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# Home Care

## Association of America

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**Home Care Association of America (HCAOA) – Connecticut Chapter supports House Bill 6432  
HCAOA response to Testimony Presented by Registries Who Claim the Following in Protest to HB 6432:**

- Registries cost less to seniors than Employer Based agencies
- Registries pay more to workers than Employer Based agencies
- Registries claim caregivers file minimal Workers Comp Claims
- Unemployment Insurance is not a major factor to Caregivers

### **Registries claim that the cost to seniors of Registry services is less than Employer Based agencies**

Based upon assertions by Registries, it should be presumed that the client is fully willing and able to take on the role of the employer.

- Assuming all the costs of time and money to record, report and pay all applicable taxes and fees associated with employment.

**There is little difference in the cost of procuring the service and complying with the law except for who physically writes the check.**

These costs include;

- Unemployment Insurance contributions
- Workers Compensation Insurance
- Medicare and Social Security Taxes
- Federal Unemployment Tax

### **Disclosure to Clients by the Registry**

- Are the clients and family really aware of either the meaning or consequences of being considered the employer of another person?
- Homecare is the result of events which are most often sudden and unplanned.
- The point in time when services are often procured is stressful and sometimes confusing. Many people don't hear what is told them and may not read what is given them.
- All they want is to get home safely.

### **Registries claim that the Registry model pays more to workers than Employer Based agencies**

- The amount paid to the caregiver by the client is gross (exclusive of taxes). It is the obligation of someone, either the client, the agency or the caregiver to withhold or pay required taxes.
- Failure by any party to fulfill their roles in this arrangement or misgivings after the fact, leads to a series of problems as burdens become transferred to the government and the taxpayers in general.

The problems are several but may be distilled down to two:

1. Is the caregiver an independent contractor and does the client understand the obligation to file Form 1099?
2. Is the client an employer and does the client understand, forget or simply ignores the role of an employer?

Finally, we believe that the proposed legislation will not put registries out of business. To interpret the motivations of the employer based providers as otherwise, completely mischaracterizes the intent. The issue is compliance with the law and respecting both the client and caregiver. The registry model started some 80 years ago with providing professionals and morphed into its current configuration. Those that provide the services of licensed professionals such as registered nurses (RN) and licensed practical nurses (LPN) should not be affected by this bill. Unskilled and non self-directed certified nursing assistants (CNA), home health aides (HHA), personal care attendants (PCA) and companions are the subject of this bill.

As no one party has stepped forward to definitively declare themselves the employer, each scenario depends upon either a novice employer who may or may not report payments to the caregiver or the caregiver (contractor) who, if no recorded income or liabilities are on file with the state or IRS must decide if he or she will be compliant and declare and pay the taxes. Few working arrangements leave the roles of employer and employee so vague. Nor are there many which gives one the choice to comply or not with rules that virtually all others who work must follow. Forcing either of these groups into a role they should not be in is an unfair imposition upon the senior and a disservice to the caregiver.

### **Registries claim that caregivers in the industry file minimal Workers Compensation Claims**

- As a means of distancing the registry from an employer's designation, some require an acknowledgement in writing by the caregiver that they are not eligible for workers compensation.

Caregivers have 3 primary courses of recourse if injured while providing care under a registry model:

1. Pursue compensation from the party whom the care is provided for. That party being the client.
2. Pay for the treatment personally and forgo income during recuperation
3. Use emergency medical services at a local hospital

That so few cases of injury are reported among thousands of client visits is an incredible achievement. In an industry that is plagued by claims for worker's injury, resulting injuries therefore must be assumed to go unreported.

The fact that the caregiver acknowledges away their right to workers compensation may be a factor as they may feel they have no recourse or perhaps are intimidated into saying nothing.

A bona fide employee cannot voluntarily waive this coverage; as it is mandated by law.

### **Registries claim that Unemployment Insurance is not major factor to Caregivers**

Some registries require an acknowledgement in writing by the caregiver that they are not employees and are not eligible for unemployment insurance.

- If unemployed, the caregiver may naturally move to seek unemployment compensation through the State. Such applications are processed provided they are deemed legitimate claims. The caregiver is paid and the state seeks out the entity or individual who would have made contributions on behalf of the caregiver.
- If contributions are not paid, the state Department of Labor will bill the party who paid the caregiver (client or family) or the estate of a deceased for the unpaid contributions along with interest and penalty if applicable.
- The Department of Consumer Protection can probably weigh in on this as we understand that UI billings to clients and/or their families is the major complaint received by that office involving homecare and companion agencies.

The role of filing and remitting earnings and taxes is that of the employer. Burdening the senior whose sole concern is the receipt of needed care is unfair and fiscally unwise.

If the cost is the same regardless of who administers, then the professional agency should bear the obligation and once and for all close a gap that invites abuse.