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Things to Consider	ComForcare "Employee Based Agency"	Registry or By Yourself
Services & caregiver selection <i>Knowing what services are needed for your loved one</i>	We will work together to be sure that your needs are met	You are responsible.
Taxes & Injuries Reporting and paying taxes and social security.	We take care of this for you.	You are responsible.
Supervision Managing the caregiver's performance.	We perform unscheduled supervisory visits.	You are responsible.
Background Check Performing criminal background and license checks.	We take care of this for you.	You are responsible.
Hiring Caregiver interviewing, hiring.	We take care of this for you.	You are responsible.
Scheduling Creating a consistent Care Plan and scheduling care	Even if your caregiver is sick or has a family emergency, we take care of this for you.	You are responsible.
Theft Responsibility if the employee steals from you or your loved one.	Our employees are insured and bonded.	You are responsible.

Risks Associated with Use of Registries and Independent Contractor Companies

There are many unexpected or hidden issues that consumers and workers face when dealing with companies that place workers who they (the company) do not employ. One major issue is that there IS an employer-employee relationship that is created in most of the care situations—it is between the worker and the consumer. Unfortunately consumers in most cases are not aware of this. Referring registries and independent contractor agencies often don't communicate to the worker and consumer that this arrangement could result in the creation of an employee-employer relationship. Because of this, both the worker and consumer can suffer significant financial liabilities.

Liabilities and abuses

Payroll taxes

Consumers and the families of those receiving care are confronted by a confusing array of federal and state laws. The simplest and most direct requirement is that anyone who gets a paycheck must pay the government any taxes due. This includes social security, Medicare, federal and state unemployment, and state and federal payroll taxes. When the consumer is the employer and responsible for compliance, and none of these taxes are being paid, the government may sue the consumer or their estate for back taxes, interest and penalties. In a situation where many days of care or many hours each week of care over a long period of time have been delivered, this tax responsibility can be a substantial amount. Other remedies that authorities may seek can include civil fines and criminal penalties. There are also many problems for workers. No payment into social security leaves them vulnerable in their old age, and no protection is afforded for their



periods of unemployment. Also, workers may not be receiving the minimum wage and overtime protection to which they may be entitled.

Worker Related Injuries

This is the most potentially financially devastating result for consumers and workers who are unaware of the employer-employee relationship. If no workers' compensation protection is provided (as mandated by law for employees for nearly every state), and the worker sustains an on-the-job accident, the liabilities can be substantial. Medical costs and disability payments for workers could cause financial hardship for even a very wealthy client. For clients who could not afford to pay, the worker could be left with no help for a devastating injury. Many consumers incorrectly assume that homeowner's insurance will cover this type of loss, when, in fact, homeowner's insurance usually specifically excludes employees in the home.

Abuse and Exploitation

Most workers who enter the home care industry are caring, giving people. Unfortunately, there are also those who know that it is very easy to take advantage of frail, functionally limited, often cognitively impaired clients. Registries or independent contractor agencies, because they have little ongoing liability and want to avoid being considered as the employer of the worker, may provide inadequate or no background investigations on their caregivers. This could subject clients to physical, psychological or financial abuse. Families of the consumer can help, but time constraints and geographical distances often don't allow for this.

Supervision of the Worker

Because of Internal Revenue Service regulations, registries and independent contractor agencies cannot provide any substantive work supervision, scheduling, or training to workers in home care without becoming employers. If they do, the company, by law, becomes the employer of the worker. Supervision, scheduling and worker training are important benefits to consumers and workers and are provided only by agencies that hire their workers.

For consumers and their families, hiring a NPDA member home care agency provides assurance that someone with experience and responsibility is reviewing the changing care needs of the client. The NPDA member home care agency provides ongoing assessments of the limits of care that individual workers are allowed to provide. Member agencies also provide appropriate supervision that can potentially head off, or at least deal with, the sometimes difficult relationship issues that can occur between clients and their care workers.

Conclusions

- Consumers who receive home care, and caregivers who work in the industry, face increasing risk because of the growing use of companies who refer, but do not hire, workers.
- There is inadequate information about this issue for consumers and for the professionals in the industry who refer clients for care. They need to be aware of the risks and liabilities faced when families become employers.
- Consumer choice is important and should be preserved. Clients and their families should be able to hire the workers or companies that best meet their care needs, with full disclosure from companies that are providing care workers for the home.
- Action needs to be taken now to protect consumers and workers.