impact Review.

(3) Unless extended for Good Cause Related to Project Implementation, or as a result of an approved amendment to a previously issued Notice of Determination of Need, the Notice of Determination of Need shall constitute a valid authorization only for the Proposed Project for which the Notice of Determination of Need is made, and for only the total Capital Expenditure approved.

(4) The Notice of Determination of Need shall constitute a valid authorization only for the Person to whom it is issued and may be transferred only upon the expressed written permission of the Department pursuant to 105 CMR 100.635(A), except that:

(a) the Holder of a Notice of Determination of Need for a Transfer of Ownership issued pursuant to 105 CMR 100.735 becomes the Holder of any Notice of Determination of Need then held by any entity being transferred;

(b) for any Transfer of Ownership not subject to 105 CMR 100.735, where the Health Care Facility being acquired is the Holder of a Notice of Determination of Need which is still in effect pursuant to 105 CMR 100.310(17), the transferee must provide Notice to the Department in a form and manner determined by the Commissioner that it will assume all obligations and comply with all Conditions and requirements of such Notice of Determination of Need; and

(c) for any Transfer of Ownership not subject to 105 CMR 100.735 where the Health Care Facility being acquired is the Holder of an unimplemented Notice of Determination of Need issued before January 27, 2017, at the time that a license is issued to the transferee, pursuant to 105 CMR 153.000: *Licensure Procedure and Suitability Requirements for Long-term Care Facilities*, the transferee becomes the Holder of any Notice of Determination of Need then held by any entity being acquired. Following the transfer, the Holder may implement the Notice of Determination of Need as approved, unless implementation requires any Significant Change, in which case the Holder must comply with the requirements of 105 CMR 100.635.

Notwithstanding the exceptions above, a Notice of Determination of Need issued for an Original License pursuant to 105 CMR 100.730 and a Notice of Determination of Need for a Transfer of Ownership pursuant to 105 CMR 100.735 shall not be transferable.

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- (5) The authorization for the Notice of Determination of Need shall expire if the Department determines that Substantial and Continuing Progress is not made, or if not duly extended by the Department for Good Cause Related to Project Implementation shown. Any request for an extension must be filed by the Holder within the period of authorization for the Notice of Determination of Need. In the event an appeal is filed with the Health Facilities Appeals Board, the period of authorization of the Notice of Determination of Need shall be extended during such time that any stay is in effect.
- (6) (a) Notwithstanding the period of authorization of the Notice of Determination of Need, if the Holder is subject to the requirements of filing final architectural plans and specifications pursuant to M.G.L. c. 111, § 51 or § 71, and if any Construction or renovation is involved, the Notice of Determination of Need shall not remain in force longer than 12 months unless, within said 12 months, the Holder has filed such final architectural plans and specifications; provided that the Commissioner may approve a written schedule for the phased submission of such plans beyond that period for any project involving Construction having an authorized Capital Expenditure in excess of an amount equal to the Expenditure Minimum with respect to Substantial Capital Expenditures with respect to Hospitals. In the event a written schedule for phased submission of such plans is approved, each portion of the project to which a submission relates shall be consistent with the overall project as approved by the Department and shall not exceed the proportional share of the total approved project cost.
- (b) Failure to submit final and complete architectural plans and specifications plans by the date specified by the Department, or by an approved schedule for plan submission pursuant to 105 CMR 100.310(A)(6), may result in:
1. the initiation of revocation procedures pursuant to 105 CMR 100.640; or
 2. the disallowance of inflation calculated pursuant to 105 CMR 100.310(A)(9) for the amount of time equal to the time period between the due date for submission of final plans as prescribed by the Department, and the date of actual submission by the Holder. The disallowance of inflation for this time period shall be calculated as if the time period occurred immediately preceding the commencement of Construction.
- (c) No Construction may begin pursuant to a Notice of Determination of Need until the Holder has met all applicable Department and other Government Agency licensure requirements, including plan review. Part 1 Plan Review by the Department may coincide, as is reasonably feasible, with Department consideration of a Proposed Project pursuant to 105 CMR 100.000.
- (d) The Holder shall ensure Construction of any new building or the complete rehabilitation of a building implemented pursuant to a Notice of Determination of Need shall meet all Prerequisites and meet or exceed certifiable "silver level", or equivalent, of the Leadership in Energy and Environmental Design-Health Care (LEED-HC) Green Guide for Healthcare (GGHC), or an equivalent nationally recognized best practice standard, as approved by the Department
- (7) The written schedule for the phased submission of architectural plans and specifications submitted by the Holder pursuant to 105 CMR 100.310(6) shall be used to measure continuing progress toward completion of the project for which a Notice of Determination of Need has been issued.
- (8) The Government Agency license of the Health Care Facility or Health Care Facilities, for which and on behalf of, the Holder possesses a valid Notice of Determination of Need, shall be conditioned with all Standard and Other Conditions attached to the Notice of Determination of Need.
- (9) Unless extended for Good Cause Related to Project Implementation, the Department shall receive from the Holder firm, itemized figures specifying the final project costs, or current phase thereof, which shall not be greater than those approved by the Department pursuant to the issued Notice for Determination of Need plus any increase in cost due to the allowable rate of inflation. This submission shall occur within six months following the receipt of written final approval of architectural plans and specifications by the Department or other applicable Government Agency; or, in the case of projects for which a schedule of phased plan submission has been approved, each phase submitted. The Holder shall submit the final project costs in a format specified by the Commissioner. No additional increases in the maximum Capital Expenditure, inflationary or otherwise, shall be approved beyond 12 months after the initial licensure of beds and opening of the facility or service. The final

100.310: continued

approved project costs shall be submitted by the Commissioner to all Parties of Record. Should the Holder fail to submit final project costs pursuant to 105 CMR 100.310(A)(9), the Holder shall be subject to enforcement actions as set forth within the Notice of Determination of Need's Standard and Other Conditions.

(10) Unless explicitly exempt within 105 CMR 100.000, the terms and Conditions shall require that the Holder develop a Plan which shall document the Holder's obligations pursuant to 105 CMR 100.210(A)(6). Said plan shall require the Holder to expend, over a five-year period, or any other period as specified by the Commissioner, an amount which in total shall be greater than or equal to 5% of the total Capital Expenditure of the approved project, except in cases where exemptions within 105 CMR 100.000 may apply. Said projects shall address one or more of the Health Priorities set out in Department Guidelines.

(11) If the Health Care Facility or Health Care Facilities for which the Notice of Determination of Need has been issued is eligible, the Holder shall provide written attestation on behalf of the Health Care Facility or Health Care Facilities, under the pains and penalties of perjury, of participation, or their intent to participate, in MassHealth pursuant to 130 CMR 400.000 through 499.000.

(12) The Holder shall report to the Department, at a minimum on an annual basis, and in a form, manner, and frequency as specified by the Commissioner. At a minimum, said reporting shall include, but not be limited to, the reporting of measures related to the project's achievement of the Determination of Need Factors, as directed by the Department pursuant to 105 CMR 100.210.

(13) If it is determined by the Department that the Holder has failed to sufficiently demonstrate compliance with one or more Conditions, the Holder shall fund projects which address one or more of the Health Priorities set out in Department Guideline, as approved by the Department, which in total, shall equal up to 2.5% of the total Capital Expenditure of the approved project. Said projects shall address one or more of the Health Priorities set out in Department Guideline, and shall be in addition to those projects approved by the Department in fulfillment of 105 CMR 100.210(A)(6). In making such determination, the Department shall provide written notification to the Holder at least 30 days prior to requiring such funding, and shall provide the Holder the opportunity to appear before the Department. The Department shall consider circumstances external to the Holder that may impact the Holder's ability to demonstrate compliance.

(14) The Holder shall provide to Department Staff a plan for approval by the Office of Health Equity for the development and improvement of language access and assistive services provided to the Holder's Patient Panel, including individuals with disabilities and patients who do not speak English, or have Limited English Proficiency (LEP), or use American Sign Language (ASL).

(15) The Holder shall provide for interpreter services to the Holder's Patient Panel. The Holder shall ensure that all medical and non-medical interpreters, inclusive of staff, contractors, and volunteers providing interpreter services to the Holder's Patient Panel maintain current multilingual proficiency and have sufficient relevant training. Training for non-medical interpreters should include, at a minimum:

- (a) the skills and ethics of interpretation; and
- (b) cultural health beliefs systems and concepts relevant to non-clinical encounters.
- (c) Training for medical interpreters should include, at a minimum:
 1. the skills and ethics of interpretation; and
 2. multilingual knowledge of specialized terms, including medical terminology, competency in specialized settings, continuing education, and concepts relevant to clinical and non-clinical encounters.

(16) The Holder shall require and arrange for ongoing education and training for administrative, clinical, and support staff in culturally and linguistically appropriate services (CLAS) including, but not limited to, patient cultural and health belief systems and effective utilization of available interpreter services.

(17) All Standard and Other Conditions attached to the Notice of Determination of Need shall remain in effect for a period of five years following completion of the project for which the Notice of Determination of Need was issued, unless otherwise expressly specified within one or more Condition.

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(18) In the event that the Holder is required by the Health Policy Commission to develop and file a Performance Improvement Plan (PIP) pursuant to 958 CMR 10.00: *Performance Improvement Plans*, then the Holder shall report to the Department that the Holder has filed the PIP and is engaged in ongoing efforts to implement the PIP consistent with 958 CMR 10.00. The Holder will timely provide all information necessary for CHIA to perform its analysis required by M.G.L. c. 12C, § 18 and for the HPC to determine if the Holder must develop and file a PIP. If the HPC finds the Holder has not fully complied with the requirements of the PIP implementation process, as set forth in 958 CMR 10.00, then, notwithstanding the HPC finding, the Holder shall report to the Department on why the Department should find that the Holder is still in compliance with the terms and conditions of the Notice of Determination of Need.

(B)(1) A Determination of Need Application for Transfer of Ownership pursuant to 105 CMR 100.735 is exempt from 105 CMR 100.310(A)(5), (6), (7), (9), (10) and (13).

(2) A Determination of Need issued for a Conservation Project or for a Long-term Care Facility is exempt from 105 CMR 100.310(A)(10).

(3) Unless otherwise specified by the Department, a Notice of Determination of Need issued to a Holder resulting from an Emergency Application pursuant to 105 CMR 100.740 shall be subject to all Standard Conditions specified in 105 CMR 100.310, except 105 CMR 100.310(A)(10).

100.360: Other Conditions

(A) In addition to all applicable Standard Conditions attached to a Notice of Determination of Need, the Department may prescribe any Other Conditions that are reasonably related to the scope of the project and that are consistent with the objectives of 105 CMR 100.000.

(B) A Notice of Determination of Need issued to a Holder resulting from an Application that includes DoN Required Service or DoN Required Equipment pursuant to 105 CMR 100.715(B)(1) shall be subject to the following Other Conditions:

(1) In no event shall the Holder refer or influence any referral of patients to DoN-required Services or DoN-required Equipment, unless the Holder is a Registered Individual Practitioner as defined in 105 CMR 700.001: *Definitions* providing said services or utilizing said equipment. Public advertisement shall not be deemed a referral or influence of referrals.

(2) Any Person with an ownership interest in DoN-required Services or DoN-required Equipment, whether direct or indirect, shall disclose said interest to any patients utilizing said services or equipment in a conspicuous manner.

(3) The Holder shall submit annually to the Department information and data in connection with utilization and volume rates of DoN-required Services or DoN-required Equipment in a form and manner as specified by the Commissioner.

(C) A Notice of Determination of Need issued to a Holder resulting from an Application that includes Ambulatory Surgery pursuant to 105 CMR 100.715(B)(2) shall certify that the Freestanding Ambulatory Surgery Center will be certified pursuant to 42 CFR Part 416 and will remain in substantial compliance therein.

(D) A Notice of Determination of Need issued to a Holder resulting from an Application required pursuant to 105 CMR 100.735 shall include the following Other Conditions:

(1) Unless rescinded pursuant to 105 CMR 100.360(D)(3), any Notice of Determination of Need for a Transfer of Ownership pursuant to 105 CMR 100.735, which is issued to a Holder and that is subject to a Cost and Market Impact Review pursuant to M.G.L. c. 6D, § 13 and 958 CMR 7.00: *Notices of Material Change and Cost and Market Impact Reviews* shall not go into effect until 30 days following HPC's completed Cost and Market Impact Review. Unless extended for Good Cause Related to Project Implementation, or as a result of an approved amendment to a previously issued Notice of Determination of Need, the Notice of Determination of Need shall constitute a valid authorization for a period of not more than three years following the approval of the Department, unless otherwise expressly noted as an Other Condition, and shall only be for the purposes of the approved project. No Notice of Determination of Need shall remain in authorization unless the Holder complies with all prescribed terms and Conditions as set forth by the Department.

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(2) The Department shall receive within 30 days of issuance of the written notification made pursuant to 105 CMR 100.625(A) a written acknowledgment of receipt of such written notification by the Holder, documented in the form of an attestation, signed by the Holder's chief executive officer and board chair, and returned to the Department and all Parties of Record.

(3) Notwithstanding 105 CMR 100.360(D)(1), as part of a completed Cost and Market Impact Review, the HPC may provide a written recommendation to the Commissioner that the Notice of Determination of Need should not go into effect on the basis of findings contained within the completed and publicly released Cost and Market Impact Review. Upon receipt, the Commissioner shall determine if the Cost and Market Impact Review contains information sufficient for the Commissioner to conclude that the Holder would fail to meet one or more of the specified Factors. Should the Commissioner determine that the Holder would fail to meet one or more of the specified Factors, he or she shall refer the matter to the Department. The Department may rescind or amend an approved Notice of Determination of Need based upon information in the Cost and Market Impact Review as it relates to compliance with the Determination of Need Factors. If a Notice of Determination of Need is rescinded by the Department and a new Application is filed, such Application must satisfy 105 CMR 100.210 and shall account for the concerns expressed by the Department within their findings.

(E)(1) A Notice of Determination of Need for Substantial Capital Expenditure or Substantial Change in Service issued to a Holder resulting from an Application proposed on behalf of a Long-term Care Facility made pursuant to 105 CMR 100.715 that is not deemed a Conservation Project by the Department shall contribute an amount equal to 3% of the total Capital Expenditure of the approved project in accordance with the Department Guideline.

(2) A Notice of Determination of Need issued to a Holder resulting from an Application for a Conservation Project proposed on behalf of a Health Care Facility other than a Long-term Care Facility made pursuant to 105 CMR 100.715 shall contribute an amount equal to 2.5% of the total Capital Expenditure of the approved project in accordance with the Department Guideline.

