

**Cape Light Compact JPE
Executive Committee &
Governing Board Meeting**

DATE: Wednesday, November 13, 2019
LOCATION: Cape Light Compact Offices – MV Conference Room
261 Whites Path, Unit 4, South Yarmouth
TIME: 2:00 – 4:30 p.m.

AGENDA

2:00 PM

Public Comment

Approval of Minutes: October 9, 2019

Chairman’s Report: (1) Update on Mayflower Wind Selected for Offshore Wind and Compact Collaboration; (2) 2018 Audited Financial Statements; and (3) Report Out on Cape Cod Climate Change Collaborative Net Zero Cape & Islands Roundtable

Financial Reports, Peter Cocolis

Update from Comptroller on Switching Banks, Megan Terrio

Administrator’s Report: (1) Review and discuss 2020 Proposed Operating Budget; (2) Discuss and potential vote on Cape Cod Municipal Health Group 268A Disclosure; (3) Discuss and potential vote on proposed amendments to Cape Cod Municipal Health group Agreement for Joint Negotiation & Purchase of Health Care Coverage; (4) Update on DPU 19-96, Cape Light Compact 2016-2018 Energy Efficiency Term Report; (5) Update on Recent CLC Events; and (6) Upcoming meeting topics

Energy Efficiency Program: Update on Cape & Vineyard Electrification Offering, Austin Brandt

Board Member Update (Reserved for Updates on Member Activities the Chair Did Not Reasonably Anticipate Would be Discussed – No Voting)

**Cape Light Compact JPE
Governing Board
Open Session Meeting Minutes
Wednesday, October 9, 2019**

The Cape Light Compact JPE Board of Directors met on Wednesday, October 9, 2019 in the Martha's Vineyard Conference Room at the Cape Light Compact JPE Offices at 261 Whites Path, Yarmouth MA 02664 at 2:00 PM.

Present Were:

1. David Anthony, Secretary, Barnstable
2. Peter Doyle, Barnstable Alternate
3. Robert Schofield, Bourne
4. Colin Odell, Brewster
5. Peter Cocolis, Chatham
6. Eric Peckar, Dukes County – **By Phone**
7. Fred Fenlon, Eastham
8. Alan Strahler, Edgartown
9. Ronald Zweig, Chair, Falmouth
10. Wayne Taylor, Mashpee
11. Martin Culik, Executive Committee, Orleans
12. Nathaniel Mayo, Provincetown
13. Leanne Drake, Sandwich
14. Sue Hruby, West Tisbury – **By Phone**
15. Joyce Flynn, Yarmouth

Absent Were:

1. Michael Hebert, Aquinnah
2. Timothy Carroll, Chilmark
3. Brad Crowell, Dennis
4. Valerie Bell, Harwich
5. Richard Toole, Oak Bluffs
6. Kirk Metell, Tisbury
7. Jarrod Cabral, Truro
8. Richard Elkin, Wellfleet

Members/Alternates:

Physically present: 13

Present by phone: 2

Legal Counsel:

Audrey Eidelman, Esq., BCK Law, P.C.

Staff Present:

Austin Brandt, Senior Power Supply Planner

Dan Schell, Marketing and Communications Coordinator

Lindsay Henderson, Senior Analyst

Maggie Downey, Administrator
Megan Terrio, Comptroller
Phil Moffit, Planning and Evaluation Manager

Presenter:

Chris Rogers

Public Present:

None present.

Ronald Zweig called the meeting to order at 2:02 PM. Ronald Zweig recognized Sue Hruby of West Tisbury and Eric Peckar of Dukes County who were remotely participating because physical attendance at the meeting would be unreasonably difficult.

PUBLIC COMMENT:

There was no public comment.

PRESENTATION: DRAFT CAPE LIGHT COMPACT JPE 2018 AUDITED FINANCIAL STATEMENTS

Chris Rogers from Clifton Larson Allen, LLP presented the draft of the 2018 audited financial statements. He stated that the OPEB number in the report will change as they are waiting to receive the Actuarial Valuation and Other Postemployment Benefits (OPEB) Report from Segal Consulting. Joyce Flynn asked what the Inter-Governmental line was under the Operating Revenues. Chris Rogers said that it is any grants from the state and the Regional Greenhouse Gas Initiative revenues received. Chris Rogers explained the footnotes to the Board. Maggie Downey asked the Board what the next steps are, and if Chris Rogers needed to come back in to discuss OPEB. The Board is ok with him not coming back to present but would like to see the numbers and then consider how to proceed. Megan Terrio and Maggie Downey will bring recommendations/options to the Board regarding funding the OPEB and Retirement liabilities.

APPROVAL OF MINUTES:

The Board considered the March 13, 2019 Open Session Meeting Minutes.

Joyce Flynn moved the Board to accept the minutes as amended and to release them as amended, seconded by Robert Schofield.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Erik	Peckar	Dukes County	Abstained
Fred	Fenlon	Eastham	Yes
Alan	Strahler	Edgartown	Yes
Ronald	Zweig	Falmouth	Yes

Wayne	Taylor	Mashpee	Abstained
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Leanne	Drake	Sandwich	Yes
Sue	Hruby	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

Motion carried in the affirmative (12-0-2).

The Board considered the May 8, 2019 Open Session Meeting Minutes.

Martin Culik moved the Board to accept the minutes as amended and to release them as amended, seconded by Robert Schofield.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Erik	Peckar	Dukes County	Abstained
Fred	Fenlon	Eastham	Yes
Alan	Strahler	Edgartown	Yes
Ronald	Zweig	Falmouth	Yes
Wayne	Taylor	Mashpee	Abstained
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Leanne	Drake	Sandwich	Yes
Sue	Hruby	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

Motion carried in the affirmative (12-0-2).

The Board considered the September 11, 2019 Open Session Meeting Minutes.

Peter Cocolis moved the Board to accept the minutes as amended and to release them as amended, seconded by Martin Culik.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Erik	Peckar	Dukes County	Yes
Fred	Fenlon	Eastham	Yes
Alan	Strahler	Edgartown	Yes
Ronald	Zweig	Falmouth	Yes

Wayne	Taylor	Mashpee	Abstained
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Abstained
Leanne	Drake	Sandwich	Yes
Sue	Hruby	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

Motion carried in the affirmative (12-0-2).

CHAIRMAN'S REPORT:

Ron Zweig introduced new Dukes County Board Member Erik Peckar, who replaced Robert Hanneman. Erik Peckar is pleased to be part of the group. He has worked with Vineyard Power Cooperative since 2010 and has been on the Vineyard since 2006.

Ron Zweig stated that at the last meeting the Board voted to move accounts to Cape Cod 5 and asked for an update. Megan Terrio stated that they have started moving funds over and hope to be completed by the end of October. Once all checks have cleared from Rockland Trust they will be able to close those accounts.

FINANCIAL REPORTS, PETER COCOLIS:

Peter Cocolis presented the Energy Efficiency Financial Report to the Board through September Actuals and that we have spent about 55% so far. Colin Odell asked to have the program percentage broken out by Incentives and Non-Incentives which aren't project related.

Peter Cocolis presented the Operating Fund Financial Report and that the Compact has spent approx. 56% through September.

ADMINISTRATORS REPORT:

1. Cape and Vineyard Electrification Offering Schedule

- Maggie Downey updated the Board that staff continues to refine the budget and savings numbers and are schedule to present to the EEAC Executive Committee on November 6th, then present to the Board on November 13, and then present to the full EEAC on November 20, with a likely EEAC vote in December. Hopefully the Compact will be able to file with the DPU by the end of the year.

2. Announce Release of Executive Session Minutes

- Maggie Downey announced that the Executive Session minutes that were approved at the last meeting have been released.

