

April 20, 2021

**In Opposition to “Person’s Retained by an Attorney” Regulation Proposal**  
**Rules Change Proposals**

Dear Members of the Mandated Reporter Commission:

Thank you for the opportunity to provide public comment on proposals presented to the commission for adoption in your final report. The National Association of Social Workers, Massachusetts Chapter is the largest professional association of social workers in the commonwealth. We represent thousands of social workers who act as mandated reporters and hold the safety and well-being of children and vulnerable people paramount, as a profession. This proposed rule change imposes an unnecessary and dangerous restriction on social workers’ duty to report child abuse or abuse of other vulnerable individuals, and as a result, we strongly oppose it.

The Mandated Reporter law is one of the most important ways that we keep children safe. It requires that anyone who has suspicion that a child is in danger of, or is currently being neglected or abused by a caregiver, report to the Child-At-Risk hotline. There are many professions that fall under the Mandated Reporter definition including physicians, psychologists, teachers and of course social workers.

This duty to warn is a core principle of social work ethics. The NASW Code of Ethics states “Social workers’ primary responsibility is to promote the well-being of clients... However, social workers’ responsibility to the larger society or specific legal obligations may on limited occasions supersede the loyalty owed clients, and clients should be so advised.” Anyone who graduates from an accredited school that offers a BSW or MSW, reads, signs and agrees to uphold the NASW code of ethics. This is a standard that *all* social workers must abide by, regardless of placement, licensure, or practice across the United States.

All professions have their own version of code of ethics. In examining this issue, it appears that lawyers and social workers have the same obligation with respect to client confidentiality as well as exceptions when there is a risk of bodily harm, as stated in documents provided by the American Bar Association. All members of the client’s team make these guidelines and exceptions clear during intake.

The language in this proposed regulation, reads as though this could provide an exception for all vendors- not just social workers. This means the rule could also apply to physicians, psychologists and others who are mandated reporters and could be hired as a partner with the CPCS team. They, too, would be required to forgo their mandated reporter obligations if they wanted to remain a vendor.

NASW recognizes the immense value of the partnership between a client’s lawyer and their social worker. We honor that relationship. We hope we can come to a resolution that does not require social workers to violate the code of ethics and risk the safety of our most at-risk residents. We are happy to continue this discussion as we have done through discussions around similar legislation that has been filed. In the meantime, we cannot support this rule change and oppose its inclusion in the commission’s report.

Thank you,

Rebekah Gewirtz  
Executive Director