(3) A Notice of Determination of Need for Substantial Capital Expenditure or Substantial Change in Service issued to a Holder resulting from an Application for a Conservation Project proposed on behalf of a Long-term Care Facility made pursuant to 105 CMR 100.715 shall contribute an amount equal to 1% of the total Capital Expenditure of the approved project in accordance with the Department Guideline.

(F) If it is determined by the Department that the Holder of a Notice of Determination of Need for Transfer of Ownership pursuant to 105 CMR 100.735, has failed to sufficiently demonstrate compliance with the terms and Conditions of the issued Notice of Determination of Need, the Holder shall fund projects which address one or more of the Health Priorities set out in Department Guideline, as approved by the Department, which in total, shall equal up to 5% of the Total Value of the approved project. In making such determination, the Department shall provide written notification to the Holder at least 30 days prior to requiring such funding, and shall provide the Holder the opportunity to appear before the Department. The Department shall consider factors external to the Holder that may impact the Holder's ability to demonstrate compliance.

100.405: Filing of Applications for Determination of Need

(A) All materials related to an Application for Determination of Need including, but not limited to, Application forms, computation sheets, notification requirements, Guidelines, and other pertinent documents shall be made publicly and readily available electronically at all times, such as on the Department's website. Applications for Determination of Need shall include, at a minimum: a statement of the Proposed Project, including the Total Value; information and supporting documentation consistent with 105 CMR 100.210; all applicable computation sheets; a filing fee; an affidavit of truthfulness, signed under the pains and penalties of perjury pursuant

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to 105 CMR 100.405(B); an attestation of compliance with all federal, state, and local laws, including compliance with M.G.L. c. 30, §§ 61 through 62H and the applicable regulations thereunder; a disclosure of the total proposed Construction costs specifically related to the Proposed Project, if any, which will be contracted out to local or minority-, women-, or veteran-owned businesses; and any additional requirements, attestations, or information that the Applicant wishes to place before the Department, or as the Commissioner requests or requires.

(B) All Persons seeking a Notice of Determination of Need shall file a completed Application, accompanied by an affidavit signed under the pains and penalties of perjury by the Applicant's chief executive officer and board chair and the filing fee to the Department, labeled "Attn: Determination of Need Program". Simultaneous filings of duplicate copies of the Application shall be required to the AGO, CHIA, HPC, and to all Government Agencies with relevant licensure, certification, or other regulatory oversight of the Applicant or the Proposed Project, or components therein. The filing fee shall be nonrefundable and shall be \$500 or 0.2% of the Total Value of the Proposed Project, whichever is greater.

(C) All Persons seeking a Notice of Determination of Need, or an amendment to a previously issued Notice of Determination of Need, shall publish a notice of intent of its Application, and of any amendment thereto at least 14 days prior to the Submission Date of such Application or amendment with the Department. The notice of intent shall accurately describe the Proposed Project, and shall be published prominently on the website(s) for the Health Care Facility or Health Care Facilities for which the Application for Notice of Determination of Need will be submitted, and in the daily newspaper(s) within the affected cities or towns of, or nearest to, the Location of the Proposed Project, or as directed by the Commissioner. Every notice of intent, at a minimum, and subject to amendment by the Commissioner, shall conform to the following standards

(1) Form. The notice of intent published in the daily newspaper(s) shall appear within the Legal Notice, as well as the appropriate local news or interest sections of the publication, and shall be captioned: "Public Announcement Concerning a Proposed Health Care Project". The notice of intent shall be published prominently on the website(s) for the Health Care Facility or Health Care Facilities for which the Application for Notice of Determination of Need or request for amendment to a previously issued Determination of Need will be submitted and shall comport, at a minimum, with the most current web accessibility standards of the Commonwealth.

(2) Content. The notice of intent shall, at a minimum: identify the Applicant or Holder by name and address; the name and address of the Health Care Facility or Health Care Facilities involved or proposed; shall provide a brief and accurate description of the Proposed Project, including the type of Health Care Facility or Health Care Facilities involved, and the type of service(s) proposed or involved; shall state the Total Value of the Proposed Project; any anticipated price or service impacts on the Applicant's or Holder's Patient Panel; and, for all other applications other than requests to amend a previously issued Notice of Determination of Need, the notice shall contain the following statements: "Any ten Taxpayers of Massachusetts may register in connection with the intended Application by no later than (INSERT DATE) or 30 days from the Filing Date, whichever is later, by contacting the Department of Public Health Determination of Need Program (INSERT CONTACT INFORMATION AS SPECIFIED BY DEPARTMENT STAFF)." Said inserted date shall be 30 days from the proposed Filing Date.

The Applicant or Holder shall simultaneously provide a copy of said notice of intent to the Department, all Parties of Record, and all carriers or third-party administrators for the payment of health care services, including Medicare and Medicaid, with which the Applicant or Holder contracts. The Commissioner may waive 105 CMR 100.405(C) in the case of an emergency Application made pursuant to 105 CMR 100.740. Should the Commissioner determine errors existed within the Applicant's or Holder's published notice of intent pursuant to 105 CMR 100.405(C), the Applicant or Holder shall ensure a corrected notice of intent is published within a reasonable period of time, as specified by the Commissioner.

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(D) Pursuant to M.G.L. c. 111, § 25C(h), at its discretion, the Department may require an independent cost-analysis, conducted at the expense of the Applicant, to demonstrate that the Proposed Project is consistent with the Commonwealth's health care cost-containment goals. If the Department requires an independent cost-analysis, the Department shall make such request no later than 30 days following the Filing Date. The four-month period for review of the Application shall be stayed until a complete and final independent cost-analysis is received and accepted by the Department. For the purposes of a Department-required independent cost-analysis, the Department shall select a mutually agreeable party to conduct such analysis, and shall develop the scope and terms of such analysis. Upon the Department's acceptance of the independent cost-analysis, the Department shall provide the analysis to all Parties of Record. Parties of Record may submit written comments in response to the accepted independent cost-analysis. All written comments must be received by the Department within 30 days of Department acceptance. The accepted independent cost-analysis shall be attached to the staff report issued pursuant to 105 CMR 100.510.

(E) Applicants are responsible for ensuring proper notification and submissions to the Secretary of Environmental Affairs pursuant to 301 CMR 11.00: *MEPA Regulations*.

(F) If the Applicant is subject to a performance improvement plan pursuant to M.G.L. c. 6D, § 10(d), the Applicant shall provide notification of such in its Application.

(G) If the Applicant is subject to filing with HPC pursuant to M.G.L. c. 6D, § 13, the Applicant shall provide notification of such in its Application, and the Applicant shall file such notice of material change prior to, or on the same day as the Submission Date of an Application for Determination of Need with the Department.

(H) The Department shall notify the Applicant and all Parties of Record within two business days of determining an Application meets the definition of Filing Date. The Department may provide the Applicant reasonable accommodations for any necessary technical corrections. However, the existence of any defects, as determined by the Commissioner, may constitute grounds for dismissal pursuant to 105 CMR 100.615(E).

(I) The Applicant may request Part 1 Plan Review by the Department following the Filing Date of the Application for Determination of Need. Part 1 Plan Review may coincide, as is reasonably feasible, with Department consideration of the Proposed Project pursuant to 105 CMR 100.000.

100.415: Public Solicitation Requirements

(A) No Person may make Solicitation of Funding from the general public specifically for a Proposed Project subject to 105 CMR 100.000 without first obtaining a Notice of Determination of Need.

(B) An Applicant may solicit pledges for funding from the general public specifically for a Proposed Project subject to 105 CMR 100.000. However, Applicants shall properly notify all Persons of the requirement that the Proposed Project must receive Notice of Determination of Need prior to commencing Construction. In cases where an Application of Determination of Need is withdrawn pursuant to 105 CMR 100.430, or dismissed or disapproved pursuant to 105 CMR 100.615, the Applicant is responsible for ensuring all pledged funds are appropriately voided for the purposes of the withdrawn, dismissed, or disapproved project and that such persons are notified of such action(s).

100.425: Amendment of a Pending Application for Determination of Need

Unless otherwise deemed allowable by the Commissioner, no amendment shall be accepted that, in the opinion of the Commissioner, substantially alters the Proposed Project in nature, scope, costs, or financing, or in any way substantially alters or affects the Department's evaluation of the Proposed Project. 105 CMR 100.425 does not preclude the Department from requesting additional information, or making reasonable accommodations for any necessary technical corrections by the Applicant, or other changes based on updated information related to the Proposed Project. Any proposed amendments which are deemed impermissible by the Commissioner, and which result in the Applicant's inability to proceed with its filing, shall automatically result in a dismissal and the need for the Applicant to file a new Application.

100.430: Withdrawal of Application for Determination of Need

(A) An Applicant may withdraw its Application at any time by sending written notification thereof to the Department. Whenever an Application is withdrawn, all Parties of Record shall be notified by the Applicant.

(B) The Commissioner, in his or her discretion, may consider an Application to be withdrawn if an Applicant has failed to provide requested information, or otherwise has failed to prosecute the Application within a reasonable time period.

100.435: Opportunity for Comment by Parties of Record

(A) With respect to each Application, the Department shall afford all Parties of Record reasonable opportunity to comment. Before taking preliminary or Final Action on such Application, the Department shall consider any written comments or specific recommendations submitted by a Party of Record, if filed in a timely and proper manner pursuant to 105 CMR 100.000. Comments by Parties of Record shall be submitted to the Department not more than 30 days following an Application Filing Date. This period for comment shall be extended for an additional ten days after any public hearing held pursuant to 105 CMR 100.445. The Commissioner may, in his or her discretion, extend this period for comment.

(B) In addition to the opportunity for comment set forth in 105 CMR 100.435, Parties of Record may seek to affect the Department's action on an Application in any of the following ways:

- (1) By requesting a public hearing;
- (2) By filing written reaction to the Staff report; or
- (3) By making an oral presentation to the Department.

(C) Whenever a Party of Record sends any written communication, or submits any written materials concerning an Application, the Department shall provide copies of such communication or materials to all other Parties of Record.

(D) The Commissioner may reasonably waive the requirements of 105 CMR 100.435 in cases of an emergency Application made pursuant to 105 CMR 100.740.

100.440: Opportunity for Comment by the General Public

(A) Persons, other than Parties of Record, may provide written or oral comment or testimony to the Department at a properly posted public hearing, if one is so ordered pursuant to 105 CMR 100.445, or by sending written comment to the Department within 30 days following the Application's Filing Date. This period for comment shall be extended for an additional ten days following any public hearing held pursuant to 105 CMR 100.445. The Commissioner may, in his or her discretion, extend this period for comment.

(B) The Commissioner may reasonably waive the requirements of 105 CMR 100.440(A) in cases of an emergency Application made pursuant to 105 CMR 100.740.

100.445: Public Hearing

(A) The Commissioner shall order a public hearing upon the written request made by any Party of Record within 30 days following the Application's Filing Date pursuant to 105 CMR 100.435; and may, in his or her discretion, order one or more public hearing(s) whenever, in his or her opinion, a public hearing would aid the Department Staff in carrying out its duties pursuant to 105 CMR 100.000.

(B) The purpose of a public hearing pursuant to 105 CMR 100.445 shall be to allow any Person to make their views known with respect to an Application before the Department. Such public hearing shall not be adjudicatory in nature, but shall be a public forum for the presentation of any comment(s) that may be relevant to the consideration of an Application.

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(C) A public hearing ordered by, or requested from, the Commissioner may be held at any time. If feasible, every public hearing shall be held at a location in the Primary Service Area of the Proposed Project. Department Staff, at least ten days before any scheduled public hearing, shall provide notification of the time, place, and nature of such hearing to each Party of Record and shall publish notification of the hearing within the Primary Service Area of the Proposed Project.

(D) A designated representative of the Department shall conduct any public hearing pursuant to 105 CMR 100.445.

(E) The Commissioner may request a transcript of the public hearing to be provided at the expense of the Applicant.

100.510: Staff Report and Written Comment Period

(A) With respect to each Application not withdrawn or dismissed, following the Filing Date, Department Staff shall prepare a written Staff report to the Department or Commissioner, as applicable. The Staff report, at a minimum, shall contain the following:

- (1) A description of the Proposed Project with a summary of any significant supporting material(s) filed by the Applicant;
- (2) A summary of all comments, testimony, and official statements properly received as public information from both Parties of Record and the general public;
- (3) A summary of any comments, information, and rationale from Department Staff including, but not limited to, a summary of the Application's ability to meet the requirements of each Factor pursuant to 105 CMR 100.210; and why
- (4) Any additional information or analysis Department Staff wish to bring to the Department's attention;
- (5) A clear statement of Department Staff's recommendation(s) or suggested options for Final or preliminary action upon the Application by the Department; and
- (6) For Staff reports recommending the issuance of a Notice of Determination of Need, all applicable Standard Conditions and any Other Conditions recommended for attachment as Conditions of the Notice of Determination of Need.

(B) The Staff report shall be provided to all Parties of Record and made available to the public consistent with 105 CMR 100.405(A) following receipt by the Commissioner at least 30 days prior to any Department or Commissioner action.

(C) In advance of the Department's meeting upon a pending Application for Determination of Need, Parties of Record may submit written comments related to the Staff's recommendation(s) and any Other Conditions recommended therein. All written comments shall be submitted to the Department at least 20 days prior to the Department meeting.

100.545: Prerequisites to Department Action

Except in the case of an emergency Application made pursuant to 105 CMR 100.740, the Department shall not take preliminary or Final Action upon an Application, unless first:

(A) The Application or amendment has been on file with the Department for at least 30 days following the Filing Date and the Applicant has provided a copy to each Party of Record; and

(B) A public hearing has been held, if directed by the Commissioner pursuant to 105 CMR 100.445.

100.555: Postponement of Consideration of Application for Determination of Need

Any Party of Record may request postponement of consideration of an Application for Determination of Need until the next meeting of the Department. Such request may be granted only if the Commissioner determines that the request is for good cause, that failure to grant the request will significantly prejudice the Party of Record making the request from having its position considered by the Department, and that postponement would not prejudice any other Party of Record. A request for postponement under 105 CMR 100.555 must be made in writing to the Commissioner with copies simultaneously provided to all Parties of Record at least seven days before the scheduled Department meeting, and must state the rationale for the request for postponement. A Party of Record may be granted a postponement only once.

100.615: Final Action by the Department

(A) With respect to each Application for Determination of Need not withdrawn or dismissed, following the Submission Date, the Department shall act upon each Application by either disapproving an Application or by issuing a Notice of Determination of Need, subject to any and all applicable terms and Conditions set forth within 105 CMR 100.000, and based upon all written materials associated with a Proposed Project by adopting, amending, or rejecting the findings and recommendations, in whole or in part, within the Department staff report made pursuant to 105 CMR 100.510.

