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United for Quality Care

Testimony of Deborah Chernoff

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New England Health Care Employees Union, District 1199

Labor and Public Employees Committee

In re: HB 5260, An Act Concerning Domestic Service and Overtime Pay

Senator Gomes, Representative Tercyak and distinguished members of the Labor and Public Employees Committee, I write to share our concerns about legislation before you today, House Bill 5260.

I am Deborah Chernoff, Public Policy Director for the New England Health Care Employees Union, District 1199, SEIU. Our union represents ~6,200 Personal Care Attendants (PCAs) who provide home care services to individuals participating in Connecticut Medicaid Waiver programs covering people with intellectual, physical or age-related disabilities.

While HB 5260 would not directly impact our members, it raises some serious policy concerns for us that we need to share with you. Demographically, the domestic worker workforce and the home care workforce look very much alike: predominantly women, immigrants and people of color. Historically, this kind of caregiving and support work has been devalued socially and financially.

We have finally begun to make some progress in recognizing and rewarding the immense social and economic value of this work as witnessed in the extension of the Fair Labor Standards Act to cover work performed in private homes. But this legislation has the potential to impede that progress by allowing so-called third party employers – home care and companion agencies – to redefine what constitutes hours worked for live-in domestic workers.

In our view, creating a special rule just for this group of workers that redefines “hours worked” risks assigning domestic and home care workers back to their prior second class status under state labor law and eroding newly- and hard-won rights. We would also note a potential conflict with federal law and precedent. Two Supreme Court rulings from the 1940s – (*Brooklyn Sav. Bank v. O’Neil*, 324 U.S. 697, 65 S.Ct. 895, 89 L.Ed. 1296 (1945) and *D.A. Schulte, Inc. v. Gangi*, 328 U.S. 108, 66 S.Ct. 925, 90 L.Ed. 1114 (1946),) found that an agreement between an employer and an employee that minimum wage and overtime will not be paid is void and unenforceable, even in the event of unauthorized overtime.

We therefore would urge you to consider all of these factors when weighing the potential risks of this proposed legislation. Thank you for your thoughtful deliberations.

Thursday, February 25, 2016