3. 2017 CLCJPE Annual Report

- Maggie Downey announced that the 2017 Annual Report has been completed and will be mailed to the Towns and legislative bodies. 2018 will be completed as soon as the audited financial statements are completed.

4. Upcoming Meeting Topics

- Maggie Downey stated that the November Board Meeting will include the CVEO Discussion and Vote, and review of the draft 2020 Operating Fund Budget.. In December, Eversource will be presenting on the battery storage project in Provincetown, there will be a vote on the Operating Fund Budget for 2020, and Executive Session nominations will open to be voted on in January.

5. Other

- Maggie Downey announced that there was another issue with the OPower reports. The Compact had told the vendor to stop sending the reports in September due to issues with the formula, and another round of mailings was sent despite this direction to the vendor. The second mailing failed to address the problems (comparing year-round homes to seasonal-homes) identified in the initial mailing.

ENERGY EFFICIENCY PROGRAM:

1. Presentation on the Proposed 2020 Energy Efficiency Surcharge Filing (EES), Phil Moffitt

- Phil Moffitt explained the process of filing the Energy Efficiency Surcharge. The EES represents approximately 70% of the Energy Efficiency Revenue. The difference between the 2019-2021 filing and the 2020 EES is primarily due to the change in CVEO. Martin Culik asked if the Board needed to approve and Maggie Downey said no because the budget is consistent with what the Board approved last year as part of the 2019-2021 Energy Efficiency Plan.

2. Update on Main Streets Events, Lindsay Henderson

- Lindsay Henderson stated that the two Main Streets events held on Wednesday October 2 in the Towns of Chatham and Oak Bluffs were a success overall. Business owners were excited for the opportunity to save energy. Support from the Towns, Chambers and Business Associations was crucial to the success of this effort. She stated that the Compact will be looking to do more events like this in the coming years. Lindsay Henderson reminded the Board that the enhanced incentives for small businesses were ongoing for all Cape and Vineyard small businesses as long as they sign up for an energy assessment within the month of October.

BOARD UPDATES:

Martin Culik asked if we could hold a future meeting at the new Cape Cod 5 Headquarters and see their systems that they have. Maggie Downey said that maybe we could make it a press event and present them with a check for the incentive.

Joyce Flynn stated that Yarmouth is going for the Solarize Program. Joyce Flynn announced that the musical Crude! (about climate change) starts tomorrow at the Harwich Junior Theater.

Ron Zweig stated that tomorrow is the Cape Cod Climate Change Collaborative roundtable and that Maggie Downey is speaking.

Sue Hruby and Erik Peckar left the meeting at 3:41 PM.

ADJOURNMENT:

Motion to adjourn made at 3:43 PM moved by Robert Schofield, seconded by Martin Culik.

Respectfully submitted,

Lindsay Henderson

LIST OF DOCUMENTS AND EXHIBITS:

- Meeting Notice/Agenda
- March 13, 2019 Draft Open Session Meeting Minutes
- May 8, 2019 Draft Open Session Meeting Minutes
- September 11, 2019 Draft Open Session Meeting Minutes
- 2019 Energy Efficiency Budget
- 2019 Operating Fund Budget
- 2020 Energy Efficiency Surcharge PowerPoint
- Main Streets PowerPoint
- 2018 Audit Exit Conference PowerPoint
- 2018 Draft Audited Financial Statements
- 2017 Cape Light Compact JPE Annual Report

Draft Minutes subject to correction, addition and Committee/Board Approval

Item	Approved CY19	2019 YTD Expended	Item	Proposed CY20
Legal	\$ 230,800.00	\$ 86,463.31	Legal	\$ 195,000.00
Advertising	\$ 185,000.00	\$ 103,724.36	Advertising	\$ 160,000.00
Salaries	\$ 80,176.00	\$ 56,879.96	Outreach/Marketing Contract	\$ 100,000.00
Outreach/Marketing Contractor	\$ 75,000.00	\$ 103,286.19	Operating Contingency Fund	\$ 85,000.00
Sponsorships	\$ 39,300.00	\$ 37,399.50	Salaries	\$ 45,000.00
Postage	\$ 26,500.00	\$ 7,289.87	Peason Liability	\$ 42,700.00
Contractual	\$ 25,000.00	\$ 9,178.74	Sponsorships	\$ 41,800.00
Rent	\$ 22,500.00	\$ 18,750.00	Contractual	\$ 20,000.00
Retirement	\$ 20,044.00	\$ 8,013.50	Subscriptions	\$ 20,000.00
Travel In-state	\$ 17,000.00	\$ 5,501.46	Travel In-state	\$ 17,000.00
Printing	\$ 12,500.00	\$ 8,834.62	Insurance	\$ 15,000.00
Health Insurance	\$ 12,035.00	\$ 12,811.30	OPEB Liability	\$ 15,000.00
Auditor	\$ 11,250.00	\$ 4,940.00	Retirement	\$ 13,503.00
Insurance	\$ 10,600.00	\$ 20,745.00	Printing	\$ 12,500.00
OPEB Liability	\$ 7,100.00	\$ -	Health Insurance	\$ 12,035.00
Misc Fringes	\$ 7,090.00	\$ 205.00	Postage	\$ 10,000.00
MA UI	\$ 6,000.00	\$ 239.70	Travel Out-of-state	\$ 6,000.00
Travel Out-of-state	\$ 5,300.00	\$ 2,292.01	Salary Reserve	\$ 5,000.00
Pension Liability	\$ 5,000.00	\$ -	Professional Development	\$ 5,000.00
Salary Reserve	\$ 5,000.00	\$ -	Rent	\$ 3,600.00
Treasury Services	\$ 5,000.00	\$ 5,257.26	Computer Equipment	\$ 3,000.00
Professional Development	\$ 5,000.00	\$ 438.17	Unpaid Bills	\$ 2,000.00
Food	\$ 5,000.00	\$ 329.72	Supplies	\$ 1,500.00
Subscriptions	\$ 5,000.00	\$ 18,769.50	Telephones	\$ 1,257.00
Computer Equipment	\$ 5,000.00	\$ 560.11	Software License	\$ 1,225.00
Financial Software	\$ 5,000.00	\$ 2,457.49	Auditor	\$ 1,000.00
Custodial	\$ 4,438.00	\$ 3,227.92	Treasury Services	\$ 1,000.00
Utilities	\$ 3,500.00	\$ 243.44	Financial Software	\$ 1,000.00
Telephones	\$ 3,500.00	\$ 2,380.09	Misc. Rental	\$ 1,000.00
Misc. Rental	\$ 2,500.00	\$ -	Custodial	\$ 800.00
Supplies	\$ 2,060.00	\$ 174.24	Medicare	\$ 775.00
Medicare	\$ 2,000.00	\$ 734.59	Internet Service	\$ 587.00
Unpaid Bills	\$ 1,000.00	\$ -	Misc Fringes	\$ 500.00
Software License	\$ 500.00	\$ 1,901.15	MA UI	\$ 500.00
Internet Service	\$ 500.00	\$ 3,851.83	Food	\$ 500.00
Payroll Services	\$ 500.00	\$ 1,110.88	Utilities	\$ 500.00
Bank Fees	\$ -	\$ 80.00	Misc Equipment	\$ 500.00
IT Services	\$ -	\$ 597.23	IT Services	\$ 398.00
Misc Equipment	\$ -	\$ 58.55	Payroll Services	\$ 80.00
Operating Contingency Fund	\$ -	\$ -	Bank Fees	\$ -
Subtotal C.L.C. Operating Budget	\$ 848,693.00	\$ 528,926.69		\$ 842,260.00
date 11/13/19				

