



Connecticut Chapter

House Bill 5260, An Act Concerning Domestic Service and Overtime Pay
Labor and Public Employees Committee
February 25, 2016

The Home Care Association of America was founded on the principle that quality private duty home care has one model of care: to employ, train, monitor and supervise caregivers; create a plan of care for the client; and work toward a safe and secure environment for the person at home. Members of the Home Care Association of America, Connecticut Chapter (HCAOA-CT or the Chapter) employ several thousand caregivers providing quality care to thousands of elderly consumers across the state.

The Home Care Association of America, Connecticut Chapter **generally supports** House Bill 5260; however, the bill should be amended as specified below before it is approved.

House Bill 5260 would allow an employer and an employee providing domestic service to the employer to agree in writing to exclude meal times and certain periods of free time from the calculation of hours worked. The bill would codify the principle that employers should not have to pay caregivers who work a shift of 24 hours or more for time when the caregiver is not working, i.e., when he or she is on-site, but enjoying free time to herself. HCAOA-CT supports this part of the bill.

However, the bill also specifies that a caregiver must receive at least five consecutive hours of sleep or there would be no deduction for sleep. Current law does not require that the five hours be consecutive, or “uninterrupted”. Inserting “consecutive” for hours of sleep time will considerably limit the use of sleep deductions. Also it is very broad: the concept of “consecutive” hours remains undefined. For example, if the caregiver is awakened by her cellphone, does that toll the five-hour period? If the caregiver awakens or rises from bed for his own reasons, does that interrupt the five hours? If a caregiver gets 3.45 hours of sleep, followed almost immediately by 4 hours of sleep, she has slept for 7.45 hours; but must she be paid for all of that time? Additionally, the provision does not follow the U.S. Department of Labor regulation concerning the application of the Fair Labor Standards Act to domestic service. It would make domestic services more expensive in Connecticut than in other states, and it should be addressed before the bill is approved.

Also, the bill, in line 77, removes a current provision of state law that permits employers only (not self-directed hires) to utilize the sleep time deduction, the meal (time) deduction, and the “free” time deduction. This change – allowing all employers to use the deduction – will disadvantage domestic workers.

The new federal definition of “companion” services effectively eliminated the position of live-in companion; even self-directed employers must pay their live-in worker minimum wage, but not overtime (as they can still claim the ‘live-in’ overtime exemption). Use of the live-in overtime exemption considerably lowers the wage the worker must be paid by a self-directed employer. Allowing that employer to also deduct for sleep time and “free” time opens the door for employers to short change live-in workers even further. This provision should also be addressed before the bill moves forward.

Please contact David L. Denvir, President of the Home Care Association of America, Connecticut Chapter, at (800) 348-4663, ext. 7799 for any questions or additional information.