(B) The Department shall approve or disapprove, in whole or in part, each Application for a Determination of Need within four months after the Filing Date, or the date of which a permissible amendment to a pending Application was received by the Department; provided, however, that the Department may, on one occasion only, delay the action for up to two months after the Applicant has provided information which the Department has reasonably requested during the four-month period. This general requirement is subject to the following limited exemptions:

- (1) In cases where the Department requests an independent cost analysis pursuant to 105 CMR 100.405(D) and M.G.L. c. 111, § 25C(h), the four-month period shall be stayed until a final independent cost-analysis is deemed complete and accepted by the Commissioner; or
 - (2) A request for postponement pursuant to 105 CMR 100.555 shall stay the running of the four-month period for Department action; or
 - (3) The Department takes preliminary action pursuant to 105 CMR 100.620.
- Such action shall constitute a Final Action taken by the Department.

(C) If the Department determines that a Proposed Project satisfies each Determination of Need Factor as set forth within 105 CMR 100.210, unless otherwise expressly specified within 105 CMR 100.000, a Notice of Determination of Need shall be issued by the Department, subject to all applicable Standard and Other Conditions. Unless a different time period is required pursuant to an attached Other Condition, the effective date of the Notice of Determination of Need shall be the date of issuance of the written notification made pursuant to 105 CMR 100.625.

(D) If the Department determines that a Proposed Project does not satisfy each Determination of Need Factor as set forth within 105 CMR 100.210, unless otherwise expressly specified within 105 CMR 100.000, the Department shall disapprove an Application, and a Notice of Determination of Need shall not be issued by the Department. The effective date of the disapproval shall be the date of issuance of the written notification made pursuant to 105 CMR 100.625.

(E) The Department may dismiss the Application without making a finding. Dismissal shall be considered Final Action by the Department. The effective date of a dismissal shall be the date of issuance of the written notification made pursuant to 105 CMR 100.625. An Application may be dismissed by the Department for reasons including, but not limited to, one or more of the following grounds:

- (1) The Applicant has made an improper communication to the Department, Department Staff, or Parties of Record, such that the Applicant has, in the opinion of the Department, exerted undue influence;

100.615: continued

- (2) The Applicant has made false or misleading statements, as determined by the Department, in writing or oral communication with the Department, Department Staff, or Parties of Record;
- (3) The Applicant has repeatedly not complied with the provisions of 105 CMR 100.000 including, but not limited to, filing requirements;
- (4) The Application is deemed by the Department not within the jurisdiction of 105 CMR 100.000;
- (5) The Government Agencies with relevant licensure, certification, or other regulatory oversight of the Applicant or the Proposed Project has deemed the Proposed Project not capable of licensure; and/or
- (6) The Applicant has failed to sufficiently provide written documentation of Sufficient Interest in a new or proposed Site.

(F) No changes, alterations, or amendments made to any Department Guideline issued pursuant to 105 CMR 100.000, following the Filing Date of an Application for Determination of Need, shall be applied for the purposes of said Application.

100.620: Preliminary Action by the Department

In cases where the Department considers Final Action inappropriate, the Department may take preliminary action upon an Application. As preliminary action upon an Application, the Department may direct Department Staff to take one or more of the following actions:

- (1) Notify the Applicant and all Parties of Record of its intent to resume consideration of the Application at a subsequent Department meeting;
- (2) Conduct further Department Staff review of the Application in the manner directed, and to report in writing to the Department within a specified period of time;
- (3) Conduct a public hearing consistent with 105 CMR 100.445 with respect to the Application on such subjects and within such period of time as specified by the Department;
- (4) Request comments from Parties of Record with respect to such issues, and within such period of time, as specified by the Department; and/or
- (5) Take other action(s) necessary, in the opinion of the Department, to facilitate appropriate Final Action on the Application by the Department.

100.625: Notification of Final or Preliminary Action

(A) Upon the Department taking Final Action upon an Application for Determination of Need or request to amend a previously issued Notice of Determination of Need pursuant to 105 CMR 100.615, the Department shall provide appropriate written notification to all Parties of Record within 14 days of said Final Action. Such written notification shall disclose the Final Action, the rationale for said action, the terms and Conditions of any Notice of Determination of Need, and the rights and duties of parties and agencies notified with respect to said action.

(B) Upon the Department taking preliminary action upon an Application for Determination of Need pursuant to 105 CMR 100.620, the Department shall provide appropriate written notification to all Parties of Record within 14 days of said preliminary action. Such written notification shall disclose the preliminary action, the rationale for said action, the terms and Conditions of any such preliminary action, and the rights and duties of parties and agencies notified with respect to said action.

100.630: Delegated Review

- (A) The Department may appoint or direct the Commissioner to act on its behalf to take Final Action for certain project categories designated pursuant to 105 CMR 100.630. At a minimum, the following shall be included for delegated review and Final Action by the Commissioner:
- (1) Conservation Projects;
 - (2) Transfer of Site or change of a designated Location;

100.630: continued

- (3) An Application for a Proposed Project on behalf of a Long-term Care Facility with a maximum Capital Expenditure below \$3,000,000;
- (4) An Application deemed to be an emergency Application by the Commissioner pursuant to 105 CMR 100.740;
- (5) An Application for a Proposed Project where the Applicant is a Government Agency; and
- (6) An Application submitted from an applicant that has or is a participant in a Certified ACO for a Proposed Project that is, in total, a DoN-required Service or DoN-required Equipment.

(B) The Department may delegate other categories provided that such delegation is documented and made public consistent with 105 CMR 100.405(A).

(C) The Commissioner may choose, in his or her discretion, to direct the preparation of a Staff report and refer certain Applications eligible for delegated review to the Department for consideration and Final Action.

100.635: Amendments to a Notice of Determination of Need

(A) Following issuance of a Notice of Determination of Need by the Department, no changes may be made to the project without the issuance of a new Notice of Determination of Need with the exception of an Immaterial Change or approval of a request for a Significant Change.

A Significant Change must be within the scope of the Notice of Determination of Need as previously approved and the proposed change must be reasonable. The Holder, prior to implementing any Significant Change, shall submit to the Department a request for approval of the Significant Change that contains a narrative description of the previously approved project and of the proposed Significant Change and associated costs both to the Holder, as well as to the Holder's Patient Panel. The request shall additionally contain the rationale for such change. Department Staff may request additional information from the Holder. The Holder shall ensure that copies of all submitted information are simultaneously provided to all Parties of Record to the previously approved Notice of Determination of Need. No action shall be taken until such amendment request has been published consistent with 105 CMR 100.405(A) for at least 30 days. A public hearing may be requested by the Department or Parties of Record within 14 days of said information being properly posted. Following such period:

- (1) For an amendment to a Notice of Determination of Need previously issued by the Commissioner pursuant to 105 CMR 100.630, the Commissioner shall make a determination, consistent with 105 CMR 100.615 or 105 CMR 100.620, within 60 days, or may refer said proposed Significant Change to the Department for further consideration and Final Action; or
- (2) For an amendment to a Notice of Determination of Need previously issued by the Department, the Department shall make a determination, pursuant to 105 CMR 100.615, 100.620, or 100.640, within 60 days.

Final Action by the Department shall conform to the provisions of 105 CMR 100.625. Such Final Actions may include additional terms and Conditions to be attached to the Notice of Determination of Need. All information submitted in relation to the request for Significant Change shall be public, consistent with 105 CMR 100.405(A).

(B) Decisions made by the Commissioner pursuant to 105 CMR 100.635(A)(1), (2), and (3) may be reviewed by the Department pursuant to a written request sent to the Department by the Holder, a Party of Record, or a Government Agency within 14 days of the Commissioner's decision, together with a written statement of objection. The Department shall notify the requester of, and at least seven days prior to, the date of the Department's meeting at which the Commissioner's decision will be reviewed.

(C) Unless specified by the Department in an Other Condition, the approval of an amendment to a previously issued Notice of Determination of Need shall not result in the extension of the period of authorization.

100.640: Revocation of a Previously Approved Notice of Determination of Need

(A) The Department may revoke a previously issued Notice of Determination of Need for failure by the Holder to comply with all terms and Conditions of the Notice of Determination of Need. Should the Commissioner have reasonable cause to recommend revocation of a previously issued Notice of Determination of Need by the Department, the Commissioner shall comply with the following procedures:

- (1) The Commissioner shall make a preliminary inquiry of the Holder in order to clarify compliance with all Notice of Determination of Need terms and Conditions.
- (2) The Commissioner may, following preliminary inquiry, place consideration of the proposed revocation on the agenda of a Department meeting.
- (3) At least 21 days prior to consideration of a proposed revocation by the Department, Department Staff shall provide written notification to the Holder and all Parties of Record to the previously approved Notice of Determination of Need. Such notification shall disclose the proposed revocation, the rationale for said proposed revocation, and the rights and duties of parties and agencies notified with respect to said proposed revocation.
- (4) The Department shall afford an opportunity to speak to the Holder and to all parties of Record to the previously approved Notice of Determination of Need. The Department shall take action as it deems fair and appropriate.
- (5) Revocation by the Department pursuant to 105 CMR 100.640 shall conform to the provisions of 105 CMR 100.625.

(B) In order to advance the Commonwealth's goals for cost containment, the AGO or HPC may refer to the Commissioner for review and consideration of proposed revocation by the Department, a Holder of a previously approved Notice of Determination of Need issued pursuant to 105 CMR 100.715(B)(1), who, in the opinion of AGO or HPC, has violated 105 CMR 100.310(A)(2) by utilizing such DoN-required Services or DoN-required Equipment for purposes other than the expressed approved project, including treatments and/or patient populations not approved for within the Notice of Determination of Need.

100.705: Standing to File an Application for Determination of Need

(A) No Person shall be permitted to make an Application for Notice of Determination of Need pursuant to 105 CMR 100.000 unless such Person has Sufficient Interest in the Site or facility, and unless such Site or facility may be used for the Proposed Project, meaning one of the following:

- (1) The Proposed Project is authorized under applicable zoning bylaws or ordinances, whether or not a special permit is required; or
- (2) If the Proposed Project is not authorized under applicable zoning bylaws or ordinances, a variance has been received to permit such Proposed Project; or
- (3) The Proposed Project is exempt from zoning bylaws or ordinances.

(B) Pursuant to St. 1988, c. 23, § 76, no Determination of Need shall be required pursuant to M.G.L. c. 111, § 25C for any Hospital facility of the Shriner's Hospitals for Children.

100.715: Substantial Capital Expenditure and Substantial Change in Service

Pursuant to M.G.L. c. 111, § 25C, no Person may make a Substantial Capital Expenditure or a Substantial Change in Service, unless the Department has first issued a Notice of Determination of Need.

(A) Substantial Capital Expenditure. Effective October 1, 2019, an Application for Substantial Capital Expenditure must be submitted when the total of any Capital Expenditures, excluding those Capital Expenditures consisting of construction defined as a Conservation Project, by a Health Care Facility, as that term is defined in 105 CMR 100.100, for any construction that requires Department approval, either through a Notice of Determination of Need or through the submission and approval of architectural plans and specifications as required by M.G.L. c. 111, § 51, reasonably foreseeable during the course of a single Federal Fiscal Year, exceed, or may be reasonably regarded as likely to exceed, the Expenditure Minimum with Respect to Substantial Capital Expenditures when consolidated over the course of a single Federal Fiscal Year. Such Applications must also include all proposed Substantial Changes in Service consolidated over

100.715: continued

the same Federal Fiscal Year. An Applicant may separately submit an Application for those Capital Expenditures consisting solely of construction defined as a Conservation Project that, when consolidated over the course of a single Federal Fiscal Year, exceed the Expenditure Minimum with Respect to Substantial Capital Expenditures.

A Hospital or comprehensive cancer center, as that term is defined in M.G.L. c. 118E, § 8A, may separately submit an Application for Substantial Capital Expenditure for those Capital Expenditures concerned solely with outpatient services other than Ambulatory Surgery and not otherwise defined by the Department as DoN-required Equipment or DoN-required Services; provided that such an Application includes all such reasonably foreseeable Capital Expenditures across all locations on the Health Care Facility License that exceed the Expenditure Minimum with Respect to Substantial Capital Expenditures when consolidated over the course of a single Federal Fiscal Year. Such Applications must also include all planned Substantial Changes in Service consolidated over the same Federal Fiscal Year.

(B) Substantial Change in Service. Effective October 1, 2019, a Health Care Facility, as that term is defined in 105 CMR 100.100, that is not required to submit an application under 105 CMR 100.715(A) but proposes any reasonably foreseeable Substantial Change in Service over the course of a single Federal Fiscal Year, must submit an Application for any Substantial Change in Service that consolidates all such Substantial Changes in Service at the Health Care Facility over that Federal Fiscal Year.

A Hospital or comprehensive cancer center, as that term is defined in M.G.L. c. 118E, § 8A, may separately submit an Application for Substantial Change in Service for outpatient services; provided that such an Application consolidates all such reasonably foreseeable Substantial Changes in Service across all locations on the Health Care Facility License over the course of a single Federal Fiscal Year.

(1) DoN-required Services and DoN-required Equipment.

(a) Maintenance or replacement of existing equipment defined as a DoN-required Equipment shall not require a Notice of Determination of Need.

(b) When considering a proposed Addition, Expansion, or Conversion of an existing DoN-required Service or DoN-required Equipment, the Department shall first deem that such services or equipment were established or acquired pursuant to a properly issued Notice of Determination of Need.

(2) Ambulatory Surgery.

(a) No Person shall be issued a Notice of Determination of Need inclusive of Ambulatory Surgery, unless the Proposed Project, as it relates to Ambulatory Surgery, constitutes:

1. Surgery capacity located on the main campus of an existing Hospital for which the Applicant has or is a participant in a Certified ACO;
2. An Expansion, Conversion, Transfer of Ownership, transfer of Site, or change of designated Location for Ambulatory Surgery capacity located on a satellite campus of an existing Hospital for which the Applicant has or is a participant in a Certified ACO;
3. Freestanding Ambulatory Surgery Center, that is an Affiliate of, or joint venture with an Entity that has or participates in, a Certified ACO; or,
4. An Expansion, Conversion, Transfer of Ownership, transfer of Site, or change of designated Location for a Freestanding Ambulatory Surgery Center that received an Original License as a Clinic on or before January 1, 2017.

(b) For any Application for Notice of Determination of Need made pursuant to 105 CMR 100.715(B)(2)(a) 1, 2, or 3, which includes a Proposed Project within the Primary Service Area of an existing Hospital that is:

1. designated as an independent community disproportionate share or non-disproportionate share Hospital as defined by HPC's Massachusetts Hospital Cohort Designation and Affiliation Status, and
2. not an existing joint venture or Affiliate of the Applicant:
 - a. The Proposed Project must constitute a joint venture with the independent community disproportionate share or non-disproportionate share Hospital; or
 - b. The Applicant must obtain a letter of support signed by the independent community disproportionate share or non-disproportionate share Hospital's chief executive officer and board chair.