AMOUNT	VENDOR NAME	COMMENT
\$ 1,800.00	NORTHEAST ENERGY AND	2019 BUILDING ENERGY SPONSOR
\$ 1,365.00	HERITAGE PRESS INC	LANYARD FOR NESEA SPONSORSHIP
\$ 1,560.00	LOWER CAPE COMMUNICA	2019 UNDERWRITING MESSAGES ON
\$ 4,000.00	EASTHAM CHAMBER OF C	2019 LOWER CAPE HOME & GARDEN
\$ 2,500.00	CAPE COD TECHNOLOGY	EARTHTECH EXPO 2019 PRESENTING
\$ 300.00	CCYP INC	SHAPE YOUR CAPE SUMMIT CHARGIN
\$ 200.00	CCYP INC	MEMBERSHIP DUES
\$ 5,000.00	CAPE COD CLIMATE CHA	5CS ROUNDTABLE EVENT SPONSORSH
\$ 1,500.00	HOUSING ASSISTANCE C	BIG FIX BARNSTABLE 2019
\$ 125.00	OAK BLUFFS ASSOCIATI	2019 TIVOLI DAY REGISTRATION P
\$ 750.00	PHILANTHROPY PARTNER	PHILANTHROPY DAY ON CAPE COD 2
\$ 3,800.00	NE ENERGY & COMMERCE ASSOC	Sponsor Annual Meeting
\$ 3,000.00	Restructuring Roundtable	Sponsorship
\$ 750.00	CC TECH COUNCIL	Annual Dues
\$ 800.00	Hyannis Rotary Home and Garden	
\$ 200.00	Paw Palooza	
\$ 2,848.00	UNANTICIPATED EVENTS	

Chambers

\$ 200.00	Provincetown	
\$ 150.00	Truro	
\$ 125.00	Wellfleet	
\$ 150.00	Eastham	
\$ 500.00	Orleans	
\$ 165.00	Brewster	
\$ 125.00	Chatham	
\$ 145.00	Harwich	
\$ 175.00	Dennis	
\$ 250.00	Yarmouth	
\$ 175.00	Hyannis	
\$ 175.00	Sandwich	
\$ 150.00	Mashpee	
\$ 199.00	Falmouth	
\$ 190.00	Cape Cod Canal Region	
\$ 208.00	MV Chamber	
\$ 295.00	CC Chamber	
\$ 6,925.00	ADOPT A HIGHWAY MAIN	Adopt a Highway
\$ 1,000.00	Northeast Energy and Commerce	

\$41,800.00 TOTAL Budget Request

**CAPE LIGHT COMPACT JPE
LEGAL SERVICES BUDGET – OPERATING ACCOUNT
January – December 2020**

General Power Supply Matters (e.g., attend Board Meetings, advise on Open Meeting Law, Public Records Law, monitor statewide aggregations, competitive electric supply agreement review and amendments, representation in non-Energy Efficiency regulatory proceedings, DPU power supply related docket monitoring, etc.):ⁱ **\$163,000**

Other Miscellaneous Matters (e.g., monitor and review state legislation, monitor DPU net metering dockets, low-income solar installation agreement review and amendments, special legal research on JPE operations and contracting matters, direct expenses (such as travel, mileage, copying), etc.):ⁱⁱ **\$32,000**

Total Budget: \$195,000 (~\$36,000 below 2019 Legal Services Budget – Operating)

ⁱ Notes:

- This budget does not include any extensive correspondence or in-person meetings with the Attorney General’s Office regarding Public Records Law matters.
- This budget *may* be sufficient to handle an appeal of a Commission decision on customer enrollment to the Supreme Judicial Court, or at least part of an appeal, but we are unable to provide certainty on a budget amount without review of the Commission decision.
- This budget does not include assistance in any significant undertakings by the Compact to seek membership in a national financing entity providing alternative credit support for the Compact’s long-term power purchase agreement and/or prepare alternative credit support applications and supporting materials.
- This budget includes tracking of municipal aggregation dockets and long-term contract review (e.g., D.P.U. 18-36, D.P.U. 18-61, D.P.U. 17-118), tracking of pending dockets D.P.U. 15-40 (investigation into basic service), D.P.U. 15-183 and 15-184 (Interim Guidelines for DPU electronic filings); comment and attendance at technical sessions in D.P.U. 19-07 (investigation into competitive supply); participation in compliance filings in D.P.U. 15-122 (Eversource grid modification). *This does not include participation in or monitoring of new dockets that commence in 2020 – the Compact would need to account for cases in which it plans to participate actively (e.g., evidentiary hearings or extended notice and comment dockets) with supplemental or special budget allocations.*

ⁱⁱ Notes:

- This budget includes *some* drafting of legislation.

**Agenda Action Request
Cape Light Compact JPE
Meeting Date: 11/13/19**



- Aquinnah*
- Barnstable*
- Bourne*
- Brewster*
- Chatham*
- Chilmark*
- Dennis*
- Dukes
County*
- Eastham*
- Edgartown*
- Falmouth*
- Harwich*
- Mashpee*
- Oak Bluffs*
- Orleans*
- Provincetown*
- Sandwich*
- Tisbury*
- Truro*
- Wellfleet*
- West Tisbury*
- Yarmouth*

Vote to Authorize Compact Administrator to Vote on Proposed Amendments to the Cape Cod Municipal Health Group (CCMHG) Agreement for Joint Negotiation & Purchase of Health Coverage

I move the Cape Light Compact JPE ("Compact") Board of Directors vote to authorize the Compact Administrator to vote on the attached proposed amendments to CCMHG Agreement for Joint Negotiation & Purchase of Health Coverage.

The Compact Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote.

Additional Information

Amendments to the Agreement are the responsibility of the individual members of the Agreement. Each of the 59 members of the CCMHG must authorize their designated Board member to vote on the proposed amendments. The proposed amendments have been reviewed and are recommended by the CCMHG Steering Committee members.

Record of Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

Cape Cod Municipal Health Group

Joint Purchase Agreement – areas for revision/amendment

Article 3 language conflicts with Article 11 language.

Article 3 says, “Any Participating Governmental Unit may withdraw from this Agreement at its discretion but may do so only as of the anniversary date of the health plan contracts purchased through this agreement, i.e. midnight June 30th of any year, and upon written notification to the Board of such intent to withdraw by December 1st of the year preceding the intended withdrawal.”

Article 11 says, “Any proposed change to the level of coverage or benefits schedule(s) shall take effect on a date designated by the Board, but notice of such proposed change(s) shall be provided to the appropriate public authority of each Participating Governmental Unit by the Board at least sixty (60) days prior to the proposed implementation date of such and voted at least ten (10) days before any Participating Governmental Unit reaches the notification of withdrawal date specified in Article 3.”

Since the notification of withdrawal is due to the Board no later than Dec. 1, this would mean that a vote to change plan design or benefits for the next Policy Year would have to occur no later than Nov. 20.

Options: (1) Keep as is and make all plan design decisions prior to Nov. 20 or **(2) eliminate last part of last sentence of Article 11.** Steering Committee recommends “(2)”.

Article 8. Calculation of health and dental plan funding rates

Paragraph 1 does not provide for reducing projected rates because of fund balance surplus above the targeted range.

Article 8, para. 1 says, “The payment calculated by the Board shall be comprised of a rate determined to be 100% of the funding rate or premium requirement as established through underwriting and/or actuarial estimates.”

CCMHG could add to the end of sentence above the following or similar language: *”....or a rate which when combined with an approved amount to be funded through the Fund Balance in excess of the Fund Balance target as established by the Fund Balance Policy will provide 100% of expected needed funding.”* Steering Committee recommends.

Article 8, paragraph 2

- the last sentence of the 2nd paragraph should refer to Article 8, paragraph 4 and not paragraph 5. Steering Committee recommends.

