

Bulletin HPC-2025-01: Advance Guidance for Providers and Provider Organizations Relative to the Expansion of HPC Market Oversight Authority (Pursuant to Chapter 343 of the Acts of 2024)

February 27, 2025

Recap: Expansion of HPC Market Oversight Authority



Chapter 343 of the Acts of 2024 expands the HPC's market oversight authority, <u>including but not limited to</u> the following:

- Expands the triggers for material change notice ("MCN") reviews to include:
 - Significant expansion in a provider's capacity;
 - Transactions involving a significant equity investor that result in a change of ownership or control of a provider or provider organization;
 - Significant acquisitions, sales, or transfers of assets, including real estate lease-backs; and
 - Conversions of a provider from a non-profit entity to for-profit
- **Expands HPC authority to collect information from significant equity investors and other parties to a transaction**, including by allowing the HPC to require financial statements and materials on an investor's capital structure be filed with the notice

For additional information on the recent health care legislation, see the January 2025 Board <u>presentation</u>.

New: MCN Guidance





The requirements are effective April 8, 2025.

The HPC is developing advance guidance for market participants regarding the statutory updates to MCN filings in advance of a full update to the regulations.

- **Effective date:** Pursuant to the law, expansions of the HPC's market oversight authority are effective on April 8, 2025.
- Expansion of Material Changes: The Guidance identifies the new transaction types requiring an MCN filing. see next slide
- Expansion of required information: The Guidance describes the new information the HPC can require to be submitted, as well as the types of parties from which information may be required for submission.
- **MCN Form updates:** The revised MCN form will be available on the HPC's website for use beginning on April 8, 2025.

REMINDER: HPC's regulation, <u>958 CMR 7.00</u> (Notices of material change and cost and market impact reviews), and the MCN/CMIR review processes established thereunder, remain in effect except where notice and submission requirements are expanded.

Guidance on Expansion of Material Changes

Chapter 343 of the Acts of 2024 adds four types of proposed changes to the definition of Material Change.

This slide includes <u>initial</u> guidance on three of the new Material Changes.



- "Significant expansions in a Provider or Provider Organization's capacity" includes any increase to a Provider or Provider Organization's capacity (e.g. additions of beds, equipment or new sites) that require an application to be submitted to the Massachusetts Department of Public Health's Determination of Need program.
- "Transactions involving a significant equity investor which result in a change of ownership or control of a Provider or Provider Organization" includes any investment by an equity investor that will change the ownership of a Provider or Provider Organization or any investment in excess of \$10M that results in an equity investor having significant control over a Provider or Provider Organization, e.g., the potential to appoint a board member(s), make key business decisions (e.g., hiring or terminating staff).
- "Significant acquisitions, sales, or transfer of assets including, but not limited to, real estate sale lease-back arrangements" includes the sale of any licensed facility or the sale of real property assets where Health Care Services are delivered for the purposes of a real estate lease-back arrangement.

The fourth new Material Change, Conversion of a Provider or Provider Organization from a non-profit entity to a for-profit entity, is omitted for purposes of this slide.

Key Takeaways and Additional Information



The HPC anticipates conducting a regulatory development process to amend 958 CMR 7.00 to fully implement the new requirements later in CY2025*.

- **Guidance.** The advance guidance will be available on the HPC's website prior to April 8, 2025. The guidance will become operative on that date.
- **MCN Email List.** In addition to being posted, the guidance and related updates (e.g., updates to MCN form) will be distributed via the HPC's MCN email list. Registration is available here.
- **Questions.** The HPC encourages stakeholders with specific questions, including timing considerations for potential transactions, to contact the HPC. Please submit questions to HPC-Notice@mass.gov.

Timeline: Expanded Market Oversight Authority



