On behalf of the Home Care Alliance of Massachusetts and our privately paid home care agency members, we appreciate the opportunity to offer comments on the proposed regulation, 211 CMR 65.00 relative to Long-Term Care Insurance.

The Home Care Alliance is a trade association of 200 home care agencies that are both Medicare-certified – authorized to provide medical services for reimbursement from Medicare and MassHealth – and privately paid, non-medical supportive services. Both types of agencies deliver care that helps keep people independent, whether it is skilled nursing and therapy services or non-medical support services such as assistance with activities of daily living (ADL), companionship or transportation to and from medical appointments.

The proposed changes from the Division of Insurance (DOI) come less than a month after proposed regulations from the Department of Labor Standards under the Executive Office of Labor and Workforce Development. Those changes recognize that home care agencies do not belong in the same oversight structure as employment, staffing and placement agencies, as we had been advocating for years. However, without DLS licensure, there will be no state-based oversight of private pay home care services once those regulations take effect.

The DOI proposes a number of sample definitions, under which home care agencies would be required to meet standards laid out by the Executive Office of Elder Affairs or the requirements of the state in which home care services are provided. Currently, private pay home care agencies rely on DLS licensure in their work with long-term care insurance companies to receive reimbursement for services provided. While the Home Care Alliance, our member agencies, and other advocates seek state-based licensure, we realize that there will be an oversight gap.

Not every private pay home care agency contracts with entities managed under the Elder Affairs network – known as ASAP’s or Aging Service Access Points – and all rely on long-term care insurance as an important tool that enables people to remain in their home. Moreover, it represents significant business for private pay home care agencies. One Home Care Alliance member based in Newton has more than $700,000-worth of long-term care insurance reimbursement, but they do not have any ASAP contracts.

Therefore, until such time as the state implements licensure measures for home care services, we suggest two placeholder measures. First, the Home Care Alliance established a Home Care Accreditation Program in 2010 and now has 70 agencies that have met our standards. Accreditation Standards serve as a means to promote quality services, ethical business standards, and superior employment practices. The standards themselves, along with the application documents, are attached to this testimony for your review. Home Care Alliance Accreditation should be placed alongside meeting the requirements of the Executive Office of Elder Affairs as an alternative measure that would qualify an agency to provide these services.

Additionally, DLS licensure is valid for one year, but each agency has a different renewal date meaning that some agencies have paid for and met DLS’ licensure standards and have received a certificate that will expire at some point between now and next summer. If any agency has a valid
DLS license number, that should also be placed alongside the abovementioned requirements until state-based licensure is attained.

The abovementioned placeholder measures laid out for home care agencies should also be applied to the "Personal Care Provider" sample definition. So after the words “Executive Office of Elder Affairs,” add the following: "Accreditation by the Home Care Alliance of Massachusetts or has an unexpired license issued by the Department of Labor Standards."

The Home Care Alliance also offers the following comments on the DOI proposed regulations:

- We urge DOI to clarify that personal care should not be limited to services provided by home health aides or certified nursing assistants as a significant portion of private pay home care includes care administered by live-in aides, companions and personal care homemakers.
- The proposed definition of "home health care" does not include many services that certified agencies provide like Alzheimer's/dementia care and palliative care services. We also urge that home telemonitoring services be added as the Home Care Alliance has nearly 40 agency members that provide this service to help people self-manage chronic conditions and prevent re-hospitalizations.
- In the "sample definitions," the Activities of Daily Living do not include "grooming and personal hygiene," which is a traditional ADL and one that is vital to the well-being of people wishing to avoid facility-based care.
- In the sample definition of “home health agency”, DOI mentions agencies that are certified by the Massachusetts Department of Public Health. Since DPH does not technically "certify" home health care, we suggest “overseen” as the appropriate term.
- Also in the “sample definitions,” there is no definition of palliative care, which is a now well-established set of services that does not necessarily mean that a person has to be near end of life. We suggest the following definition:
  - "Palliative care" - patient and family-centered medical care that optimizes quality of life by anticipating, preventing, and treating suffering caused by serious illness. Palliative care throughout the continuum of illness involves addressing physical, emotional, social, and spiritual needs and facilitating patient autonomy, access to information, and choice. Palliative care includes, but is not limited to, discussions of the patient’s goals for treatment; discussion of treatment options appropriate to the patient, including, where appropriate, hospice care; and comprehensive pain and symptom management.

Again, we thank the Division of Insurance for the opportunity to comment and we look forward to working closely with you to represent the best interests of home care agencies, their employees and the clients and patients they serve.

Sincerely,

James Fuccione
Director of Legislative & Public Affairs
Home Care Alliance of Massachusetts