Article 10. Eligibility Determination

Article 10 now says, "It is understood and agreed that nothing contained in this Agreement shall in any way limit the authority of a Participating Governmental Unit to determine that a person is eligible for participation in the health coverage program in accordance with the provisions of MGL Ch. 32B." Suggest adding to the end of that sentence something like, "*... other applicable laws and regulations, health and/or dental plan requirements, and any eligibility rules approved by 2/3rds vote of the full Board.*"

CAPE COD MUNICIPAL HEALTH GROUP
AGREEMENT FOR JOINT NEGOTIATION & PURCHASE
OF HEALTH COVERAGE

Original Agreement: Effective October 1987

Amended July 1993, April 1996, July 1997, January 1998, November 29, 2001,
July 25, 2007, October 9, 2013, and October 19, 2016

CAPE COD MUNICIPAL HEALTH GROUP

**MUNICIPAL HEALTH GROUP
AGREEMENT FOR JOINT NEGOTIATION
AND PURCHASE OF HEALTH COVERAGE
As amended through October 19, 2016**

Article 1. Authority and Purpose.

This Agreement is entered into in accordance with M.G.L. Chapter 32B, Section 12, (all reference herein to state or federal law refer to current statutes, any amendments thereto, and successor legislation of like purpose and effect) to enable the governmental units executing this Agreement as indicated in Article 15 hereof, and any subsequent amendment to this Agreement adding additional governmental units accepted for participation in accordance with the procedures described in Articles 2 and 11 hereof, hereinafter referred to as the "Participating Governmental Units," to join together in negotiating and purchasing policies authorized under M.G.L. Chapter 32B, Section 3, including health and life insurance; Health Maintenance Organization coverage as authorized by M.G.L. Chapter 32B, Section 16; Administrative Services Only coverage as authorized by M.G.L. Ch. 32B, Section 3A, which may include Preferred Provider Arrangements; or other methods of self-funding employee health, dental, and life coverage as may be allowed by law. The economies of scale and other benefits derived through joint negotiation and purchase anticipated by the authority granted to the participants by M.G.L. Chapter 32B, Section 12, constitute the purpose of this Agreement.

Article 2. Participants.

The participants in this joint negotiation and purchase agreement are those listed as signatories to this Agreement on each page of Article 15. It is understood and agreed that additional governmental unit participants may be added pursuant to Article 11.

Article 3. Term of Agreement and Participation.
(as amended on November 29, 2001)

This Agreement shall take effect on July 1, 1987 or on the date that three or more governmental units execute signature of this Agreement. This Agreement shall continue in full force and effect for an indefinite period, subject to amendment as agreed upon in accordance with the terms of Article 11 of this Agreement, so long as three or more governmental units elect to continue participation.

Any Participating Governmental Unit may withdraw from this Agreement at its discretion but may do so only as of the anniversary date of the health plan contracts purchased through this agreement, i.e. midnight June 30th of any year, and upon written

notification to the Board of such intent to withdraw by December 1st of the year preceding the intended withdrawal.

Notwithstanding any other provisions of this Agreement, a Participating Governmental Unit maintains its autonomy and responsibility for collective bargaining.

Any Participating Governmental Unit ("PGU") which is ninety (90) days in arrears for the payment due under Article 9 of this Agreement may be charged late fees as described in Article 9. If a PGU fails to pay the outstanding balance plus late payment fees within 31 days of having been billed for these charges, the PGU may be terminated from participation in this Agreement at the Board's discretion. Such termination shall not limit the remaining Participating Governmental Units from obtaining payment of all monies in arrears under Article 9.

Article 4. Administration.
 As amended through 10/9/13

Administrative authority shall be vested in a Board to be known as the Cape Cod Municipal Health Group Board, herein referred to as the "Board." The appropriate public authority, as defined in M.G.L. Chapter 32B, Section 2(a), of each Participating Governmental Unit shall appoint one primary member of the Board, who shall have one vote, and one alternate member who shall assume all of the responsibilities of the primary member in the event of the primary member's absence. Appointment of primary and alternate members of the Board to represent Dukes County shall be made in accordance with the Articles of Merger previously executed by and between the Cape Cod Municipal Health Group and the Dukes County Health Group. Said appointments shall be made within thirty (30) days following the execution of this Agreement. The Board Member representative of each Participating Governmental Unit shall serve until replaced by the appropriate public authority of the Participating Governmental Unit. It is understood and agreed that the Cape Cod Municipal Health Group Board Members may rely on the authority of each Board Member to represent the respective Participating Governmental Units and any vote of any individual Board Member shall be deemed to be binding upon the Participating Governmental Unit represented by such Board Member.

It is understood and agreed that the Board shall have full discretion to elect from its memberships a chairman and any other officers that it deems appropriate and may elect to establish any committee for whatever purpose it deems appropriate and consistent with the terms of this Agreement.

It is further understood and agreed that the Board may elect from its membership (both primary and alternate members) a Steering Committee of up to nine (9) persons representing nine (9) Participating Governmental Units, hereinafter referred to as the Steering Committee. The Steering Committee members shall serve for a term of one year or until removed by the Board. Steering Committee members may be elected for

succeeding terms. In the event that a Steering Committee member is removed from the Board by the appropriate public authority of the Participating Governmental Unit, the Board may elect a replacement.

It is furthermore understood and agreed that the Board may elect from its membership (both primary and alternate members) one (1) Alternate Steering Committee Member, representing a tenth (10th) Participating Governmental Unit, who shall be authorized to assume all responsibilities, including voting, of any one (1) absent Steering Committee member.

The Steering Committee shall have whatever authority is granted to it by the Board including the establishment of advisory sub-committees. Such authority may include the authority to negotiate and contract with health insurance carriers or other health coverage providers, insurers, consultants, and any other individuals or organizations deemed to be appropriate by the Steering Committee on behalf of and for the benefit of the Board and each Member's respective Participating Governmental Unit concerning the subject of this Agreement. The Steering Committee may be vested with other powers including the power: (1) to review annual rate renewals; (2) to negotiate health coverage renewal contracts, negotiate funding and other financial arrangements (including ASO or other financial arrangements authorized by M.G.L. Chapter 32B, Section 3A); (3) make recommendations to the Board regarding levels of coverage; and any other matter authorized by M.G.L. Chapter 32B which is not specifically reserved to each respective Participating Governmental Unit. The Board, either directly or acting through its Steering Committee, may establish a central administrative office and employ such personnel or contract for such administrative services as may be necessary to carry out the provisions of M.G.L. Chapter 32B and this Agreement.

Whenever the Board or the Steering Committee (as authorized) enters into agreements with a central administrative office, a consultant, or administrative personnel, payment for such services and related expenses shall be appropriately allocated to the Participating Governmental Units in proportion to the number of the Participating Governmental Unit's subscribers covered under the contracts negotiated and purchased under the authority of this Agreement.

Article 5. Quorum.
(as amended through July 25, 2007)

The Board shall adopt a schedule of meeting dates and times for the conduct of ordinary business and shall establish a reasonable procedure for notice to the members of the Board and appropriate public authorities concerning special meetings. The Steering Committee shall, in a like manner, establish a procedure for adequate notice to each Steering Committee member for all meetings to be conducted. A quorum of the Board or the Steering Committee following issuance of the required notice shall consist of not less than a majority of the members of the Board with reference to Board meetings and

Steering Committee with reference to the Steering Committee meetings. A majority vote of the members in attendance at a duly called meeting shall be deemed to be a vote of the Board or the Steering Committee, respectively, except as is otherwise noted in Article 11. The Board and the Steering Committee are subject to the requirements of M.G.L. Chapter 39, Sections 23A & 23B (“Open Meeting Law”).

Article 6. Organization and Chairperson.

