

Office of the Child Advocate
Mandated Reporter Commission Meeting Minutes
Wednesday, June 24, 2020
2:00am-4:00pm

Meeting held virtually via WebEx pursuant to the Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, s. 20 signed by Governor Baker on March 12, 2020.

Mandated Reporter Commission Members Present:

Maria Mossaides, - Child Advocate- Chair

Andrew Rome - General Counsel, DCF

Lisa Hewitt - Chief Counsel, CPCS

John High - Chief of Staff, DPL

Spencer Lord - Special Counsel, EOPSS

Angela Brooks - Director of the Child and Youth Protection Unit, OAG

Anne Conners - Associate Commissioner for Field Investigations EEC Officer

Officer Elizabeth Fleming- Member Appointed by the Governor

Ann Reale- Undersecretary and Chief Operating Officer, EOE

Nina Marchese- Director of the Office of Approved Special Education Schools, DESE

Glenn Daly on behalf of Catherine Mick, EOHHS

D.A. Marian Ryan- Representative of MDAA

OCA Staff:

Cristine Goldman (OCA)

Melissa Williams (OCA)

Public Attendees:

Court Diercks - Intern at AGO

Mandated Reporter Commission = MRC

Mandated Reporter= MR

Office of the Child Advocate = OCA

Meeting Commenced: 2:03pm

Welcome and Introductions:

Maria Mossaides, chair of the Mandated Reporter Commission, called the meeting to order. Ms. The Office of the Child Advocate has requested an extension of this Commission's work and the required report from this Commission to December 31st, 2020 to allow adequate time to carry out the Commission's mandate and to gather community input.

Next, Cristine Goldman, the Office of the Child Advocate’s Director of Policy and Legal Counsel, reviewed the agenda and confirmed the Commission members and designees in attendance.

Approval of March and May Meeting Minutes:

Discussion was opened regarding the March 30th, 2020 and May 21st, 2020 meeting minutes. Commission members discussed word choice within the proposed minutes, specifically whether minutes accurately reflected the role of the Commission in proposing statute changes to be considered. The OCA agreed to review the proposed minutes and clarify any language that did not accurately reflect the role of the Commission. Voting on the March 30th, 2020 and May 21st, 2020 meeting minutes was tabled until the next meeting.

Presentation of Research and Proposals Regarding Categories of Mandated Reporters and Institutional Reporting:

Discussion commenced of current categories of mandated reporters and introduction of potential new personnel who may be appropriate to add to the current statute. All discussion was tied to the MRC 06_24_2020 Categories and Institutional Reporting Document.

Definition of Mandated Reporter

The Commission reviewed the proposed definition of term “contractor” as such term would be used in the proposed legislative drafting for M.G.L. c. 119 § 21. Commission members agreed that the proposed drafting captured an adequate definition and no changes were recommended.

The Commission discussed how to incorporate the aspect of remote services into the proposed statutory language including discussion the complications of out-of-state persons providing services to children and families within the Commonwealth and children who are Commonwealth residents who are temporarily out of state. Examples were discussed based on trends currently experienced during the Covid-19 pandemic. The Department of Children and Families’ newly revised Intake Policy was used as a reference point in the discussion. The OCA agreed to redraft the definition of MR to include persons residing in Massachusetts, persons providing services to a child whose residence is Massachusetts (even if temporarily out-of-state), and persons providing services to a child currently in Massachusetts.

Medical Providers

Commission members agreed the wording of the *Medical Providers* section of MRC 06_24_2020 Categories and Institutional Reporting document captured their recommendations for consideration.

Mental Health Providers

Commission members agreed the wording of the *Mental Health Providers* section of MRC 06_24_2020 Categories and Institutional Reporting document captured their recommendations for consideration.

School Employees

The OCA reviewed the addition of language regarding remote services which had been drafted based on recommendations from the last meeting. Commission members agreed the wording of the *School Employees* section of MRC 06_24_2020 Categories and Institutional Reporting document captured their recommendations for consideration.

Higher Education

The OCA reviewed the edits made since the last MRC meeting which included changing the language from “administrators and employees” to “personnel of any organization or entity” for purposes of using standard/uniform language from section to section. Commission members agreed the wording of the *Higher Education* section of MRC 06_24_2020 Categories and Institutional Reporting document captured their recommendations for consideration.

Public Safety Officials

The OCA reviewed the addition of private security personnel. Commission members agreed the wording of the *Public Safety Officials* section of MRC 06_24_2020 Categories and Institutional Reporting document captured their recommendations for consideration.