100.715: continued

(3) Pursuant to M.G.L. c. 111, § 25C, no Person may acquire by purchase, lease, or other arrangement a unit of medical, diagnostic, or therapeutic equipment for a Location other than a Health Care Facility, which has a fair market value in excess of \$250,000, adjusted annually by the Commissioner after consideration of any inflation index established by the U.S. Department of Health and Human Services and set forth by the Commissioner in an informational bulletin, unless the Person first notifies the Department in writing at least 60 days prior to the acquisition of, or implementation of contractual arrangements for the acquisition of the equipment. If the Person fails to notify the Department, or if such acquisition meets the definition of a Substantial Change in Service, the Commissioner shall order the filing of an Application for Determination of Need.

100.726: Exemptions for Certain Substantial Capital Expenditures and Substantial Changes in Service

(A) No Notice of Determination of Need shall be required for any Substantial Capital Expenditure or any Substantial Change in Service that is solely related to the conduct of basic biomedical research or applied medical research. However, Entities making a Substantial Capital Expenditure or Substantial Changes in Service pursuant to 105 CMR 100.715 shall notify the Department, in the form and manner as specified by the Commissioner, at least 60 days prior to undertaking such an expenditure or change in service. Such Provider Organizations shall be required to report information concerning said research project(s) to the Department, in the form, manner, and frequency as reasonably requested by the Commissioner.

(B) Notice of Determination of Need shall be required for any Substantial Capital Expenditure or any Substantial Change in Service that is solely related to the conduct of basic biomedical research or applied medical research if it results in any of the following:

- (1) Any increase in the number of clinical beds or outpatient capacity of a Health Care Facility;
- (2) Any increase in the gross patient service revenue of a Health Care Facility;
- (3) Determination by the Commissioner that the Health Care Facility notification pursuant to 105 CMR 100.715 does not constitute an expenditure or change in service that is solely related to the conduct of basic biomedical research or applied medical research; or,
- (4) Failure by a Health Care Facility to comply with the notification requirement outlined within 105 CMR 100.726(A).

(C) No Notice of Determination of Need shall be required for any Substantial Capital Expenditure or any Substantial Change in Service at a Federally Qualified Community Health Center.

100.730: Determination of Need for Original Licensure

(A) Applicability.

- (1) Pursuant to M.G.L. c. 111, §§ 51 through 53, no Person shall be issued an Original License to establish or maintain a Hospital, a Freestanding Ambulatory Surgery Center, an inpatient unit of a Health Care Facility off the Premises of the Health Care Facility, or the placement of inpatient services at a previously-licensed outpatient satellite of a Health Care Facility, unless the Department has first issued a Notice of Determination of Need for the Proposed Project at the designated Location.
- (2) No Person shall be issued an Original License to establish or maintain a facility licensed by a Government Agency which requires a Determination of Need as a condition of Original Licensure unless the Department has first issued a Notice of Determination of Need for the Proposed Project at the designated Location.

(B) For Proposed Projects inclusive of Ambulatory Surgery, *see* 105 CMR 100.715(B)(2)

100.735: Transfer of Ownership - Applicability

(A) Pursuant to M.G.L. c. 111, §§ 51 through 53, no Person shall be issued an Original License for a Hospital, a Freestanding Ambulatory Surgery Center, an inpatient unit of a Health Care Facility off the Premises of the Health Care Facility, or the placement of inpatient services at a previously-licensed outpatient satellite of a Health Care Facility, unless the Department has first issued a Notice of Determination of Need for such Proposed Project at the designated Location.

100.735: continued

(B) No Person shall be issued an Original License for any facility licensed by a Government Agency which requires a Determination of Need as a condition of Original Licensure unless the Department has issued a Notice of Determination of Need for such Proposed Project at the designated Location.

(C) No Notice of Determination of Need for a Transfer of Ownership shall be issued by the Department unless the Proposed Project includes the transfer of the Health Care Facility's license in its entirety to a single transferee.

(D) The transferee, by operation of the Notice of Determination of Need issued pursuant to this section, becomes the Holder of any Notice of Determination of Need then held by any entity being acquired.

100.740: Emergency Applications

(A) Applicability. Any Person believing an Emergency Situation exists may file an Application for a Determination of Need by filing with the Department a written notification, signed under the pains and penalties of perjury by both the Applicant's chief executive officer and board chair, which sets forth the identity of the Applicant, the nature of the Emergency Situation, as well as the nature, scope, Location, and projected costs of the Proposed Project. An Application filed pursuant to 105 CMR 100.740 shall convincingly demonstrate that the Proposed Project will address the Emergency Situation, and without issuance of a Notice of Determination of Need, that the public health will be measurably harmed.

(B) Other Application Processes. Unless otherwise specified by the Commissioner, an Applicant filing an Application for Determination of Need made pursuant to 105 CMR 100.740 shall be subject to the following:

(1) Within 30 days of receipt of the written notification required pursuant to 105 CMR 100.740, the Commissioner shall determine whether there is, in fact, an Emergency Situation. If deemed an Emergency Situation, the Commissioner may issue a Notice of Determination of Need, notifying Parties of Record consistent with 105 CMR 100.625. The Commissioner may subsequently require a full Application for Determination of Need consistent with 105 CMR 100.405.

(2) In the case of an Application for Determination of Need made pursuant to 105 CMR 100.740, notice of intent of the Application may be given after the Application has been filed with the Department. Publication of notice of intent shall otherwise be as prescribed within 105 CMR 100.405(C).

100.745: Transfer of Site or Change of Designated Location

(A) No Person shall make a transfer of Site of a Health Care Facility, DoN-required Service, or DoN-required Equipment nor shall any Person change the designated Location of an Original License as outlined within 105 CMR 100.730(A), unless the Person first provides written notification to the Department, in the form and manner as required by the Commissioner, and the Department determines whether or not the proposed transfer of Site or Change of Designated Location will result in a Substantial Capital Expenditure or Substantial Change in Service.

(B) No Holder that has received a previously issued Notice of Determination of Need for a project that is not yet licensed, or not yet operational if there is no requirement for a license, shall make a transfer of Site, unless the Holder first provides written notification to the Department, in the form and manner as required by the Commissioner, and the Department determines whether or not the proposed transfer of Site will result in a Substantial Capital Expenditure or Substantial Change in Service.

(C) The Department shall determine based on the information supplied within the written notification whether the proposed transfer of Site or change of designated Location will either:

(1) result in a Substantial Capital Expenditure or Substantial Change in Service, and therefore will first require a Notice of Determination of Need issued pursuant to 105 CMR 100.715; or

100.745: continued

(2) shall first require a Notice of Determination of Need issued pursuant to 105 CMR 100.730.

(D) Said notification to the Department shall include, at a minimum:

- (1) A written description of the reasons for the requested transfer of Site;
- (2) A written description of the current and proposed Site, including a comparison of the area in gross square feet associated with the services at each Site, and the current and proposed Primary Service Area;
- (3) A written description of, and comparison between, the existing and proposed patient populations served;
- (4) A written description of, and comparison between, existing and proposed patient access including, but not limited to, a the proposed transfer of Site or change in designated Location's impact on price, total medical expenditure, provider costs, and other recognized measures of health care spending;
- (5) A detailed attestation of all anticipated expenditures to be incurred as a result of the proposed transfer of Site;
- (6) Documentation of Sufficient Interest in the proposed Site and evidence that the Site may be used for the proposed purpose, in accordance with 105 CMR 100.705;
- (7) An affidavit of truthfulness, signed under the pains and penalties of perjury by the Applicant's chief executive officer and board chair; and
- (8) Any additional information deemed necessary by the Commissioner.

100.800: Expected and Appropriate Conduct by Applicants

(A) An Applicant shall fully cooperate with the Department and all applicable Government Agencies.

(B) With respect to its own Application for Determination of Need, an Applicant may only seek to convince the Department of the appropriateness of taking favorable action on the Application by utilizing one or more of the following methods:

- (1) By submitting material(s) supporting the Application;
- (2) By requesting a public hearing(s) pursuant to 105 CMR 100.445;
- (3) By filing written reaction to the staff report pursuant to 105 CMR 100.510; or
- (4) By making an oral presentation to the Department or Parties of Record.

(C) While an Application for Determination of Need is pending, no Applicant, Party of Record, or employee or agent thereunder, shall initiate any oral, electronic, or written communication with the Commissioner or any other member of the Public Health Council concerning a pending Application, or otherwise engage in behavior that a reasonable Person could perceive to constitute an exertion of undue influence upon the Commissioner or members of the Public Health Council. Violations of this provision by a Ten Taxpayer Group may serve as grounds for the Department to revoke its status. This general requirement is subject to the following limited exception:

Applicants and Parties of Record may be permitted to freely communicate orally or in writing with Department Staff and the Commissioner's delegate pursuant to the requirements under 105 CMR 100.000, or to inquire on the status or progress of a pending Application. All said written inquiries shall be considered written materials consistent with 105 CMR 100.405(A).

(D) Any violation of 105 CMR 100.800 may be determined by the Commissioner as exerting undue influence, and therefore may be grounds for dismissal of an Application for Determination of Need pursuant to 105 CMR 100.615(E).

100.805: Advisory Rulings

(A) Pursuant to M.G.L. c. 30A, § 8, the Department may, upon the request of any Person, make an advisory ruling with respect to the applicability to any Person, property, or state of facts of any provision of 105 CMR 100.000.

100.805: continued

(B) Any Person desiring an advisory ruling shall direct its request, in writing, to the Department, "Attention: Office of the General Counsel, Determination of Need Program".

(C) Each such request shall be titled "Request for Advisory Ruling" and shall set forth, clearly and succinctly, the following:

- (1) Name;
- (2) Organization, if applicable;
- (3) Address of the Person making the request;
- (4) Interest in, or relationship to, any regulated party;
- (5) A statement of the facts with respect to which the advisory ruling is requested; and
- (6) The statutory provision or the section of 105 CMR 100.000 involved.

The Person making such a request may also include their views and opinions.

(D) It shall be within the discretion of the Department's General Counsel whether to make an advisory ruling on behalf of the Department.

(E) Copies of all Department advisory rulings rendered pursuant to 105 CMR 100.000 shall be public records and shall be made available to the public consistent with 105 CMR 100.405(A).

100.810: Sub-regulatory Guidelines and Interpretational Documentation

The Commissioner may issue any Guidelines or interpretational documentation deemed necessary to achieve the purpose and objectives of 105 CMR 100.000.

100.815: Waivers

(A) The Commissioner, within his or her authority, may waive any requirement of 105 CMR 100.000. The Commissioner shall notify the Public Health Council of any waiver issued within 60 days of issuance.

(B) Any waiver granted pursuant to 105 CMR 100.815(A) shall describe the requirement that has been waived, the rationale for the waiver, and any applicable terms and Conditions attached thereto.

100.820: Enforcement and Penalties

Pursuant to M.G.L. c. 111, § 25G, the superior and supreme judicial courts shall have jurisdiction, upon request of the Department, or of any Ten Taxpayer Group in Massachusetts to enforce any provision of 105 CMR 100.000. A violation of any such provision shall subject the violator to liability for a civil penalty of not more than \$500 for each day of such violation, assessable by the superior court. A violation of any such provision shall constitute grounds for refusing to grant, renew, modify, or revoking the license of a Health Care Facility or of any part thereof.

100.825: Severability

The provisions of 105 CMR 100.000 are severable. If a court of competent jurisdiction declares any section, subsection, paragraph, or provision unconstitutional or invalid, the validity of the remaining provisions shall not be affected.

REGULATORY AUTHORITY

105 CMR 100.000: M.G.L. c. 111, §§ 25B through 25G, §§ 51 through 53, and § 71.

(PAGES 133 THROUGH 168 ARE RESERVED FOR FUTURE USE.)



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 138.00

CHAPTER TITLE: Uniform Standards of Accounting Procedures and Internal Controls

AGENCY: Massachusetts Gaming Commission

ORIGINAL PUBLICATION REFERENCE: 1369 Date: 07/13/2018

SUMMARY OF CORRECTION:
Reinstates 205 CMR 138.35 and 138.36 published on 6/15/18 which were over ridden by a 7/13/18 filing on the same pages.

AGENCY CONTACT: Regulations Division PHONE: 617-727-2831

ADDRESS: State House, Room 117, Boston, MA 02133

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: Dec 7 2018

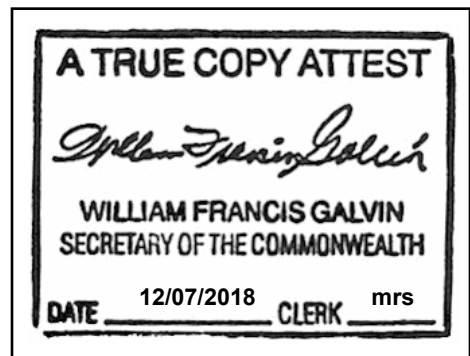
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CODE OF MASSACHUSETTS REGULATIONS

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205 CMR: MASSACHUSETTS GAMING COMMISSION

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205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 138.00: UNIFORM STANDARDS OF ACCOUNTING PROCEDURES AND INTERNAL CONTROLS

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- 138.01: Definitions

As used in 205 CMR 138.00 the following words and phrases shall have the following meanings unless the context clearly indicates otherwise:

Annuity Jackpot means any slot machine payout offered by a gaming licensee, where a patron is entitled to receive cash payments at specified intervals in the future.

Asset Number means a unique number permanently assigned to a slot machine and a slot cash storage box for purposes of tracking that machine and storage box while owned by a gaming licensee.

Bank is defined in M.G.L. c. 167B, § 1.

Cage Supervisor means any person who supervises personnel and functions within the cashiers' cage.

Cash means currency or coin.

Cash Equivalent means a certified check, cashier's check, treasurer's check, personal checks, travelers' check, money order, or other instrument deemed a cash equivalent by the commission.

Check is defined in M.G.L. c. 106, §§ 3 through 104.

Chief Gaming Executive means the individual employed by a gaming establishment who is responsible for the daily conduct of a gaming licensee's gaming business. Unless the chief gaming executive also serves as the chief executive officer of the gaming licensee, the chief gaming executive shall report directly to the chief executive officer of the gaming licensee.