The Board and the Steering Committee shall each elect from their respective memberships, by majority vote of the participants at a duly called meeting, a Chairperson, who shall serve for a term of twelve (12) months, unless replaced prior to termination of such twelve (12) month period by a vote of respective majorities of the Board or the Steering Committee, respectively, in attendance at a duly called meeting. It is understood and agreed that the Chairperson may be elected for succeeding twelve (12) month terms at the discretion of the Board or the Steering Committee, respectively.

It shall be the duty of the respective Chairpersons to call meetings of the Board and the Committees, including designation of the date, place, and time of such meetings, and to perform other duties and functions as delegated by the Board and Committees respectively.

The Board and the Committees of the Board may elect any other officers for their respective bodies, whom the Board and the Committees respectively deem appropriate, by vote of a majority in attendance at a duly called meeting.

Article 7. Communication.

It shall be the duty of each member of the Board, and in the primary member’s absence, the duty of the alternate member, to communicate all matters relating to the action of the Board to the member’s respective Participating Governmental Unit’s appropriate public authority. Copies of the minutes of Board and Steering Committee meetings shall be sent to each Participating Governmental Unit’s Appropriate Public Authority and Town Clerk’s Office. In the event that both the primary and alternate members representing a governmental unit are absent, it is the duty of the Chairperson, acting directly or through the central administrative office or other designee of the Chairperson, to communicate, in writing and in a timely manner to the absent Board member’s respective appropriate public authority, any action taken by the Board.

It shall be the duty of the Chairperson of each Committee of the Board to report to the Board through the Chairperson of the Board all actions taken by the Committee. In addition, it shall be the duty of each Committee to report to the Board membership at a duly called meeting of the Board, the actions of the Committee and, in any event, such reports shall be made no less than four (4) times during each fiscal year.

Article 8. Calculation of Health and Dental Plan Funding Rates.

The Board shall determine the monthly rates payable by each Participating Governmental Unit ("PGU"). The payment calculated by the Board shall be comprised of a rate determined to be 100% of the funding rate or premium requirement as established through underwriting and/or actuarial estimates or a rate(s) which when combined with an approved amount funded through the excess of Fund Balance above the targeted range as established by the Fund Balance Policy provides 100% of the calculated funding requirement.

It is understood and agreed that notwithstanding the individual experience rating of each PGU, all surpluses and deficits shall be dealt with on a collective basis. In the case of a certified surplus, the Board will determine whether the excess funds will remain in the trust fund for the purpose of reducing the PGUs' future funding rate expenses, or be distributed to each PGU through this Agreement based on its proportionate share as described in paragraph 5 of this Article 8. At the time of a certified deficit, additional revenue will be raised from the PGUs through direct assessment through this Agreement based on each PGU's proportionate share as described in ~~paragraph 5~~paragraph 4 of this Article 8.

If the Board determines that it will deal with a certified surplus (deficit) through reducing (increasing) future funding rates that will be charged to PGUs, the funding rate(s) ("basic funding rate(s)") will be determined based on claims experience projected forward, and the amount of reduction (increase) due to application of the surplus (reducing the deficit) will be determined and presented separately ("funding rate adjustment"). A new PGU will be assessed the basic funding rates without the "funding rate adjustment" for a period to be determined by the Board which shall not be less than two years nor greater than three (3) years unless no less than two-thirds of the Board present at a duly called meeting votes to make an exception to this stipulation.

If the Board determines that it will deal with a certified surplus or deficit by direct distribution to or assessment of each PGU, the determination of a PGU's proportionate share of a certified surplus or deficit shall be calculated as follows:

The proportionate share of a PGU shall be the sum of funds billed to the PGU by the Cape Cod Municipal Health Group ("CCMHG") for self-funded plans for the most recent 12-month fiscal year period divided by the sum of funds billed to all CCMHG PGUs for self-funded plans for the most recent 12-month period. The sums may be adjusted for retroactive enrollment changes made in the first month after the 12-month period.

The Board, either directly or through the Steering Committee, shall determine within six (6) months of the end of each policy year, a reconciliation of the trust fund balance for the joint purchase group. A surplus or deficit shall then be dealt with appropriately.

It is further understood and agreed that each Participating Governmental Unit shall be responsible for paying all insurance, premium, administration, or claims charges

which were incurred by that Participating Governmental Unit or any person insured by that Governmental Unit prior to the effective date of the joint purchase group's coverage with the health insurance carrier. Each Participating Governmental Unit shall be responsible for paying in full all "run-out" claims charges from cost plus arrangements which terminate upon the effective date of this coverage. Premium charges for services incurred by a Participating Governmental Unit prior to the effective date of this coverage but billed to the joint purchase group after the effective date of this Agreement will be billed in full to the Participating Governmental Unit by the central administrative office, and payment will be remitted by the central administrative office to the carrier.

Article 9. Payment of Health and Dental Plan Funding rates and Insurance Premiums, including but not limited to Medicare Senior plan and Vision Care plan.

Each PGU shall make payment on a monthly basis of the health and dental plan funding rates and insurance premiums based on the PGU's enrollments in each plan and the allocated expenses for the maintenance of a central administration office and the hiring of consultants and administrative personnel pursuant to Article 4 and other insurance products and services including but not limited to reinsurance and administrative fees. It is further understood and agreed that the central administrative office or other designee of the Board shall determine the appropriate payment due from each PGU each month.

It is also understood and agreed that each governmental unit shall pay as billed and that adjustments, if required, shall be made retroactively.

The Board shall contract with one or more banks to act as depository of payments contemplated by this Article 9, and accounts established shall be interest bearing accounts. Each designated bank shall be required, as a precondition to service as such depository, to act under the direction of the Board or its designee for the benefit of the Participating Governmental Units and the Board and shall provide for periodic reports and statements of accounts as required by the Board or its designee.

The Board shall provide for an annual independent audit of the payments contemplated by this Article 9. This report shall be provided to each member of the Board within six (6) months of the end of the Cape Cod Municipal Health Group's fiscal year.

All payments described in this Article 9 shall be due and payable no later than thirty (30) days following receipt of notice or bill from the Board or the CCMHG's central administrator. Interest at a rate determined by the Steering Committee may begin to accrue starting on the thirty-first (31st) day following receipt of notice or bill. In the event that any such payment is in arrears or in the event that the Board determines that additional funds are required due to the premium and other charges contemplated by this Article 9, the Board shall be authorized to obtain funds through financial arrangements with providers of health coverage, and other financing arrangements including advances

from the PGUs. The Board shall determine the respective payments for interest and other charges allocable to each PGU.

Article 10. Eligibility Determination.

It is understood and agreed that nothing contained in this Agreement shall in any way limit the authority of a PGU to determine that a person is eligible for participation in the health coverage program in accordance with the provisions of M.G.L. Chapter 32B, other applicable laws and regulations, health and/or dental plan requirements, and any eligibility rules approved by a 2/3rds vote of members present at a duly called meeting.

In addition, all notification of eligibility, employee direct billing, including notification to and from affected parties of eligibility rights under M.G.L. Chapter 32B, the Consolidated Omnibus Budget Reconciliation Act of 1985, and any other applicable federal and state statutes, shall be the responsibility of and determined by the PGU.

Article 11. Amendment Procedure, Adding New Members, and Changes to Benefit Plans. *(as amended on November 29, 2001)*

This Agreement may be amended at any time, provided that no less than two-thirds of the Board present at a duly called meeting of the Board vote to accept such amendment.

Additional governmental units may be added commencing on a date mutually agreed upon, provided that no less than two-thirds of the Board present at a duly called meeting of the Board vote to accept such additional participants. Such additional Participating Governmental Units will not be responsible for deficits incurred by the Cape Cod Municipal Health Group prior to the date of their participation in this agreement nor will they participate in any dividend or direct distribution or allocation of any surplus in the claims trust fund accrued by the Cape Cod Municipal Health Group prior to the date of their affiliation as described in Article 8. An exception to the requirements of Article 8, paragraph 3 may be made if no less than two-thirds of the Board present at a duly called meeting votes to make an exception to this stipulation.

