

10-23-2023



The Commonwealth of Massachusetts **Disabled Persons Protection Commission**

300 Granite Street • Suite 404 • Braintree • Massachusetts • 02184

MAURA T. HEALEY
GOVERNOR
KIMBERLEY L. DRISCOLL
LT. GOVERNOR
JAMES T. BRETT
CHAIRPERSON
KACY C. MAITLAND
COMMISSIONER
MARY BETH McMAHON
COMMISSIONER

NANCY A. ALTERIO
EXECUTIVE DIRECTOR

Phone: (617) 727-6465
FAX (617) 727-6469
Hotline: (800) 426-9009

October 19, 2023

The Honorable Michael J. Rodrigues, Chair
Senate Committee on Ways and Means
The State House, Rm. 212
Boston, MA 02133

The Honorable Aaron Michlewitz, Chair
House Committee on Ways and Means
The State House, Rm. 243
Boston, MA 02133

The Honorable Robyn K. Kennedy, Senate Chair
Joint Committee on Children, Families, and Persons with Disabilities
State House, Rm. 507
Boston, MA 02133

The Honorable Jay D. Livingstone, House Chair
Joint Committee on Children, Families, and Persons with Disabilities
State House, Rm. 146
Boston, MA 02133

Re: *The Disabled Persons Protection Commission's FY 2023 Summary of the Abuser Registry pursuant to M.G.L. c. 19C, § 15 (f)*

Dear Chair Rodrigues, Chair Michlewitz, Chair Kennedy and Chair Livingstone:

The Disabled Persons Protection Commission (DPPC), established in 1987 by M.G.L. c. 19C, is an independent state agency responsible for the investigation and remediation of abuse of persons with disabilities, ages 18 through 59, in the Commonwealth. DPPC's mission is "to protect adults with disabilities from the abusive acts or omissions of their caregivers through investigation, oversight, public awareness and prevention." To carry out its mission, DPPC performs its own investigations, and directs and oversees investigations

conducted on its behalf by the Department of Developmental Services (DDS), the Department of Mental Health (DMH), and the Massachusetts Rehabilitation Commission (MRC).

In 2020, Massachusetts enacted a law (“Nicky’s Law”) requiring the DPPC to “establish and maintain a registry of care providers against whom the [DPPC] has made a substantiated finding of registrable abuse.” Acts of 2020, c. 19. The DPPC Abuser Registry became effective July 31, 2021, and is intended to protect individuals with intellectual or developmental disabilities (I/DD) by barring care providers who have a substantiated finding of registrable abuse from working with persons with I/DD. M.G.L. c. 19C, § 15. A substantiated finding of registrable abuse is a finding by the DPPC, after investigation and opportunity to appeal, that a care provider abused a person with I/DD. *Id.* Prior to employing or contracting with a care provider, the DDS or an Employer shall determine whether the person’s name and date of birth appear on the Abuser Registry. *Id.* DPPC created and maintains a database to manage and track all activities of the Abuser Registry.

Pursuant to the statute, the DPPC is required to annually perform an audit of the Abuser Registry and provide a summary of the audit to the Clerks of the House of Representatives and Senate, the House and Senate Committees on Ways and Means and the Joint Committee on Children, Families, and Persons with Disabilities. The statute states in pertinent part:

Annually, the commission shall perform an audit of the registry to ensure compliance with this section, including that the commission added all substantiated findings of registrable abuse to the registry and made proper notification to the department, employers and care providers. A summary of the audit shall be filed not later than October 31 of each year with the clerks of the house of representatives and senate, the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities. The summary shall include, but not be limited to: (i) the number of substantiated findings of abuse found or not found to have been registrable; (ii) the number of people on the registry; (iii) the number of people who were added to the registry in the last fiscal year; (iv) the number of substantiated findings of registrable abuse that were appealed in the last fiscal year; (v) the number of substantiated findings of registrable abuse that were overturned on appeal in the last fiscal year; (vi) the number of requests made by employers for information from the registry and the number of such requests that were granted in the last fiscal year; (vii) the total number of instances in the last fiscal year in which the commission failed to notify the department or the last known employer of a care provider who was placed on the registry and the reasons for such failures; and (viii) the number of employers found to have failed to meet the requirements of subsection (d) in the last fiscal year. The information contained in the summary shall be in a de-identified and aggregate form.