138.33: continued

(10) At the end of the gaming day, at a minimum, the original unsecured funds forms and as applicable, gaming vouchers and coupons, shall be forwarded to the accounting department. The accounting department shall reconcile the original and duplicate forms and record the appropriate amount on the Slot Win Report or unclaimed cash report, as applicable. Reconciliation of unsecured funds shall be completed by the end of the gaming day on which the count of the slot machine drop for the machine in which the unsecured funds were located is performed.

(11) In conjunction with the removal of any slot drop box, a gaming licensee shall manually read, or cause an approved slot monitoring system to record, the slot machine's accounting meters that are used to calculate gross gaming revenue, as described by GLI-11, 5.4.1 *Electronic Accounting and Occurrence Meters*, including the in-meter, drop meter, out-meter, attendant paid jackpots meter, attendant paid cancelled credits meter, bill meters and handle pull meter. In addition, the following meters shall be read and recorded:

- (a) If the slot machine accepts gaming vouchers, the numerical and value cashable gaming voucher meters, and the numerical and value non-cashable gaming voucher meters;
- (b) If the slot machine accepts coupons enrolled in the gaming voucher system, the numerical and value cashable coupon meters and numerical and value non-cashable coupon meters;
- (c) If the slot machine accepts promotional credits, the electronic cashable credit meter and the electronic non-cashable credit meter; and
- (d) If the slot machine accepts funds from an account based wagering system, the wagering account transfer-in meter and the wagering account transfer-out meter.

(12) The slot monitoring system shall provide a report to the accounting department for a comparison of the meter readings to the count room reports and the calculation of each slot machine's payout percentage. In the event it is determined after a count that a shortage exists between the total registered on a slot machine's accounting meters that are used to calculate gross gaming revenue, as described by GLI-11, 5.4.1 *Electronic Accounting and Occurrence Meters*, the licensee shall investigate to determine the cause and record the findings. Only members of the accounting department shall have the authority to adjust meter readings subsequent to the count, provided that notification is provided to the IEB and the commission's finance office if the shortage was caused by a technical malfunction. The IEB and/or finance office may take any action necessary to ensure the integrity of the adjustment prior to the month end reconciliation and public reporting of gross gaming revenue.

(13) Nothing in 205 CMR 138.00 or a gaming licensee's internal controls shall preclude the IEB from requiring a gaming licensee to read a slot machine meter manually as a remedial measure in the event of a malfunction or as it may otherwise deem necessary to ensure the integrity of gaming and the accurate reporting of gross revenue.

138.34: Procedures for Acceptance of Tips or Gratuities from Patrons

(1) In accordance with M.G.L. c. 23K, § 25(g), no key gaming employee or any other gaming employee who serves in a supervisory position shall solicit or accept a tip or gratuity from a player or patron in the gaming establishment where the employee is employed.

(2) In accordance with M.G.L. c. 23K, § 25(g), a dealer may accept tips or gratuities from a patron at the table game where such dealer is conducting play provided, however, that such tips or gratuities shall be placed in a pool for distribution among other dealers. A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures governing the manner in which tips and gratuities shall be set aside for the dealer pool as well as the manner of distribution among dealers, which shall, at a minimum, incorporate the following principles:

- (a) At their election, the dealers shall be responsible for the collection, counting, and distribution of the tips and gratuities;
- (b) The gaming licensee shall cooperate in the collection, counting, and distribution process undertaken by the dealers, and shall provide surveillance, cashier, payroll and other systems necessary for the administration and security of the process;

138.34: continued

- (c) Tips shall be calculated on a weekly basis, unless the dealers specifically elect to calculate the tips on a daily basis, and shall be distributed based on time spent dealing;
 - (d) The policies and procedures shall be subject to approval by the dealers in a manner provided by the dealers; and
 - (e) The policies and procedures shall be in accordance with M.G.L. c. 149, § 152A and other applicable law of the Commonwealth.
- (3) The policies and procedures required in accordance with 205 CMR 138.34(2) shall, at a minimum, include:
- (a) The method utilized by a dealer for acceptance of the tip or gratuity;
 - (b) The physical characteristics of the transparent locked box utilized for purposes of depositing such tips or gratuities;
 - (c) The method for ensuring that any non-value chips received as a tip at any table game, authorized by the commission to utilize non-value chips for play, is expeditiously converted into value chips and deposited in a the locked box reserved for that purpose; and
 - (d) The method of collecting, accounting for and placing such tips and gratuities in a common pool for distribution *pro-rata* among all dealers in accordance with the policies and procedures established in accordance with 205 CMR 138.34.
- (4) If a gaming licensee offers the game of poker, the policies and procedures required in accordance with 205 CMR 138.34(2) may provide for a separate common pool for tips and gratuities received by poker dealers to be established. Provided, however, at the dealers' option, if a separate common pool is established for poker dealers, the policies and procedures may provide for distribution from the pool in accordance with the precise amount contributed. A gaming licensee, with the dealers' assent, may also designate a percentage of the prize pool or other such amounts as designated in a poker tournament submission, as approved by the commission, to be withheld for distribution to the tournament dealers on a *pro-rata* basis.
- (5) A tip or gratuity may be provided electronically to a dealer upon initiation and authorization by a patron. A gaming licensee shall include in its internal controls the method utilized for the distribution of electronic tips or gratuities and ensure that a report listing all electronic tips shall be available from the system where the transaction occurred.

138.35: Table Inventory; Table Inventory Container; Chip Reserve Compartment

- (1) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall outline the instances in which the table inventory will be changed during the course of a gaming day. Such outline shall include procedures for:
- (a) Opening a table;
 - (b) Fills and credits;
 - (c) Issuance of chips, currency, or other form of value based on the player's previously-issued credit pursuant to 205 CMR 138.43; and
 - (d) Closing a table.
- (2) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall:
- (a) Include procedures to address errors in recording a table game bankroll, including error notification and incorrect table inventory slip form procedures;
 - (b) Indicate whether the gaming licensee will use a chip reserve compartment at its game tables; and
 - (c) Require that the table inventory slip can be seen through the float at closed tables.

138.36: Procedures for Counting Table Inventory, Opening Tables for Gaming, Shift Changes at Gaming Tables, and Closing Gaming Tables

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall require that the table inventory be verified at the start of each day on a table inventory slip form, which shall be signed and placed in the drop box. The verification process shall include:

138.36: continued

- (a) Procedures for verification of the accuracy of the bankroll in the opening of the day;
- (b) Procedures for inspection of the bankroll;
- (c) Procedures for handling discrepancies on the table inventory slip form, including error notification to the department(s) affected by the discrepancy and providing both the correct and incorrect forms along with a manager's signature;
- (d) Procedures for removal and verification of gaming stacks;
- (e) Procedures for closing a game, including locking and verifying all bankrolls and removing all stacks and amounts from the bankroll.

138.37: Procedure for Distributing and Removing Gaming Chips, Coins and Plaques to Gaming Tables

A system of internal controls submitted by a gaming licensee, in accordance with 205 CMR 138.02, shall include procedures relative to distributing and removing gaming chips, coins, and plaques to and from gaming tables that must include participation of personnel from at least three departments with incompatible functions.

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

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AGENCY: Massachusetts Gaming Commission

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SUMMARY OF CORRECTION:
Incorrect page 520.18 was published in the 8/10/18 Mass Register. This correction inserts the correct page 520.18.

AGENCY CONTACT: Regulations Division PHONE: 617-727-2831

ADDRESS: 101 Federal Street, Floor 12, Boston, MA 02100

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: Dec 18 2018

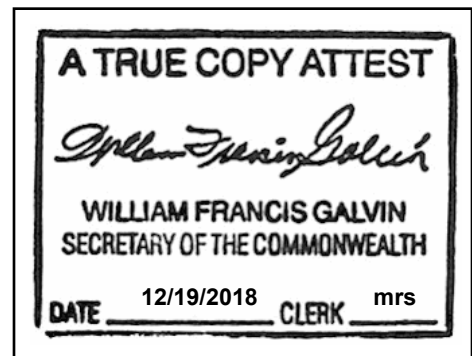
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146.21: continued

(7) If a gaming licensee offers a progressive payout wager pursuant to 205 CMR 138.62: *Payment of Table Game Progressive Payout Wagers; Supplemental Wagers not Paid from the Table Inventory: (Reserved)*, the pai gow poker table shall include the following features:

- (a) A separate acceptor device mounted for the placement of the progressive wager, which acceptor device shall have a light that illuminates upon the insertion and acceptance of a gaming chip;
- (b) A sign describing each winning progressive payout wager and the payout to be awarded therefore;
- (c) A table controller panel located in an area of the table as approved by the Bureau and which shall be equipped with a “lock-out” button that, once activated by the dealer as set forth in 205 CMR 138.62: *Payment of Table Game Progressive Payout Wagers; Supplemental Wagers not Paid from the Table Inventory: (Reserved)*, shall prevent any player from depositing a gaming chip in the acceptor device; and
- (d) A mechanical, electrical or electronic table inventory return device which shall permit all gaming chips deposited into the acceptor device referenced in 205 CMR 146.13(7)(a) to be collected and immediately returned to a designated area within the table inventory container prior to the dealing of a hand. The table inventory return device shall be designed and constructed to contain any feature the may require to maintain the security and integrity of the game. The procedures for the operation of all functions of the table inventory return device shall be submitted to the Bureau.

(8) If a gaming licensee offers the dragon’s eye variation of pai gow poker pursuant to the authorized Rules of the Game of Pai Gow Poker, in addition to the requirements set forth in 205 CMR 146.21, the layout shall include six separate betting areas at each player position for the placement of the following six optional wagers:

- (a) An even wager;
- (b) An odd wager;
- (c) A match wager;
- (d) A double wager;
- (e) A triple wager; and
- (f) A dice bonus wager.

(9) If a gaming licensee offers the “dealer queen’s dragon” wager, “dynasty bonus” wager, “protection” wager, and the “red/black” wager authorized by the authorized Rules of the Game of Pai Gow Poker then the following shall apply:

- (a) A separate area for each player, located above the numbered betting areas, designated “queen’s dragon” for the placement of the “dealer queen’s dragon” wager.
- (b) A separate area for each player, located to the right of the numbered betting areas, designated “dynasty bonus” for the placement of the “dynasty bonus” wager.
- (c) A separate area for each player, located to the left of the numbered betting areas, designated “P” for the placement of the “protection” wager.
- (d) Two separate areas for each player, one located to the right of the “queen’s dragon” betting area and colored red and the other located to the left of the “queen’s dragon” betting area and colored black, for the placement of the “red/black” wager.
- (e) Notice of signage, as approved by the Bureau, providing the payout odds for the “dealer queen’s dragon” wager, “dynasty bonus” wager, “protection” wager, “red/black” wager, and payout amounts for the “envy bonus” as defined in the authorized Rules of the Game of Pai Gow Poker.
- (f) Inscriptions indicating the aggregate payout limit per round of play for the “dealer queen’s dragon” wager, the “dynasty bonus” wager, the “protection” wager, and the “red/black” wager established by the gaming licensee pursuant to the authorized Rules of the Game of Pai Gow Poker a generic inscription indicating the wagers are subject to the posted payout limit.

146.22: Pai Gow Table; Pai Gow Shaker; Physical Characteristics

(1) Pai gow shall be played at a table having on one side places for the players and on the opposite side a place for the dealer.

146.22: continued

(2) A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a pai gow table shall contain, at a minimum:

- (a) Six separate designated betting areas for the players at the table with each area being numbered one through six;
- (b) A separate area, located to the left of the dealer, for the placement of four tiles which shall be referred to as the "dead hand"; and
- (c) The name or trade name of the gaming licensee offering the game.

(3) Each pai gow table shall have a drop box and tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer.

(4) Pai gow shall be played with a container, to be known as a "pai gow shaker," which shall be used to shake three dice before each hand of pai gow is dealt in order to determine the starting position for the dealing of the pai gow tiles. The pai gow shaker shall be designed and constructed to contain any feature the Bureau may require to maintain the integrity of the game and shall, at a minimum, adhere to the following specifications:

- (a) The pai gow shaker shall be capable of housing three dice and shall be designed so as to prevent the dice from being seen while the dealer is shaking it; and
- (b) The pai gow shaker shall have the name or identifying logo of the gaming licensee imprinted or impressed thereon.

(5) If a gaming licensee offers the dragon's eye variation of pai gow pursuant to the authorized Rules of the Game of Pai Gow, in addition to the requirements set forth in 205 CMR 146.22 the layout shall include:

- (a) Five separate betting areas at each player position for the placement of the following five optional wagers:
 1. An even wager;
 2. An odd wager;
 3. A match wager;
 4. A double wager; and
 5. A triple wager.
- (b) A separate location to the left of dealer's table inventory container with six areas for the dealer's placement of player dice bonus wagers, which areas are designated with the numeric player position at the table.

146.23: Chase the Flush Table; Physical Characteristics

(1) Chase the Flush shall be played on a table having positions for six players on one side of the table and a place for the dealer on the opposite side. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau for approval prior to utilizing the layout design.

(2) The layout for a Chase the Flush table shall contain, at a minimum:

- (a) The name or trade name of the gaming licensee;
- (b) Four separate designated betting areas at each player position for the placement of ante, x-tra bonus, all in and same suit wagers, configured with the same suit area closest to the dealer, the all in wager area farthest from the dealer, the ante wager area arrayed between the same suit wager area and the all in wager area, and the x-tra bonus wager area to the right of and separated from the ante wager area by an "+" symbol;
- (c) A separate designated area for the placement of the four community cards, which area shall be located in the center of the table between the table inventory container and the player betting areas;
- (d) A separate designated area for the placement of the dealer's three cards, which area shall be located between the table inventory container and the designated area for the community cards described in 205 CMR 146.23(2)(c);
- (e) An inscription indicating that an ante wager shall push if the dealer has less than a 3-card nine high flush; and

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**
Secretary of the Commonwealth**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **225 CMR 13.00**CHAPTER TITLE: **DOER CO2 Budget Trading Program Auction Regulation**AGENCY: **Department of Energy Resources**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

The purpose of 225 CMR 13.00 is to establish rules for the conduct of auctions of CO2 allowances to be administered by the Department of Energy Resources or its agent as part of the Massachusetts component of the CO2 Budget Trading Program, which is designed to stabilize and then reduce anthropogenic emissions of CO2, a greenhouse gas, from CO2 budget sources in an economically efficient manner that minimizes costs to electricity consumers. 225 CMR 13.00 complements the provisions of the Department of Environmental Protection regulation, 310 CMR 7.70.