Any change in the level of coverage or benefit schedule(s) implemented following the effective date of this Agreement shall not take effect until approved through the amendment procedure described in this Article 11. Any proposed change to the level of coverage or benefits schedule(s) shall take effect on a date designated by the Board, but notice of such proposed change(s) shall be provided to the appropriate public authority of each Participating Governmental Unit by the Board at least sixty (60) days prior to the proposed implementation date of such ~~and voted at least ten (10) days before any Participating Governmental Unit reaches the notification of withdrawal date specified in Article 3.~~

Article 12. Liability Following Termination of Participation.
(as amended on November 29, 2001)

There shall be no liability for premium expense following the effective date of termination of a PGU's coverage under a contract purchased through this Agreement, except for the withdrawing PGU's proportionate share as defined in Article 8 of any deficit in the trust as of its termination date, or change in the audited fund balance during the Participating Governmental Unit's last fiscal year of participation in this Agreement as defined in this Article 12, and open premium expense and subsequent expense for its subscribers still on the plan after termination (where such continued coverage is required by law).

According to Article 3 of this agreement a PGU may withdraw from or terminate participation in this agreement only on the anniversary date of the health plan contracts purchased through this agreement, i.e. effective at midnight on June 30 of any year. The Board shall engage an independent certified public accounting firm to do an annual financial audit of the Cape Cod Municipal Health Group's health and dental trust funds at the end of each fiscal year. The Board will make every effort to assure that the audited financial statements are completed and the auditor's report is provided no later than six (6) months after the end of the fiscal year.

If a PGU terminates participation in this agreement at a time when there is a positive audited fund balance (surplus) at the end of the last fiscal year of the PGU's participation which is greater than the positive fund balance (surplus) at the end of the previous fiscal year, the PGU will receive its proportionate share of the amount that the fund balance increased as defined in this Article 12.

If a PGU terminates participation in this agreement at a time when there is a positive audited fund balance (surplus) but there was a deficit audited fund balance or zero fund balance at the end of the previous fiscal year, the PGU will receive its proportionate share of the surplus as defined in this Article 12.

If a PGU terminates participation in this agreement at a time when the audited fund balance (surplus) is less than the audited fund balance at the end of the previous fiscal year, the PGU will not be entitled to any of the fund balance upon withdrawal.

If a PGU terminates participation in this agreement at a time when there is deficit fund balance and there had also been a deficit fund balance at the end of the previous fiscal year, the PGU will be required to pay to the Cape Cod Municipal Health Group its proportionate share of the fund balance as certified on the last day of its participation as defined in this Article 12.

If a PGU terminates participation in this agreement at a time when there is a deficit fund balance; however, at the end of the previous fiscal year there had been a positive fund balance, the PGU will be required to pay to the Cape Cod Municipal Health Group its proportionate share, as defined in Article 8 and in this Article 12, of the total decrease in the fund balance as certified on the last day of its participation as defined in this Article 12.

Determination of a Participating Governmental Unit's proportionate share of a positive fund balance or deficit fund balance or change in the fund balance shall be calculated as follows:

The proportionate share of a PGU shall be the quotient obtained by dividing the sum of funds billed to the PGU by the CCMHG for self-funded plans for the most recent 12-month fiscal year period by the sum of funds billed to all CCMHG PGUs for self-funded plans for the most recent 12-month fiscal year period. The sums may be adjusted for retroactive enrollment changes made in the first month after the 12-month period.

Any portion of the fund balance owed to that Participating Governmental Unit based on its proportionate share shall be paid to that Participating Governmental Unit within sixty (60) days of receipt of the auditor's report on the financial statements.

A Participating Governmental Unit that withdraws owing a proportionate share payment to the Cape Cod Municipal Health Group, shall make such payment within sixty (60) days of receiving the bill following the receipt of the auditor's report on the financial statements.

Article 13. Hold Harmless Protection. *(as amended April 24, 1996)*

Each Participating Governmental Unit agrees that it is the responsibility of the Unit to indemnify and hold harmless each representative designated by the Participating Governmental Unit to serve on the Board and any committee established by the Board from personal financial loss and expense, including reasonable legal fees and costs, if any, to the full extent permitted by all applicable statutes, including M.G.L. Chapter 258, Sections 8, 9, and 13. Indemnification should be provided by each Participating Governmental Unit for liability arising from all activities directly related to the establishment of this Agreement.

Indemnification should be provided for liability arising from all activities directly related to the establishment of this agreement and all related activities, commencing on and after the effective date of this Agreement and this agreement through and including the date on which such designated representative terminates his or her position as a member or alternate member to the Board and the Board's committees. This hold harmless protection should include indemnification for any claim, demand, suit, or judgment relating to any act or omission arising, except for intentional violation of the civil rights of any person arising as a result of such person's service to the Cape Cod Municipal Health Group Board. This hold harmless status should include any and all activities relating to such Board participation, including, but not limited to, serving on any related committee, holding an office as a member of the Board or Committee established by the Board, traveling to and from meetings relating to the designee's service, communications and all other acts related to the appointment as a delegate or alternate delegate of the Participating Governmental Unit.

Article 14. Exclusive Group Participation in Health Benefits Program.

(Article added April 24, 1996)

Participating Governmental Units may offer to employees and retirees only those medical health plans sponsored by the Cape Cod Municipal Health Group. A governmental unit wishing to offer a medical health plan not sponsored by the Group may put such request in writing to the Board no later than December 1st for a July 1st effective date. A two-thirds (2/3rds) vote of the Board present at a duly called meeting at which a quorum is present is required to override the requirement of exclusive participation.

Article 15. Signatories to Agreement.

This copy of the Cape Cod Municipal Health Group Agreement for Joint Negotiation and Purchase of Health Coverage is executed as a sealed instrument by the undersigned on the date or dates indicated below to confirm its acceptance of the Joint Purchase Agreement following destruction by fire of the original executed Joint Purchase Agreement and to confirm acceptance of all amendments adopted since the effective date of membership of this governmental unit.

By our signatures, we, the undersigned appropriate public authority within the meaning of M.G.L. Chapter 32B, Section 2(a), members of the _____ governmental unit, evidence our acceptance of the terms of this Agreement for Joint Negotiation and Purchase of Health Coverage on behalf of our governmental unit.

For:

Name of Governmental Unit (M.G.L. Chapter 32B, Section 2(f)).

Name (printed)

Signature

Date

**Agenda Action Request
Cape Light Compact JPE
Meeting Date: 11/13/19**



- Aquinnah*
- Barnstable*
- Bourne*
- Brewster*
- Chatham*
- Chilmark*
- Dennis*
- Dukes County*
- Eastham*
- Edgartown*
- Falmouth*
- Harwich*
- Mashpee*
- Oak Bluffs*
- Orleans*
- Provincetown*
- Sandwich*
- Tisbury*
- Truro*
- Wellfleet*
- West Tisbury*
- Yarmouth*

Vote to Acknowledge the Disclosure of Financial Interest for Compact Administrator Participating in Cape Cod Municipal Health Group (CCMHG) Deliberations and Votes

I move the Cape Light Compact JPE ("Compact") Board of Directors vote to acknowledge the financial interest of the Compact Administrator. We have determined that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Compact may expect from the Administrator, and we authorize the Compact Chair to execute the attached disclosure form as required by M.G.L. c. 268A, Section 19.

The Compact Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote.

