LEGAL UPDATES

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Massachusetts Department of Public Health Issues Sweeping Changes to Suitability Reviews for Long-Term Care Facilities

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On November 6, 2026, the Massachusetts Department of Public Health (DPH) issued updates to its long-term care facility regulations. These updates implement increased oversight authority provided to DPH in the 2024 "An Act to Improve Quality and Oversight of Long-term Care" ("the Act"). The Act greatly expanded DPH's authority to review the responsibility and suitability ("suitability review") of all applicants, existing licensees, and management companies. To that end, DPH has issued new guidance and applications for suitability that apply to new licensees and proposed management arrangements.

Expanded Suitability Review for Applicants for Long-Term Care Facility Licensees

The new suitability review process is conducted by DPH as part of the licensure application process. A finding that an applicant is unsuitable to own or operate an individual facility may lead to a finding that the person or entity is unsuitable to own or operate any Massachusetts long-term care facility for 10 years. DPH also retains the right to conduct an additional in-depth review of other facilities under direct or indirect control, ownership, operation, management, or otherwise affiliated with the applicant who has been deemed unsuitable.

While existing licensees are not required to submit a new suitability application, DPH reserves the right to ask additional questions related to the suitability of a licensee at any time, and licensees must provide DPH with information related to changes to their financial status within two days of such

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a change. Changes to financial status include filing for bankruptcy, a default under a lending agreement or lease, appointment of a receiver, or the recording of any lien.

The licensure application solicits detailed information and documentation for the last 10 years relating to the applicant and its owners and any management company with respect to any healthcare facility owned, operated, or managed. Information and documentation that must be provided for each affiliated facility's 10-year history of compliance include: facility ratings and quality findings; criminal and civil litigation matters, including pending litigation, actions by the Centers for Medicare & Medicaid Services (CMS), state agencies, or any state's Attorney General; and financial details including cost reports filed with the Center for Health Information and Analysis (CHIA) or another state's equivalent entity, and any bankruptcy, loan defaults, or involvement with private equity firms.

In addition, DPH indicates that it will also review the history of other related parties, including entities with the following relationships with the applicant, licensee, or management company: business entities under common ownership; and business entities owned by a family member. It is not clear how broadly DPH will enforce this requirement, or whether it has the authority to require the identification of such extended relationships.

Management Company Agreements and DPH's Suitability Review

Applicants for licensure that plan to contract with a management company must request a suitability review for both the licensee-applicant and any management company at the same time. Currently licensed facilities that seek to contract with a management company must submit the new Management Company Suitability Application and obtain a suitability determination before entering into an engagement with the proposed management company. Licensed facilities that currently contract with a management company must notify DPH of the arrangement no later than ***December 6, 2026***, and file a Management Company Suitability Application by ***February 4, 2027***.

As with the new licensee application, management companies must identify every individual or entity with a direct or indirect ownership interest of five percent or more or with a controlling interest in the management company and provide in-depth historical information about each affiliated healthcare facility and entity.

Next Steps for Applicants, Licensees, and Management Companies

Any licensee, applicant, or management company that must file an application with DPH should carefully review the application instructions and accompanying guidance to ensure the applicant can identify all individuals and entities whose history must be provided on the application.

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DPH provides a checklist of tasks that may assist in preparing the application. It is important the applicant provides full and accurate information, as missing or inaccurate information could support a finding by DPH that the applicant is unsuitable.

Contact Us

Our attorneys at Husch Blackwell have extensive experience guiding clients through regulatory and compliance matters affecting long-term care facilities. For questions about how these changes to Massachusetts suitability reviews may impact your organization, please contact Crystal Bloom, Rebecca Rodman, or your Husch Blackwell attorney.

This article provides general legal information. It does not constitute legal advice to the reader and does not create an attorney-client relationship between the reader and Husch Blackwell LLP. The reader should seek legal advice if they have questions about how this legal information may apply to their own circumstances.

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