REGULATORY AUTHORITY: **M.G.L. c. 25A, § 6, and c. 21A, § 22.**AGENCY CONTACT: **Rachel Evans** PHONE: **617-626-7326**ADDRESS: **DOER, 100 Cambridge St., 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.***Local Government Advisory Committee: 4/20/18;****General Court - Joint Committee on Telecommunications, Utilities and Energy (TUE): 10/2/18;****Comments received 11/8/18 (approval not required).**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: **May 29, 2018**

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

For the first and second year: NA
For the first five years: NA
No fiscal effect: X

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: Dec. 10, 2018

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:
carbon dioxide (CO2)
auction
Regional Greenhouse Gas Initiative (RGGI)

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:
Amends 225 CMR 13.00.

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: Dec 12 2018

Publication - To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1381 DATE: 12/28/2018

EFFECTIVE DATE: 12/28/2018

CODE OF MASSACHUSETTS REGULATIONS

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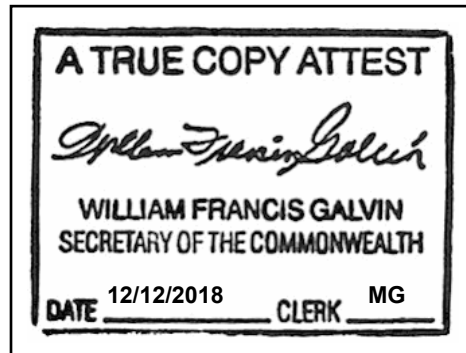


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225 CMR 13.00: DOER CO₂ BUDGET TRADING PROGRAM AUCTION REGULATION

Section

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- 13.02: Scope: (Reserved)
- 13.03: Definitions
- 13.04: Multi-state Auction Option
- 13.05: Commencement and Timing of CO₂ Allowance Auctions
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- 13.14: Voluntary Renewable Energy (VRE) Accounting
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13.01: Purpose

The purpose of 225 CMR 13.00 is to establish rules for the conduct of auctions of CO₂ allowances to be administered by the Department of Energy Resources or its agent as part of the Massachusetts component of the CO₂ Budget Trading Program, which is designed to stabilize and then reduce anthropogenic emissions of CO₂, a greenhouse gas, from CO₂ budget sources in an economically efficient manner that minimizes costs to electricity consumers. 225 CMR 13.00 complements the provisions of the Department of Environmental Protection, 310 CMR 7.70: *Massachusetts CO₂ Budget Trading Program*.

13.02: Scope: (Reserved)13.03: Definitions

225 CMR 13.00 incorporates by reference the definitions established in 310 CMR 7.70: *Massachusetts CO₂ Budget Trading Program*. In addition, the following definitions shall apply:

Bidder. A party qualified, pursuant to 225 CMR 13.09, to participate in a CO₂ Allowance Auction.

Clearing Price. The specified monetary value assigned to a CO₂ allowance as determined by the bids of buyers, given the rules and specific format of the auction.

CO₂ Allowance Auction Website. The website containing information regarding the auctions to be conducted pursuant to 225 CMR 13.00. The website shall be available through a link from DOER's main web page at: <http://www.mass.gov/doer/>.

Cost Containment Reserve (CCR). An allocation of CO₂ allowances, separate from and additional to the base annual budget, for the purpose of containing the cost of CO₂ allowances.

Cost Containment Reserve Trigger Price. The minimum price at which CCR allowances are offered for sale in an auction. The CCR trigger price shall be \$10.00 per CCR Allowance beginning January 1, 2017. For each calendar year thereafter, through 2020, the CCR trigger price shall be 1.025 multiplied by the CCR trigger price from the previous calendar year, rounded to the nearest whole cent. The CCR trigger price in calendar year 2021 shall be \$13.00. For each calendar year thereafter, through 2030, the CCR trigger price shall be 1.07 multiplied by the CCR trigger price from the previous calendar year, rounded to the nearest whole cent. 225 CMR 13.03: Table 1 shows the CCR Trigger Price for each calendar year through 2030.

13.03: continued

Table 1. CCR Trigger Price											
2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
\$10.51	\$10.77	\$13.00	\$13.91	\$14.88	\$15.92	\$17.03	\$18.22	\$19.50	\$20.87	\$22.33	\$23.89

Emissions Containment Reserve (ECR). CO₂ allowances that are withheld from sale at an auction for the purpose of additional emission reduction in the event of lower than anticipated emission reduction costs.

Emissions Containment Reserve Trigger Price. The ECR trigger price is the price below which CO₂ allowances will be withheld from sale at an auction. The ECR trigger price in calendar year 2021 shall be \$6.00. For each calendar year thereafter, the ECR trigger price shall be 1.07 multiplied by the ECR trigger price from the previous calendar year, rounded to the nearest whole cent. 225 CMR 13.03: Table 2 shows the ECR Trigger Price for each calendar year through 2030.

Table 2. ECR Trigger Price									
2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
\$ 6.00	\$ 6.42	\$ 6.87	\$ 7.35	\$ 7.86	\$ 8.41	\$ 9.00	\$10.30	\$11.02	\$ 9.63

Department. The Department of Environmental Protection, established pursuant to M.G.L. c. 21A, § 7.

DOER. Department of Energy Resources, established pursuant to M.G.L. c. 25A, § 1, or its designated agent, pursuant to 225 CMR 13.06(1).

DOER Contact Person. An employee of DOER designated to communicate with the public regarding CO₂ Allowance Auctions as identified in the Guidelines to 225 CMR 13.00.

Guidelines. A set of procedures, including forms, as developed by the DOER to assist in compliance with the requirements of 225 CMR 13.00. The Guidelines may take the form of the Auction Notice, as set forth in 225 CMR 13.07.

Participating State. A state that has established a regulation corresponding to 225 CMR 13.00, or is authorized by law to participate in the CO₂ Budget Trading Program.

Reserve Price. The minimum acceptable price for each CO₂ allowance in a specific auction. The minimum reserve price in calendar year 2014 shall be \$2.00. Each calendar year thereafter, the minimum reserve price shall be 1.025 multiplied by the minimum reserve price from the previous calendar year, rounded to the nearest whole cent. 225 CMR 13.03: Table 3 shows the Reserve Price for each calendar year through 2030.

Table 3. Reserve Price											
2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
\$2.26	\$2.32	\$2.38	\$2.44	\$2.50	\$2.56	\$2.62	\$2.69	\$2.76	\$2.83	\$2.90	\$2.97

RGGI. The Regional Greenhouse Gas Initiative which is a cooperative effort to reduce carbon dioxide emissions by Northeastern and Mid-Atlantic states, as well as other states and jurisdictions should such parties elect to participate. RGGI is supported by the Regional Greenhouse Gas Initiative, Inc., a not for profit corporation formed to provide technical and scientific advisory services to participating states in the development and implementation of the CO₂ Budget Trading Program.

Sealed Bid, Uniform Price Auction. A single or multiple round sealed-bid auction in which bidders may submit multiple bids at different prices; the price paid by all awarded bidders will be uniform.

13.04: Multi-state Auction Option

- (1) DOER shall participate in a multi-state CO₂ allowance auction or auctions in coordination with other RGGI Participating States, if it determines that:
 - (a) a multi-state auction capability and process is in place for the Participating States;
 - (b) the multi-state auction can provide benefits to the Commonwealth that meet or exceed the benefits conferred on the Commonwealth through its own state-run auction process; and
 - (c) the multi-state auction process would be consistent with the process described in 225 CMR 13.00.
- (2) Upon making such determination, DOER shall designate an agent, pursuant to 225 CMR 13.06(1), to administer the multi-state auction in a manner consistent with the auction rules and procedures set forth in 225 CMR 13.00.
- (3) Such determination to participate in the multi-state auction shall be published no later than 45 days prior to such multi-state auction on the CO₂ Allowance Auction Website.
- (4) DOER shall retain control over the proceeds associated with the sale of all of Massachusetts CO₂ allowances sold in a multi-state CO₂ allowance auction, and will administer the proceeds in accordance with 225 CMR 13.06(9). DOER shall retain its authority to enforce compliance with all sections of 225 CMR 13.00.

13.05: Commencement and Timing of CO₂ Allowance Auctions

- (1) Upon notification from the Department that it has transferred CO₂ allowances into the Massachusetts Auction Account as established by the Department under 310 CMR 7.70(5)(c)1.c.: *Massachusetts Auction Account*, DOER shall conduct a series of auctions to sell such CO₂ allowances (CO₂ Allowance Auctions or Auctions) pursuant to 225 CMR 13.00.
- (2) Auctions shall be conducted quarterly, but DOER in consultation with the Department, may adjust the frequency of such auctions as it deems necessary to effectuate the objectives of the CO₂ Budget Trading Program, provided at least one auction is conducted annually.

13.06: CO₂ Allowance Auction Procedures

- (1) The implementation of any auction conducted pursuant to 225 CMR 13.00 may be transferred by DOER to an agent deemed qualified by DOER to conduct such auction, provided that such agent shall perform all such duties under the direction and oversight of DOER.
- (2) The auction format shall be a Sealed Bid, Uniform Price Auction.
- (3) Prior to the end of each Control Period or Interim Control Period, CO₂ allowances in a quantity equal to the number of CO₂ Allowances allocated to the Auction Account for such Control Period will be available for sale. Such CO₂ allowances will be available for sale by allocation year. DOER may require that allowances are sold in minimum lot sizes. In such event, such lot sizes shall be published in the Auction Notice pursuant to 225 CMR 13.07(1). No more than 50% of the allowances from an allocation year may be available for sale in advance of the respective allocation year, up to four years in advance of such allocation year.
- (4) DOER shall post a calendar of proposed auction dates on the CO₂ Allowance Auction Website. The calendar shall include the auction format and the number of allowances and allocation years of allowances to be auctioned at each auction. DOER may periodically modify the contents of the calendar, provided that the information relevant to the next scheduled auction shall be fixed no later than 45 calendar days prior to such auction, consistent with 225 CMR 13.06(1).
- (5) Auctions of CO₂ allowances shall be held with a reserve price. DOER is not obligated to sell CO₂ allowances if the reserve price is not met.

13.06: continued

(6) Auctions of CO₂ Allowances shall include a Cost Containment Reserve and a CCR Trigger price. CO₂ CCR allowances shall only be sold at an auction in which total demand for allowances, above the CCR trigger price, exceeds the number of CO₂ allowances available for purchase at the auction, not including any CCR allowances.

(7) Auctions of CO₂ Allowances shall include an Emissions Containment Reserve and an ECR Trigger price shown in 225 CMR 13.03: Table 2. Starting in calendar year 2021 and each year thereafter, CO₂ allowances shall be withheld from sale at an auction in accordance with the following:

(a) CO₂ allowances shall be withheld from an auction if the demand for allowances would result in an auction clearing price that is less than the ECR trigger price shown in 225 CMR 13.03: Table 2.

(b) If the CO₂ ECR trigger price is met, then the maximum quantity of CO₂ allowances that may be withheld from that auction will be equal to the quantity shown in 225 CMR 13.06(7): Table 4, minus the total quantity of CO₂ allowances that have been withheld from any prior auction in that calendar year.

Table 4. ECR Allowance Quantities									
2021	2022	2023	2024	2025	2026	2027	2028	2029	2030 and thereafter
1,194,436	1,158,240	1,122,045	1,085,850	1,049,655	1,013,460	977,265	941,070	904,875	868,680

(c) CO₂ allowances withheld from the auction because the ECR trigger price was met shall not be resold in any future auction.

(8) No bidder, including any affiliate or agent of such bidder, shall purchase more than 25% of the allowances offered for sale in any one auction. Such limitation shall not be increased by CCR allowances, and shall be published in the Auction Notice pursuant to 225 CMR 13.07.

(9) DOER may periodically evaluate the auction program performance and may retire any previous allocation year allowances that were offered for sale by auction but were not sold and still remain in the Massachusetts Auction Account.

(10) Proceeds of such auctions shall be deposited into a special revenue account established on the books of the Commonwealth for such purpose, and shall thereafter be available for expenditure by DOER subject to the approval of the Secretary of the Executive Office of Energy and Environmental Affairs. The proceeds of the auctions shall be used:

- (a) to reimburse a municipality in which the property tax receipts from an electric generating station are reduced, as set forth in M.G.L. c. 21A, § 22(c)(1)(i);
- (b) to fund the green communities program established in M.G.L. c. 25A, § 10;
- (c) to provide zero interest loans to municipalities, which are not green communities under M.G.L. 25A, § 10, for energy efficiency projects;
- (d) to promote energy efficiency, conservation and demand response; and
- (e) to reimburse the commonwealth for costs associated with the administration of the cap and trade program.

13.07: Auction Notice

(1) Notice of each auction shall be published no later than 45 calendar days prior to such auction on the CO₂ Allowance Auction Website, and may be transmitted electronically to parties requesting such notification provided they have submitted an e-mail address to the DOER Contact Person.

(2) Each notice shall include, but not be limited to, the following information:

- (a) Date, time and location of the auction, including the internet address or electronic address for auction location, as applicable;
- (b) Auction format;

13.07: continued

- (c) Categories of bidders who will be eligible to bid;
- (d) Quantity and allocation years of Massachusetts CO₂ Allowances to be auctioned;
- (e) Reserve Price;
- (f) Quantity and trigger price of Cost Containment Reserve;
- (g) Quantity and trigger price of Emissions Containment Reserve;
- (h) Required bid format;
- (i) Instructions for submitting the qualification application;
- (j) Instructions for submitting acceptable financial surety;
- (k) Procedures for the conduct of the auction;
- (l) Participation limitations;
- (m) Other pertinent rules or procedures of the auction as may be required to ensure a transparent, fair and competitive auction; and
- (n) Identification of a DOER Contact Person for further information.

13.08: Participant Eligibility

(1) DOER, in consultation with the Department, shall select from 225 CMR 13.08: List A the categories of bidders eligible to participate in each auction, provided, however, that owners of CO₂ budget units located in Massachusetts (MA CO₂ budget units) shall be eligible to participate in all auctions.

List A: Categories of bidders:

Category No. 1: Owners of CO₂ budget units located in Massachusetts.

Category No. 2: Owners of CO₂ budget units located outside of the Commonwealth but within those states that have final CO₂ budget trading rules in place at the time of the auction and are RGGI Participating States.

Category No. 3: Other market participants including, but not limited to:

- (a) owners of fossil-fuel-fired generation units located outside the participating states;
- (b) brokers;
- (c) environmental groups;
- (d) financial and investment institutions;
- (e) generators that do not emit CO₂ or do emit CO₂ but are not subject to the CO₂ Budget trading program in Massachusetts or a Participating State.

(2) DOER may modify the categories of participants as it deems necessary.

13.09: Bid Submittal Requirements

(1) Qualification Application.