Social Service Providers

The MRC discussed providers who enter a person’s home with the purpose of providing a service and how and why such persons should or should not be made mandated reporters. The Commission noted that various types of organizations (religious, community, state) have in-home service providers. The Commission reviewed the four language proposals in the document. Commission members noted that not-for-profits and other organizations do sometimes receive some type of state funding, for this reason, the Commission members agreed that the wording that best fit the desired result included paid personnel in any home or residence

who are providing services funded in whole or in part by the Commonwealth. Commission members also agreed to specifically include a reference to day *and* residential settings/services.

Commission members agreed that a conversation about a possible carve-out in the MR law for social workers working directly with attorneys would be on the agenda for the next meeting.

Mentors

Based on feedback from the Commission, the OCA added a new section to the working document to include mentors as mandated reporters. The Commission feels that children may be likely to disclose abuse and/or neglect to mentors due to the closeness of the bond, the trust laden relationship, and the familial ties/context that the mentor may have insight into. The working document proposed four potential drafting possibilities. Commission members discussed excluding persons providing services to victims of domestic violence, sexual assault, or human trafficking. The purpose behind this exclusion is to avoid putting any barriers in the way of persons who are seeking safety from imminent harm, particularly persons for whom avenues of seeking safety may be, or appear, few or fleeting. Commission members agreed the wording of proposal #4 in the document MRC 06_24_2020 Categories and Institutional Reporting captured their recommendations for consideration.

The Commission noted that it may be beneficial to reaching out to Mass Mentor Partnership as their input may be helpful.

Clergy

The OCA reviewed the edits made since last meeting and stated further research will be conducted to consider any further edits to this section.

Recreational Activities Staff and Coaches

Commission members reviewed the proposed drafting of the recreational staff and coaches section of the document. The Commission preferred a wording that focused on the “recreational activities” and identified the need to specify that these activities could be sponsored by public or private entities. The Commission also felt that it would be appropriate to specify that even though religious organization would likely be included under “private” entities, that clarification on this point may be needed so including specific reference to religious organizations would be beneficial. The Commission requested that the OCA redraft the proposal with a “including but not limited to” list of programs which should specifically cover scouting programs.

Possible Additions

The Commission reviewed specific possible roles to include in the statute recommendations such as attorneys (except for any information that is protected by attorney-client privilege) and staff at public libraries. Discussion was held on the split responsibilities of attorneys particularly in the guardian ad litem context. Commission members discussed their support of including staff of public libraries and suggested including it under the recreational activities section.

Categories Structure

The Commission reviewed the format of the current mandated reporter definition in statute and the possibility of creating sub-headings within the statute for clarity purposes. The creation of subheadings would mimic the headings created in the MRC 06_24_2020 Categories and Institutional Reporting document. Professions and roles may fall under several subsections so language was included in the proposal to note that possibility and the legal effect of that possibility. Commission members agreed to the recommendation as presented in the document reflected their recommendation for consideration.

Protocols of Notification/Institutional Reporting

Discussion was held on the current protocols of reporting suspected abuse and/or neglect within institution settings. Currently, the statute allows mandated reporters to transfer their responsibility to report suspected abuse and/or neglect in an agency or institution setting to the person in charge or that person's designated agent. The current drafting is problematic for multiple reasons: there is no verification to the original reporter that a report has been filed, it is unclear in the law whether the content of the report can be changed by the person in charge or their designee, it is unclear in the law whether the person in charge or their designee can exercise their own judgement in reporting.

Commission members reviewed the first paragraph of the proposal in the document. Commission members discussed the possibility of requiring institutions to have a procedure in place to keep record of the reports they file and to show the reporter who transferred their responsibility that a report was in fact filed. The Commission held discussion on where to keep these files and ruled out the idea that such files should be kept in client folders. Commission members commented on whether or not to include a timeline on reporting suspected abuse and/or neglect as some members noted that including a required timeline could potentially delay filing.

Lastly, Commission members also discussed how the 51A report could include the person's name who transferred their responsibility as it would be helpful to the intake screener.

Closing Comments:

The OCA will update the working document based on the discussion from this meeting and the conversation regarding the protocols of institutional reporting will be continued next meeting. The next meeting will also include a discussion on special carve-outs as well as reviewing the definitions of abuse and neglect.

There will be two meetings held in July with the next meeting being held virtually on July 21, 2020 from 10:00am-12:00pm.

Ms. Mossaides thanked everyone for their attendance.

Adjournment: 4:01pm

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