

**Home Care Licensing Commission First Meeting**

**June 2, 2020**

# Welcome and Introductions

* Open Meeting Law and Conflict of Interest Policy
* Overview of Home Care
* Presentation by Executive Office of Elder Affairs
* Member Discussion based on statutory mandate of Commission

## Home Care Licensing Commission Members:

|  |  |
| --- | --- |
| **Seat** | **Member Name** |
| **Commissioner DPH\* (Chair)** | Deputy Commissioner Margret Cooke |
| **Secretary EOEA** | Secretary Elizabeth Chen |
| **Secretary HHS** | Undersecretary Lauren Peters |
| **Assist. Secretary MH** | Assist. Secretary Dan Tsai |
| **Senate Chair Joint Comm. On Elder Affairs** | Senator Patricia Jehlen |
| **House Chair Joint Comm. On Elder Affairs** | Representative Thomas Stanley |
| **Rep. of Home Care Aide Council** | Julie Watt Faqir |
| **Rep. of Home Care Alliance of Mass.** | Patricia Kelleher |
| **Rep. of Mass. Home Care, Inc.** | Lisa Gurgone |
| **Rep. of Mass. Divisions of 1199SEIU-UHE** | Tim Foley |
| **Consumer of Home Care Services** | Stephen DeGiacomo |
| **Rep. of a Home Care Agency operating in multiple localities 1** | Lesley Nolan |
| **Rep. of a Home Care Agency operating in multiple localities 2** | Danielle Lord |

* + 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.

### 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.

### 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.

**Slide 7**

* + - The OML is designed to ensure transparency in the

***deliberations*** of public bodies.

* + - A ***deliberation*** is:
      * an oral or written communication, through any medium, ***including electronic mail*,**
      * between or among a ***quorum*** of a public body,
      * on any public business within its jurisdiction.

### If a quorum of a public body wants to discuss public business within that body’s jurisdiction, they must do so during a properly posted meeting.

A ***deliberation*** does not include:

* + - distribution of a meeting agenda, scheduling or ***procedural*** information, or
    - reports or documents that may be discussed at a meeting, **provided that no member of the public body expresses an opinion on matters within the body’s jurisdiction.**
      * ***NOTE: If a public body member sends an email to a quorum of the public body expressing an opinion on any matter that could come before that body, the communication violates the OML, even if no recipient responds.***
  + A Quorum is defined as:
* A **simple majority** of the members of a public body, unless otherwise provided in a general or special law, executive order, or other authorizing provision. G.L. c. 30A, § 18.

### As applied to the Home Care Licensing Commission quorum equals 7 members (½ of 13 members + 1)

**Avoiding OML Violation-Best Practice Recommendations**

* Public body members must not engage in “serial deliberations”—a series of separate, independent conversations outside of a meeting among a quorum of the members regarding a topic within its jurisdiction.
* In order to avoid even the appearance of a potential OML violation, the AGO advises public body members to refrain from communications over email except for distributing meeting agenda, scheduling meetings and distributing documents created by nonmembers.

**Conflict of Interest Law**

* + The Conflict of Interest (COI) law, M.G.L. c. 268A, is meant to prevent conflicts (and appearances of conflict) between a state employee’s private interests and his or her public duties.
  + As statutory public body members, you are considered to be “special state employees” subject to the COI law.
* The COI law is complex; State Ethics Commission attorneys are available, through the “Attorney of the Day” program, to provide confidential advice/guidance on how the COI law applies to you in a particular situation.

o ***Contact Attorney of the Day @ (617) 371-9500***

## All state employees subject to the COI law are required to:

* + Certify they received and reviewed the annual Summary of Conflict of Interest Law, and
  + Complete the biannual online training program through DPH’s **PACE** (Performance and Care Enhancement Learning Management System).

**Required Conflict of Interest Law PACE Online Trainings**

**Conflict of Interest Law Online Training Program Conflict of Interest Law Summary**

**PACE Contact**

Kathy Creed, [Kathy.creed@state.ma.us](mailto:Kathy.creed@state.ma.us)

**State Ethics Commission**

For information regarding the Education & Training requirements, refer to the [State Ethics Commission website: http://www.mass.gov/ethics/revised- implementation-procedures.html](http://www.mass.gov/ethics/revised-implementation-procedures.html)

Phone: (617) 371-9500

## An account will be created for each Committee member in PACE. This will give you access to the trainings.

* You will soon receive an automated email from the PACE system with instructions on how to access the system.
  + If you do not receive an email this week, please email Kathy Creed.

## You must complete the training within 30 days.

Conflict of Interest Law:

* [https://www.mass.gov/laws-regulations-rulings-opinions-and-advisories](https://www.mass.gov/learn-more-about-conflicts-of-interest)
* https:[//www.mass.gov/learn-more-about-conflicts-of-interest](https://www.mass.gov/learn-more-about-conflicts-of-interest) Office of Attorney General, Open Meeting Law Website and Guide:
* [https://www.mass.gov/files/documents/2017/09/25/2017%20Guide%20only. pdf](https://www.mass.gov/files/documents/2017/09/25/2017%20Guide%20only.pdf)
* <http://www.mass.gov/ago/government-resources/open-meeting-law/>

## **Home care services** include, but are not limited to companion, homemaker and chore services, and transportation.

* A **home care agency** an entity employing home care workers to provide home care services.

In the context of the recommendations that the Commission is

charged with reporting on, primarily strategies to implement a statewide home care agency licensure process and agency licensure requirements, are there specific topics related to this licensure that the Commission members want to highlight as important to discuss?