M.G.L. c. 19C, § 15 (f).

To ensure this summary is clear, DPPC provides the following relevant statutory definitions contained in M.G.L. c. 19C:

Caretaker, a [person with a disability's] parent, guardian or other person or agency responsible for a [person with a disability's] health or welfare, whether in the same home as the [person with a disability], a relative’s home, a foster home or any other day or residential setting.

Care Provider, a caretaker who is employed by, or contracts with, the department or an employer to provide services or supports to a person with an intellectual or developmental disability. Care Providers include Caretakers in any program licensed, contracted, or funded by DDS.

Department, the department of developmental services.

Employer, an entity that provides services or treatment to persons with intellectual or developmental disabilities pursuant to: (i) a contract or agreement with the department; (ii) funding administered by the department; or (iii) a license issued pursuant to section 15 or 15A of chapter 19B.

Registrable Abuse, an act or omission of a care provider that results in serious physical injury or serious emotional injury or constitutes Abuse *per se* of a person with an intellectual or developmental disability between 18 and 59 years of age; provided, however, that "registrable abuse" shall not include instances in which the commission, upon weighing the conduct of the care provider and its outcome, determines that the incident was isolated and unlikely to reoccur and that the care provider is fit to provide services or supports to persons with intellectual or developmental disabilities.

In accordance with M.G.L. c. 19C, § 15 (f), DPPC performed an audit of activities of the Abuser Registry for the period July 1, 2022 through June 30, 2023.¹ DPPC reports as follows:

Fiscal Year 2023	
Substantiated Cases Against Care Providers ²	118
Substantiated Cases that Met Criteria for Registrability ³	49
Number of Care Providers Listed on the Abuser Registry ⁴	69
Number of Care Providers Added to the Abuser Registry in the last Fiscal Year	47
Number of Substantiated Findings of Registrable Abuse Appealed to the Division of Administrative Law Appeals (DALA)	17
Number of Substantiated Findings of Registrable Abuse Overturned by DALA on Appeal	0
Number of Appeals to Superior Court Following DALA Decision to Uphold DPPC Findings (M.G.L. c. 30A, § 14)	2

¹ All statistics in this report represent information for FY 2023, which runs from July 1, 2022 through June 30, 2023.

² This number only includes substantiated allegations against care providers (i.e., caretakers in cases where the Alleged Victim had a diagnosis of I/DD and the caretaker was employed by DDS or an Employer as defined by M.G.L. c. 19C § 15 (a)). This number is not reflective of all substantiated DPPC investigations.

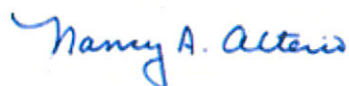
³ This number includes cases where Registered Alleged Abusers did not petition for review, or the DPPC affirmed the investigation's substantiation of registrable abuse through its internal petition for review process; it does not include cases of substantiated registrable abuse that are pending either the petition for review process at the DPPC or the appeals process at the Division of Administrative Law Appeals (DALA). As of July 1, 2023, there were 41 cases of substantiated registrable abuse pending the petition for review process at DPPC or the appeals process at DALA.

⁴ Four individual care providers were substantiated against for registrable abuse at least twice in separate cases; however, individuals can only be listed on the Abuser Registry once. In these cases, the due date of the care providers' eligibility to apply for removal from the Abuser Registry is adjusted to reflect five years from the most recent date of substantiation.

Instances DPPC Failed to Notify DDS or Last Known Employer of Care Provider who was Placed on the Abuser Registry	0
Number of Employers Found to Have Failed to Meet the Requirements of Subsection (d) ⁵	0
Number of Requests Made by Employers for Information from the Abuser Registry	31,199
Number of Requests that were Granted	31,199

Should you have any questions regarding this Annual Summary, I can be reached by email at nancy.alterio@mass.gov or by phone at (617) 727-6465, ext. 219.

Sincerely,



Nancy A. Alterio
Executive Director

cc: Jane F. Ryder, Commissioner, Department of Developmental Services
Michael D. Hurley, Senate Clerk
Steven T. James, House Clerk

⁵ Subsection (d) describes an Employer's obligation to search a prospective care provider's name on the Abuser Registry before hire, and its prohibition to employ as a care provider, anyone whose name is on the Abuser Registry.