- (a) Only qualified bidders will be permitted to submit bid(s) or otherwise participate in any auction.
- (b) Any party wishing to participate in a CO₂ Allowance Auction shall open and maintain a compliance or general account and designate a CO₂ authorized account representative pursuant to the provisions in 310 CMR 7.70(6).
- (c) Potential bidders shall submit a qualification application to DOER at least 30 calendar days prior to the bid submittal date of such auction or by such deadline as DOER shall stipulate in the Auction Notice. Qualification applications shall contain the information set forth in 225 CMR 13.09(1) and the Auction Notice, and such applications shall be made available electronically on the CO₂ Allowance Auction Website (available through a link from DOER's main web page at: <http://www.mass.gov/doer/>).
- (d) The applicant shall provide information and documentation relating to its corporate structure, financial ability to participate in the auction and authority to execute bids and honor contractual obligations. Such information may include, but not be limited to, the following:
 - 1. Documentation regarding the corporate identity, ownership, and capital structure of the applicant; identification of any agency relationship between the applicant and any third party related to the auction;

13.09: continued

2. Audited annual reports and credit reports of the applicant and/or the entity represented by the applicant; and
 3. Corporate Background and Recent Adverse Conditions, which may include:
 - a. Identification of any indictment or felony conviction of the applicant, or any member, director, principle, partner or officer of the applicant or any affiliate or related entity;
 - b. A statement by applicant as to prior findings of non-responsibility with regard to any State procurement, including findings under State law or regulation;
 - c. A statement by applicant as to certification under any State Tax registration requirement.
 - d. Identification of any previous or pending investigation with respect to any alleged violation of any rule, regulation, or law associated with any commodity market or exchange.
 - e. Evidence demonstrating that such applicant has opened a general or compliance account as provided for in the provisions of the CO₂ Program and identification of relationships with any other account holder.
- (e) DOER shall review each qualification application and make determinations as to whether the applicant is qualified to submit bids in the auction. Applicants may be denied eligibility based on the information provided or upon information obtained independent of the application process. Failure to provide the required information may result in the qualification application being declared incomplete or otherwise deficient. DOER shall notify applicants in writing or by electronic mail if the qualification application is complete and meets the requirements for participation in the auction. If the qualification application does not meet such requirements, notification shall include the reasons therefore, and applicants will be given a reasonable opportunity to provide additional information to cure such deficiencies.
- (f) Once an application has been approved, that bidder shall be eligible to participate in all subsequent CO₂ Allowance Auctions, provided there has been no material change to the information provided in the qualification application, and provided that the applicant meets the eligibility criteria of 225 CMR 13.08. If there is any material change to the information submitted in the bidder's qualification application, the qualification expires and a new qualification application must be submitted.
- (g) DOER may suspend or revoke its approval of a qualification application if the bidder fails to comply with 225 CMR 13.09.
- (2) Surety Requirement.
- (a) Bidders shall be required to provide financial surety in the form of a bond, cash, certified funds, or an irrevocable stand-by letter of credit, in a form acceptable to the DOER. A bidder's eligibility to bid in any auction shall be limited to the level of financial security provided. Financial surety may be forfeited to and retained by the DOER in the event the bidder's offer is accepted in a CO₂ Allowance Auction and the bidder fails to tender payment of the full amount when due.
- (b) Bidders may request return of their surety at any time prior to or following any auction, and the DOER shall return said surety provided that the Commonwealth has no current or pending claim to such surety as a result of a failure of the bidder to comply with 225 CMR 13.09(2) or to pay the full amount of its accepted bid when due. Return of such surety to the bidder voids the bidder's ability to participate in subsequent auctions unless a new surety is submitted to the DOER pursuant to the provisions of 225 CMR 13.09.
- (c) The surety requirements of 225 CMR 13.09 may be modified by DOER at any time prior to the applicable auction date, and shall be published no later than 45 calendar days prior to such auction on the CO₂ Allowance Auction Website.
- (d) In the event that DOER modifies the surety requirements, bidders shall meet the new surety requirements before the next auction.
- (3) Bid Submittal.
- (a) Once an application has been approved, and provided there has been no material change to the information provided in the application, bidders seeking to bid in any subsequent auction shall complete and submit an Intent to Bid on or before the deadline specified in the Auction Notice.

13.09: continued

(b) All bids shall be in a form prescribed by DOER, which shall be made available electronically on the CO₂ Allowance Auction Website (available through a link from DOER's main web page at: <http://www.mass.gov/doer/>).

(c) All bids submitted shall be considered binding offers for the purchase of allowances under the rules of the auction.

(d) All qualified maximum bids shall be limited to the amount of financial surety provided by the qualified bidder pursuant to 225 CMR 13.09(2).

(e) Bids shall be submitted online and shall conform to the format and protocol of bid submission as set forth in the Auction Notice pursuant to 225 CMR 13.07.

(f) If DOER determines that a bidder has provided false or misleading information, fails to honor an accepted bid, or has withheld pertinent information in its qualification documentation, or has otherwise failed to comply with any material provision of 225 CMR 13.09, the surety amount may be forfeited to the Commonwealth, and the bidder may be prohibited from participating in any future CO₂ Allowance Auctions.

13.10: Bid Selection

(1) DOER, in consultation with the Department, may employ a market monitor to observe the conduct and outcome of each auction. As a condition to participation in any auction, bidders must agree to provide any data to DOER that DOER deems necessary to support this function and the proper monitoring of such auctions.

(2) DOER Will Rank All Bids. CO₂ allowances will be sold in the quantities specified in the accepted bids until there are no remaining CO₂ allowances available for the specified auction. In the event that there is more than one winning bidder submitting the same price and the total number of CO₂ allowances requested in all such winning bids exceeds the number of CO₂ allowances remaining, the DOER may award the remaining CO₂ allowances randomly, or based on the *pro rata* share of the number of CO₂ allowances bid on by each winning bidder.

(3) The DOER, in consultation with the Department, shall approve or disapprove the outcome of the auction following the completion of the auction event.

13.11: Transfer of CO₂ Allowances

Following approval of the outcome of the auction and upon payment in full of the amount owed by the successful bidders, the DOER shall notify the Department, or its agent, to transfer and record CO₂ allowances into the corresponding bidders' CO₂ Allowance Tracking Account.

13.12: Return of Unsuccessful Bids

Subject to 225 CMR 13.09(2)(b) and 13.09(3)(f), following each auction the DOER will return upon written request all financial securities or payments to unsuccessful bidders and to bidders unwilling to purchase fewer CO₂ allowances than requested in its bid.

13.13: Announcement of Results

The DOER reserves the right to publish the names of qualified bidders, the closing price, and the total quantity of allowances sold at each auction, on the CO₂ Allowance Auction Website (available through a link from DOER's main web page at: <http://www.mass.gov/doer/>).

13.14: Voluntary Renewable Energy (VRE) Accounting

Beginning in 2010 and annually thereafter, DOER shall submit to the Department a report documenting the following:

(a) The number of Massachusetts RPS-eligible Renewable Energy Certificates purchased voluntarily by retail customers in Massachusetts in the preceding year, in Mwh;

(b) The annual average CO₂ emission rate for all hours of electricity generation in lbs. CO₂/MWh as provided in the most recently available version of the ISO New England Electric Generator Air Emissions Report;

(c) The total number of CO₂ allowances attributable to such voluntary purchases in Massachusetts of said Massachusetts RPS-eligible Renewable Energy Certificates; and

13.14: continued

(d) All calculations used to determine the amount referenced in 225 CMR 13.14(c).

13.15: Emission Containment Reserve Accounting

Beginning in 2021 and annually thereafter, DOER shall submit to the Department a report documenting the number of CO₂ allowances withheld from the auction in the preceding year, because of a trigger of the Emissions Containment Reserve.

REGULATORY AUTHORITY

225 CMR 13.00: M.G.L. c 25A, § 6 and c. 21A § 22.



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 301 CMR 41.00

CHAPTER TITLE: Toxic or Hazardous Substance List

AGENCY: Executive Office of Energy and Environmental Affairs

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

Companies that use large quantities of toxic and hazardous chemicals annually report the use of these chemicals to MassDEP. These regulations define the list of reportable chemicals and their reporting threshold.

REGULATORY AUTHORITY: M.G.L Chapter 21I

AGENCY CONTACT: Rich Bizzozero PHONE: 617-626-1080

ADDRESS: EOEEA, 100 Cambridge Street Suite 900, 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.*

None required

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: 21-day public comment period ending October 26, 2018

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

For the first and second year: Businesses subject to reporting in the private sector are estimated to be less than 20.

For the first five years: Historically the number of private sector companies impacted decreases after the initial year as companies voluntarily reduce chemical use below

No fiscal effect: There is no fiscal impact to the public sector to implement these regulations.

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: December 12, 2018

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*
toxics use reduction; chemical; hazardous waste; toxics

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:*

Amends existing regulations 301 CMR 41.00 Toxic or Hazardous Substance List to reflect changes to the list of reportable substances, consistent with decision/actions taken by the Administrative Council on Toxic Use Reduction.

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: Dec 13 2018

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1381 DATE: 12/28/2018

EFFECTIVE DATE: 12/28/2018

CODE OF MASSACHUSETTS REGULATIONS

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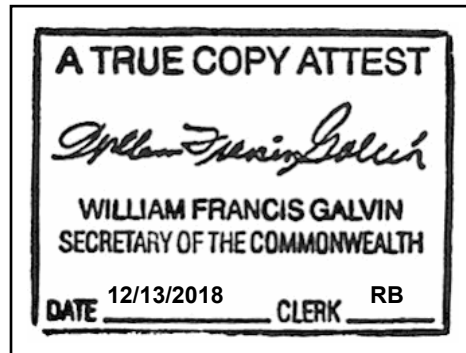


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(PAGES 5 AND 6 ARE RESERVED FOR FUTURE USE.)

41.02: continued

- (d) present in foods, drugs, cosmetics or other personal items used by employees or other toxics users at a facility;
- (e) present in a product used for the purpose of maintaining motor vehicles operated by a facility;
- (f) present in process water or non-contact cooling water as drawn from the environment or from municipal sources, or present in the air used either as compressed air or part of combustion;
- (g) present in a pesticide or herbicide when used in agricultural applications;
- (h) present in crude, lube, or fuel oils or other petroleum materials being held for direct wholesale or retail sale; or
- (i) present in crude or fuel oils used in combustion to produce electricity, steam or heat except when production of electricity, steam or heat is the primary business of a facility.

Toxic or Hazardous Substance List means the list of toxic or hazardous substances established pursuant to M.G.L. c. 21I, § 9 and 301 CMR 41.00.

Toxics User means the following:

- (a) any person who owns or operates any facility that manufactures, processes or otherwise uses any toxic or hazardous substance and that is classified in the Standard Industrial Classification (SIC) Codes 10 through 14, 20 through 40, 44 through 51, 72, 73, 75 and/or 76, or the corresponding North American Industry Classification System (NAICS) codes.
- (b) If a person owns a facility, and that person's only interest in the facility is ownership of the real estate upon which the facility is operated, then, with respect to that facility, that person is not a toxics user. This includes, without limitation, owners of facilities such as industrial parks, all or part of which are leased to persons who operate establishments within SIC Codes 10 through 14, 20 through 40, 44 through 51, 72, 73, 75 and/or 76, or the corresponding NAICS codes, where the owner has no other business interest in the operation of the facility or establishment.

Toxics Use Reduction Institute or Institute mean the Toxics Use Reduction Institute established pursuant to M.G.L. c. 21I, § 6.

41.03: Toxic or Hazardous Substance List

(1) For calendar year reporting period 2002 and thereafter, the toxic or hazardous substance list shall consist of the substances identified on the toxic chemical list pursuant to section 313 of EPCRA as of January 1, 2002 and the substances listed pursuant to sections 101(14) and 102 of CERCLA as of January 1, 2002, excluding the following substances:

- (a) copper, nickel, chromium, cobalt or manganese in a solid or molten metal alloy, but not including aerosols, where aerosol is defined as airborne particles less than 50 µm in diameter;
- (b) chromium III oxide;
- (c) hydroquinone, provided however that hydroquinone shall not be delisted for toxics users who manufacture hydroquinone;
- (d) acetic acid at concentrations less than or equal to 12%;
- (e) zinc oxide;
- (f) radionuclides;
- (g) silver-copper mixture when contained in an alloy form, but not including aerosols of the alloy where aerosol is defined as airborne particles less than 50 µm in diameter;
- (h) zero valance silver and copper, but not including aerosols of silver-copper alloy where aerosol is defined as airborne particles less than 50 µm in diameter; and
- (i) zinc stearate.

(2) For calendar year reporting period 2002 and thereafter, the toxic or hazardous substance list shall include crystalline silica less than ten microns in size and used in the following processes: abrasive blasting and molding.

(3) For calendar year reporting period 2008, the substances listed pursuant to sections 101(14) and 102 of CERCLA as of January 1, 2002, shall be retained on the toxic or hazardous substance list, excluding the substances specified in 301 CMR 41.03(1)(a) through (i).

41.03: continued

(4) For calendar year reporting period 2009, the substances listed pursuant to sections 101(14) and 102 of CERCLA as of January 1, 2008, shall be retained on the toxic or hazardous substance list, excluding the substances specified in 301 CMR 41.03(1)(a) through (i) and 301 CMR 41.03(6).

