

**Home Care Licensing Commission Third Meeting**

**August 4, 2021**

# Agenda

* Welcome
* Vote on minutes from June 30, 2021 meeting
* Proposed home care agency licensure framework overview
* Member discussion on proposed licensure framework

**Statutory Authority**

* Outside Section 97 of the FY’21 budget authorizes the Department of Public Health to chair a commission to study and make recommendations to establish a statewide licensing process for home care agencies in the Commonwealth.

**Statutory Requirements**

### The Commission is required by statute to study:

* current licensure, reporting and oversight requirements across the long-term care services industry and support systems and other relevant state agencies, including the provider monitoring conducted by the aging services access points established

in [section 4B of chapter 19A](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter19a/Section4b) of the General Laws, to avoid duplication or conflicting requirements;

* home care agency licensure requirements in other states;
* processes for implementing a statewide home care agency licensure process; and
* current licensure processes in the health care industry in Massachusetts.

**Statutory Requirements**

**The commission shall make recommendations on**:

* + Strategies to implement a statewide home care agency licensure process;
  + Licensure, reporting and oversight requirements for the home care agencies;
  + The standards for the issuance of a provisional license;
  + Ensuring recommendations for home care agency licensure process will align with state oversight process already in place through the aging services access points, the home care worker registry and the nurse aide registry; and
  + Any other matters pertaining to licensing home care agencies.

**Vote on Meeting Minutes**

* June 30, 2021 Meeting Minutes

**Proposed Licensure Framework: Consumers**

**Commission Goal:** To study and make recommendations to establish a statewide licensing process for Massachusetts home care agencies for the protection of consumers, home care agencies and home care professionals.

**Stakeholder Group: Consumers**

* Must be provided a service contract for services to be provided and contract must include:
  + A detailed description of services
  + A written unit, rate and total cost of services, inclusive of any additional fees or deposits
  + A written process for consumers to file complaints
  + Contact information for questions
* Services plan should be developed in accordance with needs of the client and by a home care professional in a supervisory role.
* Must receive all appropriate services from a qualified, properly trained home care professional.

**Proposed Licensure Framework: Home Care Worker**

**Stakeholder Group: Home Care Worker**

* Adequately trained to perform services provided by the home care agency.
* Provided with adequate equipment and supplies to perform job.
* Annual, ongoing training to ensure competencies are maintained and enhanced and on safe working conditions.

**Proposed Licensure Framework: Regulating Agency**

**Stakeholder Group: Regulating Agency**

* + Licensure will be for home care agencies that directly employ their own employees or directly contract with a company who employs all staff.
  + Review and process licensure applications, including a suitability review that ensures the applicant can meet the obligations

and conditions of licensure, including

* + - A review of the state disbarment list and Office of Inspector General List of Excluded Individuals/Entities list
    - Competency review where all individuals with at least 5% ownership stake in the home care agency must submit their names, contact information, companies where they have at least a 5% ownership, any civil or criminal findings and a completed background check.
  + Change of ownership process that includes advanced notice to clients and home care professionals and regulating agency

review to determine if new licensee can meet the obligations and conditions of licensure, including a suitability review. Licenses cannot be transferred.

* + Work with other regulators to investigate and resolve complaints.
  + Impose fines on the licensee.
  + Suspend or revoke licenses.
  + Posts on webpage a listing of licensed home care agencies.
  + Allow for “deemed status” for licensure if ASAP or MassHealth provider contract is in place.
  + Conduct a market analysis to determine the appropriate number of licenses that will be awarded as demonstrated need indicates.

**Proposed Licensure Framework: Home Care Agency**

Home Care Agencies to be licensed: (1) a business, nonprofit organization or other entity engaged in directly providing home care services to consumers in their residence; or (2) any entity or individual that represents itself as a home care agency by name or advertising or presentments to the public or uses the terms home care agency or home care in its name; or any entity that, for a fee, match clients with individuals who provide home care services, including entities that provide that matching service through an online platform. Exemption from licensure: ASAPs.

* Carries liability, workers compensation insurance and maintains a payroll process which includes the following:
  + Prompt payment at established rates for all work performed, reporting of employment wages to the appropriate governmental agency, collecting state and federal taxes, and payment of taxes.
* Ensures that all professionals in direct contact with consumers receive the appropriate level of training and competency for the

tasks required. Agencies may contract with outside vendors to offer trainings, as is appropriate. Agency will ensure that all direct care professionals receive at minimum the following training

* + Confidentiality/privacy and client’s rights.
  + Infection control and communicable diseases.
  + Handling of emergencies, including safety and falls prevention.
  + Observation, reporting & documenting changes in client needs and environment.
  + Identifying and reporting suspected abuse, neglect, or theft.
  + Ensures that all direct care workers have met training and competency requirements for the tasks to be performed.
  + Training must be culturally and linguistically competent for the employee and for the provision of services
  + Appropriate skills training to ensure competency for the tasks performed.

**Proposed Licensure Framework: Home Care Agency (cont.)**

### Stakeholder Group: Home Care Agency

#### Submit annual cost report to the Center for Health Information and Analysis (CHIA) and adhere to an administrative cap where at least 75% of all revenue is spent on direct care expenses.

* Public disclosure (posting on home care agency website) of clear, accurate and full list of pricing for all

services provided by the home care agency.

* Must have policies and procedures to ensure home care workers have safe working conditions, adequate training, and a process for submitting complaints.
* Must have an Emergency Preparedness Plan.
* Must meet quality metrics and standards set forth in licensing regulations.
* Submit all direct worker names and information to the Home Care Worker Registry.
* For agencies that encompass both home health and home care:
  + If an agency directly provides both home health and home care, agency will need to obtain home health licensure.
  + If a home health agency contracts out for home care services, it can only contract with licensed home care agencies.
  + Any outsourced direct care must be reported to the consumer and listed on the agency’s website.

**Proposed Licensure Framework: Regulation**

**Considerations**

The regulating agency, in consultation with the Executive Office of Health and Human Services and other appropriate state agencies, will promulgate regulations based upon the licensure framework with the opportunity for input from interested stakeholders. The regulations for home care agency licensure should include:

* Suitability process and review
* Establishing quality metrics and standards for monitoring the licensed home care agency performance
* Criteria for the suspension and/or revocation of licenses, which may include a finding of wage theft by the Attorney General’s Office, and other penalties for licensure violations
* Home care agencies conducting relevant background checks of home care workers, which may include:
  + Massachusetts criminal background checks (CORI)
  + State or county criminal history screenings for each location outside of the Commonwealth in which the home care professional is known to have lived or worked during the last five years
  + OIG List of Excluded Individuals and Entities
  + Massachusetts Nurse Aide Registry
  + Applicable professional licensing board check (ie. Community Health Worker Registry, Home Care Aide Worker Registry)
  + Verification of eligibility to work in the US (immigration verification)
  + For all home care professionals who will transport clients, verification of auto insurance and driving records for a minimum of the last five years

# Next Meeting

## September 9, 2021 at 12pm