Additional Information

The explanation and recommendation for this action is outlined in the attached letter from CCMHG legal counsel, Norris, Murray & Peloquin dated September 13, 2019

Record of Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

**DISCLOSURE BY NON-ELECTED MUNICIPAL EMPLOYEE OF FINANCIAL INTEREST
AND DETERMINATION BY APPOINTING AUTHORITY
AS REQUIRED BY G. L. c. 268A, § 19**

MUNICIPAL EMPLOYEE INFORMATION	
Name:	Margaret T Downey
Title or Position:	Administrator
Municipal Agency:	Cape Light Compact JPE
Agency Address:	261 Whites Path, Unit #4 South Yarmouth, MA 02664
Office Phone:	508-375-6636
Office E-mail:	mdowney@capelightcompact.org
	My duties require me to participate in a particular matter, and I may not participate because of a financial interest that I am disclosing here. I request a determination from my appointing authority about how I should proceed.
PARTICULAR MATTER	
Particular matter E.g., a judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, or finding.	Please describe the particular matter. <i>I participate in deliberations and votes that affect the benefits and costs of health insurance, including the following: 1) copayments; 2) deductibles; 3) tiered provider network copayments; (4) and other cost-sharing plan design features.</i>
Your required participation in the particular matter: E.g., approval, disapproval, decision, recommendation, rendering advice, investigation, other.	Please describe the task you are required to perform with respect to the particular matter. <i>I participate in deliberations and votes that affect the benefits and costs of health insurance;</i>
FINANCIAL INTEREST IN THE PARTICULAR MATTER	
Write an X by all that apply.	<input checked="" type="checkbox"/> I have a financial interest in the matter. <input type="checkbox"/> My immediate family member has a financial interest in the matter. <input type="checkbox"/> My business partner has a financial interest in the matter. <input type="checkbox"/> I am an officer, director, trustee, partner or employee of a business organization, and the business organization has a financial interest in the matter.

	<input type="checkbox"/> I am negotiating or have made an arrangement concerning future employment with a person or organization, and the person or organization has a financial interest in the matter.
Financial interest in the matter	Please explain the financial interest and include a dollar amount if you know it. <i>I participate in deliberations and votes that affect the benefits and costs of my health insurance (etc.)</i>
Employee signature:	
Date:	November 13, 2019

DETERMINATION BY APPOINTING OFFICIAL

APPOINTING AUTHORITY INFORMATION	
Name of Appointing Authority:	Cape Light Compact JPE
Title or Position:	Chair
Agency/Department:	Cape Light Compact JPE
Agency Address:	261 Whites Path, Unit #4 South Yarmouth, MA 02664
Office Phone:	N/A
Office E-mail	rzweig@capelightcompact.org
DETERMINATION	
Determination by appointing authority:	As Chair of the appointing authority, as required by G.L. c. 268A, § 19, I have reviewed the particular matter and the financial interest identified above by a Compact employee. I have determined that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Compact may expect from the employee.
Appointing Authority signature:	
Date:	November 13, 2019
Comment:	

Attach additional pages if necessary.

The appointing authority shall keep this Disclosure and Determination as a public record.

Form revised February, 2012

NORRIS, MURRAY & PELOQUIN, LLC

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Norwood, Massachusetts 02062

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Leo J. Peloquin
Tim D. Norris
Melissa R. Murray
Antoine Fares

Philip Collins
Of Counsel

September 13, 2019

Carol G. Cormier, MHA, LIA
Senior Client Executive
Gallagher Benefits Services
11 Midstate Drive, Suite 200
Auburn, MA 01501

Re: CCMHG Request for Legal Opinion

Dear Carol:

Issue/Summary of Opinion

On behalf of the Cape Cod Municipal Health Group (“CCMHG”), you have asked for a legal opinion about whether a representative to the CCMHG for a Participating Governmental Unit (“PGU Representative”) who subscribes to a CCMHG health insurance plan violates Massachusetts’ Conflict of Interest Law (M.G.L. c. 268A) by participating in deliberations/votes that affect the costs of CCMHG health insurance plans without disclosing the “conflict” and obtaining the approval of the Representative’s appointing authority to participate.

For the reasons stated below, we advise any PGU Representative to the CCMHG who subscribes to a CCMHG health insurance plan not to deliberate or vote on matters that affect the costs of CCMHG health insurance plans until they obtain the exemption under section 19(b)(1) of c. 268A.

Background

M.G.L. c. 32B, § 12 authorizes municipal entities to form Health Insurance Joint Purchase Groups for the negotiation and purchase of health insurance, with the goal being to lower health

insurance costs for the Participating Governmental Units. Generally, these groups operate under the provisions of a Joint Purchase Agreement ("JPA") which requires each PGU to appoint a primary and back-up representative to a Board which administers the JPA. It is our understanding that most of the PGU Representatives to the CCMHG subscribe to health insurance offered by the CCMHG.

The issue addressed by this letter arose when a PGU Representative to the CCMHG, who we will refer to as "PGU Representative A," was accused by someone from PGU Representative A's community of having a conflict of interest. Although no complaint was filed with the Ethics Commission, the PGU Representative A reached out to the Ethics Commission's Legal Division for advice regarding whether PGU Representative A's participation created a conflict of interest. Like all other PGU Representatives to the CCMHG, PGU Representative A participates in deliberations and votes on what health insurance plans the CCMHG will offer to PGUs, including the premium cost, changes in plan design, etc. As discussed further below, the Ethics Commission advised PGU Representative A that the Representative must abstain from participating in deliberations and votes related to the cost of the CCMHG health insurance plans unless the Representative obtains an exemption under section 19(b)(1).

There has never been any suggestion that any actions, votes, etc. by PGU Representative A, or any other PGU Representative to the CCMHG, was motivated by personal financial interests. Rather, this comes down to the definition of "financial interest" in c. 268A. Although the position of the Ethics Commission is directed at PGU Representative A, its position raises the question about whether a similarly situated PGU Representative to the CCMHG---or, for that matter, similarly situated PGU Representatives to other Massachusetts Health Insurance Joint Purchase Groups under M.G.L. c. 32B, § 12---are violating c. 268A unless they follow the exemption process available under M.G.L. c. 268A, § 19.

Pertinent Provisions of M.G.L. c. 268A

M.G.L. c. 268A, § 19 reads as follows:

Section 19. (a) Except as permitted by paragraph (b), a municipal employee who participates as such an employee in a particular matter in which to his knowledge he, his immediate family or partner, a business organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest, shall be punished by a fine of not more than \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 ½ years, or both.

(b) It shall not be a violation of this section:

(1) if the municipal employee first advises the official responsible for appointment to his position of the nature and circumstances of the particular matter and makes full disclosure of such financial interest, and receives in advance a written determination made by that official that the interest is not so

substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee, or

(2) if, in the case of an elected municipal official making demand bank deposits of municipal funds, said official first files with the clerk of the city or town, a statement making full disclosure of such financial interest, or

(3) if the particular matter involves a determination of general policy and the interest of the municipal employee or members of his immediate family is shared with a substantial segment of the population of the municipality.

The Ethics Commission's online Summary of the Conflict of Interest Law for Municipal Employees states the following about section 19:

- A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.
- A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

"Participation" includes giving advice and making recommendations, as well as deciding and voting on particular matters. M.G.L. c. 268A § 1(j). According to Ethics Commission decisions, financial interest may be of any size and may be either positive or negative. EC-COI-84-96. Further, the financial interest only need be "reasonably foreseeable" in order to be covered by § 19. EC-COI-86-25; 84-123; 84-98; 84-96.

Ethics Commission Position with Respect to PGU Representative A

With the permission of PGU Representative A, we spoke with the Ethics Commission Attorney who advised Representative A. That attorney advised that, as defined under § 19 of M.G.L. c. 268A, the Representative has a "financial interest" in the costs associated with the health insurance plans. The Ethics Commission Attorney also advised that the Representative was eligible to seek a § 19 exemption that would allow continued participation. The process involves filing a disclosure form with the Representative's Appointing Authority and obtaining from that

Appointing Authority a written determination that the financial interest is not so substantial as to be likely to affect the integrity of the Representative's services as the PGU's Representative to the CCMHG.