(5) For calendar year reporting period 2010 and thereafter, the substances listed pursuant to §§ 101(14) and 102 of CERCLA as of January 1, 2008, shall be retained on the toxic or hazardous substance list, excluding:

- (a) the substances specified in 301 CMR 41.03(1)(a) through (i);
- (b) the substances specified in 301 CMR 41.03(6); and
- (c) the following substances:

<u>CAS #</u>	<u>Chemical Name</u>
124-04-9	Adipic acid
1066-33-7	Ammonium bicarbonate
12125-02-9	Ammonium chloride
7773-06-0	Ammonium sulfamate
628-63-7	Amyl acetate
110-17-8	Fumaric acid
110-16-7	Maleic acid

(6) The following substances shall no longer be individually retained on the toxic or hazardous substance list, except that any substance that belongs to a chemical category listed pursuant to § 313 of EPCRA shall remain subject to reporting as part of the § 313 EPCRA category:

<u>CAS #</u>	<u>Chemical Name</u>
7789-09-5	Ammonium bichromate
7788-98-9	Ammonium chromate
1762-95-4	Ammonium thiocyanate
7803-55-6	Ammonium vanadate
7647-18-9	Antimony pentachloride
28300-74-5	Antimony potassium tartrate
7789-61-9	Antimony tribromide
10025-91-9	Antimony trichloride
7783-56-4	Antimony trifluoride
1309-64-4	Antimony trioxide
11096-82-5	Aroclor 1260
11097-69-1	Aroclor 1254
11104-28-2	Aroclor 1221
11141-16-5	Aroclor 1232
12672-29-6	Aroclor 1248
12674-11-2	Aroclor 1016
53469-21-9	Aroclor 1242
7778-39-4	Arsenic acid
1327-52-2	Arsenic acid
1303-32-8	Arsenic disulfide
1303-28-2	Arsenic pentoxide
1327-53-3	Arsenic trioxide
1303-33-9	Arsenic trisulfide
1327-53-3	Arsenous oxide
7784-34-1	Arsenous trichloride
542-62-1	Barium cyanide
56-55-3	Benz[a]anthracene
205-99-2	Benzo[b]fluoranthene
207-08-9	Benzo[k]fluoranthene
189-55-9	Benzo[r,s,t]pentaphene
218-01-9	Benzo[a]phenanthrene
50-32-8	Benzo[a]pyrene

41.03: continued

<u>CAS #</u>	<u>Chemical Name (continued)</u>
7787-47-5	Beryllium chloride
7787-49-7	Beryllium fluoride
7787-55-5	Beryllium nitrate
13597-99-4	Beryllium nitrate
543-90-8	Cadmium acetate
7789-42-6	Cadmium bromide
10108-64-2	Cadmium chloride
7778-44-1	Calcium arsenate
52740-16-6	Calcium arsenite
13765-19-0	Calcium chromate
592-01-8	Calcium cyanide
144-34-3	Carbamodithioic acid, dimethyl-,tetraanhydrosulfid with orthothioselenious acid (selenium, tetratis (dimethyldithiocarbamate))
59-50-7	p-Chloro-m-cresol
95-57-8	2-Chlorophenol
7005-72-3	4-Chlorophenyl phenyl ether
1066-30-4	Chromic acetate
7738-94-5	Chromic acid
11115-74-5	Chromic acid
10101-53-8	Chromic sulfate
10049-05-5	Chromous chloride
218-01-9	Chrysene
7789-43-7	Cobaltous bromide
544-18-3	Cobaltous formate
14017-41-5	Cobaltous sulfamate
544-92-3	Copper cyanide
137-29-1	Copper, bis(dimethylcarbamodithioato-S-S)- (copper dimethyldithiocarbamate)
142-71-2	Cupric acetate
12002-03-8	Cupric acetoarsenite
7447-39-4	Cupric chloride
3251-23-8	Cupric nitrate
5893-66-3	Cupric oxalate
7758-98-7	Cupric sulfate
815-82-7	Cupric tartrate
10380-29-7	Cupric sulfate, ammoniated
57-12-5	Cyanides (soluble salts and complexes)
460-19-5	Cyanogen
506-68-3	Cyanogen bromide
506-77-4	Cyanogen chloride ((CN)Cl)
53-70-3	Dibenz[a,h]anthracene
189-55-9	Dibenz[a,i]pyrene
87-65-0	2,6-Dichlorophenol
696-28-6	Dichlorophenylarsine
692-42-2	Diethylarsine
57-97-6	7,12-Dimethylbenz[a]anthracene
460-19-5	Ethanedinitrile
10421-48-4	Ferric nitrate
206-44-0	Fluoranthene
301-04-2	Lead acetate
7784-40-9	Lead arsenate
7645-25-2	Lead arsenate
10102-48-4	Lead arsenate
7758-95-4	Lead chloride
13814-96-5	Lead fluoborate
7783-46-2	Lead fluoride
10101-63-0	Lead iodide

41.03: continued

<u>CAS #</u>	<u>Chemical Name (continued)</u>
10099-74-8	Lead nitrate
7446-27-7	Lead phosphate
7428-48-0	Lead stearate
56189-09-4	Lead stearate
52652-59-2	Lead stearate
1072-35-1	Lead stearate
1335-32-6	Lead subacetate
7446-14-2	Lead sulfate
15739-80-7	Lead sulfate
1314-87-0	Lead sulfide
592-87-0	Lead thiocyanate
14307-35-8	Lithium chromate
15339-36-3	Manganese, bis(dimethylcarbamo-dithioato-S,S)- (manganesedimethyldithiocarbamate)
592-04-1	Mercuric cyanide
10045-94-0	Mercuric nitrate
7783-35-9	Mercuric sulfate
592-85-8	Mercuric thiocyanate
7782-86-7	Mercurous nitrate
10415-75-5	Mercurous nitrate
628-86-4	Mercury fulminate
56-49-5	3-Methylcholanthrene
15699-18-0	Nickel ammonium sulfate
13463-39-3	Nickel carbonyl
7718-54-9	Nickel chloride
37211-05-5	Nickel chloride
557-19-7	Nickel cyanide
12054-48-7	Nickel hydroxide
14216-75-2	Nickel nitrate
7786-81-4	Nickel sulfate
54-11-5	Nicotine
54-11-5	Nicotine and salts
12002-03-8	Paris green
696-28-6	Phenyl dichloroarsine
62-38-4	Phenylmercuric acetate
62-38-4	Phenylmercury acetate
7784-41-0	Potassium arsenate
10124-50-2	Potassium arsenite
7778-50-9	Potassium bichromate
7789-00-6	Potassium chromate
151-50-8	Potassium cyanide
7722-64-7	Potassium permanganate
506-61-6	Potassium silver cyanide
54-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-
7783-00-8	Selenious acid
12039-52-0	Selenious acid, dithallium(1+) salt
7446-08-4	Selenium dioxide
7488-56-4	Selenium sulfide
630-10-4	Selenourea
506-64-9	Silver cyanide
7761-88-8	Silver nitrate
57-24-9	Strychnine, and salts
7631-89-2	Sodium arsenate
7784-46-5	Sodium arsenite
10588-01-9	Sodium bichromate
7775-11-3	Sodium chromate
143-33-9	Sodium cyanide (Na(CN))
7782-82-3	Sodium selenite

41.03: continued

<u>CAS #</u>	<u>Chemical Name (continued)</u>
10102-18-8	Sodium selenite
7789-06-2	Strontium chromate
1746-01-6	2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD)
58-90-2	2,3,4,6-Tetrachlorophenol
78-00-2	Tetraethyl lead
1314-32-5	Thallic oxide
7791-12-0	Thallium chloride TlCl
10031-59-1	Thallium sulfate
563-68-8	Thallium(I) acetate
6533-73-9	Thallium(I) carbonate
10102-45-1	Thallium(I) nitrate
7446-18-6	Thallium(I) sulfate
6533-73-9	Thallos carbonate
7791-12-0	Thallos chloride
7446-18-6	Thallos sulfate
5344-82-1	Thiourea, (2-chlorophenyl)-
25167-82-2	Trichlorophenol
15950-66-0	2,3,4-Trichlorophenol
933-78-8	2,3,5-Trichlorophenol
933-75-5	2,3,6-Trichlorophenol
609-19-8	3,4,5-Trichlorophenol
36478-76-9	Uranyl nitrate
10102-06-4	Uranyl nitrate
1314-62-1	Vanadium pentoxide
27774-13-6	Vanadyl sulfate
81-81-2	Warfarin (also Warfarin and salts)
557-34-6	Zinc acetate
52628-25-8	Zinc ammonium chloride
14639-97-5	Zinc ammonium chloride
14639-98-6	Zinc ammonium chloride
137-30-4	Zinc, bis(dimethylcarbomodithioato-S,S)-, (ziram)
14324-55-1	Zinc, bis(diethylcarbomodithioato-S,S)-(ethyl ziram)
1332-07-6	Zinc borate
7699-45-8	Zinc bromide
3486-35-9	Zinc carbonate
7646-85-7	Zinc chloride
557-21-1	Zinc cyanide
7783-49-5	Zinc fluoride
557-41-5	Zinc formate
7779-86-4	Zinc hydrosulfite
7779-88-6	Zinc nitrate
127-82-2	Zinc phenolsulfonate
1314-84-7	Zinc phosphide
1314-84-7	Zinc phosphide (conc. ≤ 10%)
1314-84-7	Zinc phosphide (conc. > 10%)
16871-71-9	Zinc silicofluoride
7733-02-0	Zinc sulfate
13746-89-9	Zirconium nitrate

(7) For calendar year reporting period 2010 and thereafter, the toxic or hazardous substance list shall include the following substance:

<u>CAS #</u>	<u>Chemical Name</u>
106-94-5	n-Propyl bromide (1-bromopropane)

41.03: continued

(8) For calendar year reporting period 2012 and thereafter, the toxic or hazardous substance list shall include the following substances, consistent with changes in the toxic chemical list established pursuant to section 313 of EPCRA:

<u>CAS #</u>	<u>Chemical Name</u>
81-49-2	1-Amino-2,4-dibromoanthraquinone
3296-90-0	2,2-bis(Bromomethyl)-1,3 propanediol
110-00-9	Furan
556-52-5	Glycidol
78-79-5	Isoprene
93-15-2	Methyleugenol
91-23-6	o-Nitroanisole
75-52-5	Nitromethane
77-09-8	Phenolphthalein
116-14-3	Tetrafluoroethylene
509-14-8	Tetranitromethane
75-02-5	Vinyl Fluoride

Polycyclic Aromatic Compounds (PACs) category:

<u>CAS #</u>	<u>Chemical Name</u>
42397-64-8	1,6-Dinitropyrene
42397-65-9	1,8-Dinitropyrene
7496-02-8	6-Nitrochrysene
57835-92-4	4-Nitropyrene

(9) For calendar year reporting period 2017 and thereafter, the toxic or hazardous substance list shall include the following substance category, consistent with changes in the toxic chemical list established pursuant to section 313 of EPCRA:

The nonylphenols category consists of these substances:

<u>CAS #</u>	<u>Chemical Name</u>
104-40-5	4-Nonylphenol
11066-49-2	Isononylphenol
25154-52-3	Nonylphenol
26543-97-5	4-Isononylphenol
84852-15-3	4-Nonylphenol, branched
90481-04-2	Nonylphenol, branched

(10) For calendar year reporting period 2018 and thereafter, the toxic or hazardous substance list shall include the following substance category, consistent with changes in the toxic chemical list established pursuant to section 313 of EPCRA:

The hexabromocyclododecane (HBCD) category consists of these substances:

<u>CAS #</u>	<u>Chemical Name</u>
25637-99-4	Hexabromocyclododecane
3194-55-6	1,2,5,6,9,10 hexabromocyclododecane

41.03: continued

(11) For calendar year reporting period 2019 and thereafter, the toxic or hazardous substance list shall include the following substance category:

The C1-C4 halogenated hydrocarbons/halocarbons not otherwise listed (C1-C4 NOL) category consists of these substances:

C1-C4 NOL includes any chemical substance that has four or fewer carbons, at least one halogen, and only hydrogen as the other constituent, that are not already individually listed. This includes fully halogenated chemicals that contain no hydrogen.

41.04: Amendment of the Toxic or Hazardous Substance List

(1) The council may amend the toxic or hazardous substance list by adding or deleting substances. The council shall add no more than ten substances in any year. The council shall delete no more than ten substances in any year. Any addition or deletion of a substance shall take effect the calendar year immediately following the year in which the addition or deletion is codified in 301 CMR 41.00.

(2) The council shall adjust the toxic or hazardous substance list each year to add or delete substances consistent with changes in the toxic chemical list established pursuant to section 313 of EPCRA and with changes in the lists of chemicals established pursuant to sections 101(14) and 102 of CERCLA. The council shall make additions and deletions under 301 CMR 41.04(2) in addition to any actions it takes under 301 CMR 41.04(1).

(3) In adding or deleting substances under 301 CMR 41.04(1), the council shall consider recommendations from the Toxics Use Reduction Institute and the Science Advisory Board.

41.05: Designation of Higher Hazard and Lower Hazard Substances

(1) The council shall designate substances as higher hazard substances, lower hazard substances, or may leave substances as otherwise uncategorized substances. The council shall designate no more than ten higher hazard substances and no more than ten lower hazard substances in any year. Any designation of a substance as a higher hazard or a lower hazard substance shall not take effect until the calendar year immediately following the year in which the designation is codified in 301 CMR 41.00.

(2) In designating substances as higher hazard or lower hazard substances under 301 CMR 41.05(1), the council shall consult with the Toxics Use Reduction Institute and the Science Advisory Board.

41.06: Higher Hazard Substances

(1) For calendar year reporting period 2008 and thereafter, those substances identified as chemicals of special concern in 40 CFR Part 372.28 shall be designated as higher hazard substances.

(2) For calendar year reporting period 2008 and thereafter, the following substances shall be designated as higher hazard substances:

<u>CAS #</u>	<u>Chemical Name</u>
79-01-6	Trichloroethylene
7440-43-9	Cadmium
	Cadmium Compounds

(3) For calendar year reporting period 2009 and thereafter, the following substance shall be designated as a higher hazard substance:

<u>CAS #</u>	<u>Chemical Name</u>
127-18-4	Perchloroethylene

41.06: continued

(4) For calendar year reporting period 2012 and thereafter, the following substances shall be designated as higher hazard substances:

<u>CAS #</u>	<u>Chemical Name</u>
50-00-0	Formaldehyde Hexavalent Chromium Compounds

(5) For calendar year reporting period 2014 and thereafter, the following substance shall be designated as a higher hazard substance:

<u>CAS #</u>	<u>Chemical Name</u>
75-09-2	Methylene chloride

(6) For calendar year reporting period 2016 and thereafter, the following substances shall be designated as higher hazard substances:

<u>CAS #</u>	<u>Chemical Name</u>
106-94-5	1-Bromopropane
68-12-2	Dimethylformamide
7664-39-3	Hydrogen fluoride Cyanide compounds

(7) For calendar year reporting period 2017 and thereafter, the following substances shall be designated as higher hazard substances:

<u>CAS #</u>	<u>Chemical Name</u>
584-84-9	2,4 - Toluene diisocyanate
91-08-7	2,6 - Toluene diisocyanate
26471-62-5	Toluene diisocyanate - mixed isomers

41.07: Lower Hazard Substances

(1) For calendar year reporting period 2009 and thereafter, the following substances shall be designated as lower hazard substances:

<u>CAS #</u>	<u>Chemical Name</u>
78-83-1	Isobutyl alcohol
78-92-2	Sec-butyl alcohol
71-36-3	N-butyl alcohol

(2) For calendar year reporting period 2010 and thereafter, the following substances shall be designated as lower hazard substances:

<u>CAS #</u>	<u>Chemical Name</u>
123-86-4	Butyl acetate
110-19-0	Isobutyl acetate
7705-08-0	Ferric chloride
10028-22-5	Ferric sulfate
7758-94-3	Ferrous chloride
7720-78-7	Ferrous sulfate
7782-63-0	Ferrous sulfate

REGULATORY AUTHORITY

301 CMR 41.00: M.G.L. c. 21I, §§ 4 and 9.

