

CLIENT ALERT: February 23, 2009

PROPOSED AMENDMENTS TO DPH CLINIC REGULATIONS

(Implementing Certain Provisions of Chapter 305 of the Acts of 2008: An Act to Promote Cost Containment, Transparency and Efficiency in the Delivery of Quality Health Care & Other Items)

On February 11, 2009, the Public Health Council (“PHC”) approved for release for public comment proposed amendments to the 105 CMR 140.000, the clinic licensure regulations (the “Amendments”). A copy of the Amendments, DPH staff summary and public hearing notice are available at the following link:

http://www.mass.gov/?pageID=eohhs2terminal&L=5&L0=Home&L1=Government&L2=Laws%2c+Regulations+and+Policies&L3=Department+of+Public+Health+Regulations+%26+Policies&L4=Proposed+Amendments+to+Regulations&sid=Eeohhs2&b=terminalcontent&f=dph_legal_clinics&csid=Eeohh

The Amendments would, among other things: (1) require all Medicare-certified Ambulatory Surgery Centers (ASCs) to be licensed as clinics and allows the Department to grant “deemed-by-accreditation” licensure to a Medicare-certified ASC that is accredited by one of three nationally-recognized accrediting bodies, and provides other health care quality requirements applicable to ASCs; (2) revises the serious incident definition and reporting requirements; (3) amends requirements for retention of clinic records to allow creation and maintenance of records in electronic format, require notification of patients of record retention policies, shorten the retention period from 30 to 20 years, and require notification of the Department before records may be destroyed; and (4) requires notification of the Department of clinic closures and temporary interruption of service.

A public hearing is scheduled in Boston for March 23rd and in Springfield for March 30, and DPH intends to return to the PHC with final regulations in May or June, 2009 after processing any public comments. Please let us know if we can be of assistance in interpreting the Amendments or preparing testimony.