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ATTACHMENT E

July 17, 2017

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution, I am returning to you for amendment Section 13 of House Bill No. 3800, "An Act Making Appropriations for the Fiscal Year 2018 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 13 requires home care agencies to collect and submit information pertaining to each of their employees, including name, home address, and identification number to the department of elder affairs for the purposes of maintaining a home care worker registry. The proposal requires that all of the information reported and maintained in the registry be provided to an employee organization, upon request; and requires that a limited subset of this information be made publicly available. The department of elder affairs is charged with promulgating regulations to implement these requirements.

This proposal, as written, presents privacy concerns for home care workers. Under the legislation, employee organizations are granted full access to the personal information of these workers, without providing the workers with a process to object to the disclosure of such information. In order to address these privacy and due process concerns, I propose several changes that will limit the personal information that may be disseminated and afford home care workers with a process to opt-out of the registry.

For these reasons, I recommend that Section 13 be amended by striking out the text and inserting in place thereof the following text:-

SECTION 13. Chapter 19A of the General Laws is hereby amended by inserting after section 4C the following section:-

Section 4D. (a) As used in this section, the following terms shall, unless the context clearly requires otherwise, have the following meanings:-

“Organization”, a labor union or other organization, agency, or employee representation committee, association, group or plan in which employees participate and which exists in whole or in part for the purpose of dealing with employers concerning matters incidental to employment relationships.

“Home care worker”, a person employed by a home care worker agency to provide personal care, homemaker, companion or chore services under the home care program established in section 4.

“Home care worker agency”, an entity employing home care workers to provide services under the home care program established in section 4 that is under contract with an aging services access point established pursuant to section 4B.

(b) The department shall establish and maintain a home care worker registry for home care workers employed by a home care worker agency. A home care worker agency shall report the required home care worker registry information for each home care worker it employs on a paid, unpaid, temporary or permanent basis who is not exempt from the reporting requirement. Any exemptions from reporting shall be established in regulations promulgated by the department.

The department shall collect the following reported information concerning each home care worker: (i) the worker’s full name; (ii) their assigned unique identification number; (iii) their gender; (iv) their mailing address; (v) the full legal name of any home care worker agency employing the home care worker; (vi) the worker’s job title; and (vii) a list of home care trainings or certifications completed by the home care worker.

Reported information for each employed home care worker shall be submitted and regularly updated by each home care worker agency subject to this section. A home care worker agency shall collect and maintain the required information and submit updated information in a timely manner as determined by the department. A home care worker shall not be responsible for any costs related to the registry.

The department shall only make each home care worker’s full name, identification number, name of any home care worker agency employing the home care worker and a list of home care trainings or certifications completed by the home care worker available to the public unless such information is exempt from disclosure by the department; provided, that the department shall permit a home care worker to opt out of providing the worker’s full name; their gender; and their mailing address to the department. Upon request from an organization, home care worker agency or aging services access point, the department shall provide non-exempt reported information to such entity unless the home care worker has opted out.

The department shall promulgate rules and regulations and shall provide such forms and notifications as may be necessary to implement this section; provided, however, that the department shall minimize any duplicate reporting that may be required of home care agencies.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Charles D. Baker", with a stylized flourish at the end.

Charles D. Baker  
Governor