As the Ethics Commission sees it, a PGU Representative to the CCMHG who participates in deliberations and/or votes related to the costs of CCMHG health insurance plans is "participating" in a "particular matter" for the purposes of section 19. But the critical issue is whether a PGU Representative, by deliberating and voting on matters that affect the cost of CCMHG health insurance plans while subscribing to a CCMHG health insurance plan, has a financial interest that is "reasonably foreseeable."

A PGU Representative who participates in discussions and votes that affect the terms and costs of the health insurance plans offered by the CCMHG is supposed to be representing the broader interests of the PGU and its health insurance subscribers, and we fully expect that is what these representatives do. While the Ethics Commission does not dispute this in the case of PGU Representative A, it points to the broad definition of "financial interest" under M.G.L. c. 268A as the basis for its position that the Representative also has a personal financial interest that is "reasonably foreseeable"---an objective standard that is not based on how the Representative acted or voted in any particular matter.

For this reason, the Ethics Commission advised PGU Representative A that the Representative must abstain from participating in deliberations and votes related to the cost of the CCMHG health insurance plans unless the Representative obtains an exemption under section 19(b)(1), which provides:

b) It shall not be a violation of this section

(1) if the municipal employee first advises the official responsible for appointment to his position of the nature and circumstances of the particular matter and makes full disclosure of such financial interest, and receives in advance a written determination made by that official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee,

The disclosure form used to obtain this exemption is enclosed.

Notwithstanding that there are similarly situated PGU Representatives to the CCMHG, as well as to other Health Insurance Joint Purchase Groups in Massachusetts, this is the first time that we know of that this type of c. 268A issue has been raised with respect to a PGU Representative to a Health Insurance Joint Purchase Group in Massachusetts. The Ethics Commission Attorney could not point us to any prior decision of the Ethics Commission that addressed the issue in this context.

No Regulatory Exemptions, Opinions or Cases to Challenge the Ethics Commission Position

We note that the Courts give the Ethics Commission deference in its interpretation/application of c. 268A to particular circumstances. We may differ with the Commission's application of section 19 to PGU Representative A and/or other PGU Representatives, but our research has not revealed a regulatory exemption, opinion or case upon which to challenge the Commission's view.

We informed the Massachusetts Municipal Association ("MMA") of the Ethics Commission's position with respect to PGU Representative A, including to point out the negative impact it could have on the administration of the CCMHG and other Health Insurance Joint Purchase Groups in Massachusetts and to seek assistance before the Ethics Commission on behalf of such Groups. However, the MMA indicated that, several years ago, it was involved in a matter involving a municipal official who subscribed to the municipal health insurance while making cost decisions about the health insurance plans that would be offered. This official was advised by the Ethics Commission that the official was in violation of section 19 unless the official sought and obtained the exemption under section 19(b)(1). Ultimately, the MMA advised the official to comply. The MMA's response in this matter is essentially the same. Therefore, it appears that persuading the Ethics Commission to adopt a regulatory exemption and/or the Legislature to amend c. 268A are the only routes available to change the section 19 requirement for PGU Representatives to Health Insurance Joint Purchase Groups.

Conclusion

As we understand it, all, or almost all, of the PGU Representatives to the CCMHG fit the definition of "municipal employee" under M.G.L. c. 268A. Section 19, in pertinent part, prohibits a municipal employee from participating as such an employee in any particular matter in which (to his or her knowledge) he or she has a personal financial interest unless the employee first receives an exemption. "Participation" includes giving advice and making recommendations, as well as deciding and voting on particular matters. M.G.L. c. 268A, § 1(j). According to the Ethics Commission decisions, financial interest may be of any size and may be either positive or negative. EC-COI-84-96. Further, the financial interest only need be "reasonably foreseeable" in order to implicate section 19. EC-COI-86-25; 84-123; 84-98; 84-96. In this instance, the cost of health insurance plans constitutes a financial interest for a PGU Representative who subscribes to a CCMHG health insurance plan.

However, a PGU Representative so situated will not violate c. 268A if the PGU Representative:

... first advises the official responsible for appointment to his position of the nature and circumstances of the particular matter and makes full disclosure of such financial interest, and receives in advance a written determination made by that official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee. (M.G.L. c. 268Am, § 19 (b) (1).

For the above reasons, it is our opinion that PGU Representatives who subscribe to CCMHG health insurance plans can only be involved in deliberations and votes that affect the costs of health insurance plans if they file a disclosure and get the determination from their Appointing Authority that it is acceptable for them to do so.

We have enclosed a sample disclosure form as well as a partially completed form that shows how it should be completed to seek the exemption. If you have any further questions or concerns about this matter, please contact me or Attorney Antoine Fares.

Sincerely,

A handwritten signature in black ink, appearing to read "Leo J. Peloquin". The signature is written in a cursive style with a large initial "L".

Leo J. Peloquin

LJP/tmc

Enclosures

cc: Antoine Fares, Esq.

Cape & Vineyard Electrification Offering – Update

Nov. 13, 2019

Compact Governing Board Meeting



**Cape Light
Compact**

Working Together Toward A Smarter Energy Future

Proposed Cape & Vineyard Electrification Offering



- Objectives
 - **250** total non-gas heated participants, tiered services by income
 - Low-income (up to 60%), moderate income (61-80%)
 - Enhanced incentives for all three measures for customers below 81% of SMI
 - Statewide offerings for customers over 81%
 - Deed restricted properties
 - Convert oil, propane, electric resistance heat to cold climate **heat pumps**
 - Install **PV** systems to support electrification of heating system and reduce GHG emissions
 - Install **battery** storage for demand response
- Addresses the issue of upfront cost barrier

CVEO Participant Incentives



Income Level (SMI)		Customers			HP Incentive	Storage Incentive	Solar Incentive	Solar Loan	SMART
		2020	2021	Total					
Low-Income	below 60%	50	100	150	100% (Statewide)	100%	100%	n/a	Yes
Moderate Income	61-80%	25	75	100	100%	100%	Up to \$5000	n/a	Yes
Total Participants		75	175	250					

Summary of changes



- Reduced participation, reduced costs, reduced impacts
- Compact issued a Request for Information (RFI) to solar developers to inform new design
- Third Party Ownership (TPO) of PV systems and batteries leverages private investment to maximize tax and other incentives, greatly reduces amount of energy efficiency funds collected from ratepayers

TPO Key Design Considerations



- **PPA or Lease:** Compact will issue RFP for a “pre-paid” TPO solar + storage power purchase agreement (PPA) or lease agreement and select qualified bidder
- **TPO:** Tax-equity TPO will own system for up to 10 years. Will be responsible for system performance and maintenance during TPO ownership period.
 - Vendor and participants will sign Compact’s contract
- **Customer perspective:**
 - LI participant will have \$0 lease or PPA
 - MI participants may have a non-\$0 PPA, depending on Compact’s incentive structure
- **After 10 years:** At end of TPO ownership period, customer may “purchase” the system for \$0
 - Intent for post-term optional maintenance contract

Proposed CVEO Budget*



Updated CVEO	Heat Pumps	PV + Storage	Total
2020-2021	\$4.6M	\$2.8M	\$7.4M

*Budget is approximate and subject to change. Final budget will be presented to CLC Board for approval.

Next Steps



- Present CVEO to Executive Committee
 - Affirm Support of Strategy
- CLC Board vote in December
- Present CVEO to EEAC for Discussion and potential Vote on a Resolution in Support in January
- Resubmit to DPU as mid-term modification in early 2020