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MEMORANDUM

TO: Local Boards of Health and Code Enforcement Agencies

FROM: Paul Halfmann, Assistant Director, Community Sanitation Program

DATE: May 16, 2014

SUBJECT: Licensing of Online Home Rental Services

The Department of Public Health, Bureau of Environmental Health, Community Sanitation Program (hereafter, "DPH") has been asked to clarify whether online home rental services for transient occupancy, such as Airbnb (www.airbnb.com), are subject to licensure or permitting as a lodging house or bed and breakfast establishment/home or whether rooms rented through such services are not subject to licensure because they are dwelling units under Chapter II of the State Housing Code (105 CMR 410.000: *Minimum Standards of Fitness for Human Habitation, State Sanitary Code, Chapter II*).

Airbnb and similar services facilitate a connection between individuals who wish to rent out a room, several rooms, or a whole house with individuals who seek out such a rental, typically on a short term basis. The rentals are similar to traditional lodging houses or bed and breakfast establishments except that owners may only promote themselves as providing lodging through a website listing, often have not applied for or been granted a license or permit by the municipality to operate a lodging house or bed and breakfast, and may not be collecting occupancy taxes. Also, since payment is arranged through a website service, such as Airbnb, the transaction differs from the traditional innkeeper/guest relationship where payment is made directly by guests for lodging.

DPH has determined that lodging provided through Airbnb or similar online services is subject to local licensure or permitting as a lodging house or bed and breakfast in the same manner as traditional lodging houses and bed and breakfast establishments are licensed or permitted. Airbnb specifically states that: "In many cities, you must register, get a permit, or obtain a license before you list your property or accept guests." It further states that: "By accepting our Terms of Service and activating a listing, you certify that you will follow your local laws and regulations."