

Massachusetts Health Care Regulatory Review – Opportunity for Industry Comment

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Health care is big business in Massachusetts, and it is a highly regulated business. But Governor Charlie Baker hopes to simplify the Massachusetts regulatory regime. This past March, Governor Baker initiated a year-long review of each and every regulation under the Executive Department's jurisdiction, which includes the regulations falling under the primary oversight agency for health care in Massachusetts - the Executive Office of Health and Human Services.

As the Secretary of Health & Human Services, Marylou Sudders leads the largest executive agency in Massachusetts – there are nearly twenty departments and divisions under her oversight, including the Department of Public Health, Department of Mental Health, and the Division of Health Care Finance and Policy. These agencies (and others) promulgate health care rules and regulations about licensing and certification, quality and data reporting, clinical, recordkeeping, operational and facility requirements, and more - leaving providers and payors to wind through a labyrinth of legal requirements.

Enter Executive Order 562.

Through March 31, 2016, all of the Commonwealth's executive agencies will be undergoing a coordinated, comprehensive review process intended to streamline Massachusetts regulations so “only those that are essential to the public good” remain. Under the Executive Order, a regulation must be revised or removed by next March unless it is mandated by law or essential to the health, safety, environment or welfare of the Commonwealth's residents. To meet this standard, a regulation must address a clearly identified need for governmental intervention, be cost-effective, and not exceed federal requirements. Regulations must meet additional requirements to make the cut, and some of our ML Strategies colleagues have addressed these in a recent [Advisory](#).

The health care industry is a driving force for the Commonwealth's economy. Providers and companies engaged in health care activities must be able to operate in an efficient environment so they can provide high-quality, affordable health care to the state's residents. Despite continuing federal and state mandates to reduce costs, improve the quality of care and provide greater access to care, health care companies often find themselves spending a disproportionate amount of resources navigating compliance with a complex federal and state legal framework. The Executive Order states that “confusing, unnecessary, inconsistent and redundant government regulations” are a stress to health care institutions, and the Commonwealth will be better served by “an efficient, coherent and consistent regulatory framework.” We have seen first-hand the negative effects of conflicting, redundant or unclear regulations, and regulations with unintended burdensome consequences.

Health care industry stakeholders should take advantage of the opportunity to participate in this Massachusetts regulatory review process, and voice their concerns about negative impacts caused by the current regulatory framework. The Secretary of Administration and Finance, Kristen Lepore, is overseeing the collaborative executive agency process to gather and analyze stakeholder input. Mintz Levin and ML Strategies will continue to monitor updates in this regulatory review process.

Authors



Ellen L. Janos, Member Emerita

Ellen was previously a Member in Mintz's Health Law Practice and retired in 2024.