Draft Minutes Not Yet Approved by Mandated Reporter Commission

Mandated Reporter Commission Meeting Minutes

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.

March 30, 2020

2:00pm-4:00pm

Commission Members Present:

1. Maria Mossaides- Child Advocate- CHAIR
2. Andrew Rome - General Counsel, DCF
3. Anne Connors- Associate Commissioner for Field Investigations, EEC
4. Nina Marchese- Director of the Office of Approved Special Education Schools, DESE
5. Catherine McCourt- Senior Policy Manager, DOE
6. Angela Brooks- Director of the Child and Youth Protection Unit, OAG
7. John High- Chief of Staff, DPL

Other Attendees:
1. Cristine Goldman (OCA)
2. Jean Clements (OCA)

Mandated Reporter Commission = MRC
Mandated Reporter = MR
Meeting Commenced at 2:10pm

Welcome and Introduction from the Child Advocate

Maria Mossaides called the meeting to order and welcomed the Commission members. Ms. Mossaides discussed that there may be a need to ask for an extension on the deadline for filing the MRC report to the legislature due to the complications of dealing with Covid-19.

Open Meeting Law materials had been resent to all Commission members prior to the meeting, Angela Brooks and John High joined the group for the first time so they will sign the acknowl-edgement of materials the next time the group meets in person.

Minutes from Previous Meeting

Discussion was opened regarding the proposed minutes from the previous meeting, no Commission member had any comments on the proposed minutes. However, the Commission determined that the minutes could not be voted on as Angela Brooks and John High joined the meeting for the Commission for the first time and could not speak to the content of the minutes from the previous meeting. Further discussion and vote on the minutes was tabled until the next meeting.

Review of Document Titled "Categories of Mandated Reporters and Institutional Reporting"

"Responsibility to Report" - Discussion regarding meaning of the current statutory language requiring mandated reporters to report information that they learn in their "professional capacity." Commission members have a common understanding of the term "professional capacity." Commission members note that some professions have higher requirements in their regulations including reporting of information learned solely in a personal capacity. Commission members agree with keeping language of MR required to report when information is learned in their "professional capacity."

"Minimum Age of Reporters and Volunteers"- Massachusetts does not currently have a minimum age requirement set for mandated reporters and the statute does not current address whether volunteers are mandated reporters. The OCA notes that volunteers can be very regular and can have intimate knowledge of children's lives. The OCA recommends adding the minimum age requirement of 18 years old to the statute and requiring that volunteers who work more than five hours per week in a profession or role listed in the statute be mandated reporters. Commission members discussed that in some situations people aged 16-17 work in after-school programs and are often solely responsible for groups of children. Commission members discussed that in such situations, it may be possible to require that employers to train their staff to recognize signs of abuse and neglect and that employers have protocols in place for their younger employees to report concerns internally to persons who are mandated reporters. Commission members discussed that it is easier to require programs/facilities licensed by the Commonwealth or paid by the Commonwealth to enforce the requirement of having internal protocols, but much more difficult with programs/facilities that are not tied to the Commonwealth. Commission members discussed that the failure to provide an internal protocol for reporting possible child abuse and neglect by employees or volunteers younger than 18yo could be addressed in the penalties section of the statute and could be tied to any oversight boards. The issue could also be addressed through the public service announcement consideration that the Commission will look at on a later date. The OCA will redraft some language to reflect Commission member comments and submit for MRC review at next meeting.

"Medical Providers" - The OCA reviewed the current language. Commission members preferred the wording of "proposal #2" in the document. Commission members noted that there is a need to cover privately employed in-home nurses. Commission members noted that there was a lack of medical expertise on the Commission and the resulting difficulty of knowing the possible consequences of changes to the statute concerning medical providers. Commission members noted that it will be important to seek feedback on proposed changes from experts in the medical community during a period of public-comment if such a public-comment period is held. The OCA

will make a small redrafting change to the language and submit for MRC review at the next meeting.

"Mental Health Providers"- The OCA reviewed the current language in the statute. Commission discussed whether to include students who had interaction with clients under a mental health provider's supervision should be included. Commission members agreed that it would be necessary to include interns/residents/students/trainees in the MR language. Commission members discussed adding a catch-all provision of any person providing mental health and/or human services. Commission members discussed that there are some mental health provider certificate programs that the MR language should cover. The Commission discussed the benefits and detriments of using broad language versus specific language and noted that some persons or professions call themselves "counselors" without an underlying certification of license. The Commission agreed to revisit this language at the next meeting.

"School Employees"- The OCA reviewed the current language in the statute and the proposals in the handout. Commission members recommended proposal 1 and proposal 2 be combined. Commission members discussed the possibility of expanding the DCF mandate to include special education students who are receiving services from school up to age 22. Commission members discussed the role of the DPPC and Commission members noted that a law recently signed by the Governor will create a registry for DPPC substantiated cases. Commission members agreed to add school board members to the list of mandated reporters. The OCA will redraft the language to reflect Commission members' comments and suggested changes.

"Higher Education"- There is no current language covering higher education employees in the statute. The OCA reviewed the two proposals in the handout. Commission members discussed the possibility of simply adding higher education into a statutory definition of "school" that would apply to this section. Commission members discussed explicitly excluding student employees, and narrowing the field to only persons interacting with students. OCA will redraft the language to reflect Commission members' comments and suggested changes.

Other Topics Discussed:

Commission members discussed that DCF may screen-out cases where an incident occurred when the child was less than 18 years old but the child then turns 18 years old during the course of the investigation or at the time of the report. The screening decision would likely be based on whether the alleged perpetrator posed a continued risk to children.

Commission members discussed how to include contractors who are operating on behalf of the listed MRs. Commission members agreed that such inclusion was necessary.

Commission members noted that in the penalties section there is no provision protecting children themselves from retribution for reporting or having reports made about them. Commission members will address when discussing the penalties section at a later date.

Throughout the meeting the Commission noted that the statutory changes will depend in part on whether the Commission will be recommending a new structure or sub-headings in the statute.

At this time, the OCA has provided headings such as “medical providers” and “mental health providers” solely for ease of reviewing the statute but such headings could be incorporated into the statute. The OCA will draft examples of the outline of the statute for Commission Members’ review.

Meeting ended at 3:56pm