

March, 8, 2016  
Labor and Public Employees Committee  
Testimony Regarding Proposed House Bill 5368  
An Act Concerning Homemaker Services and Homemaker Companion Agencies

Dear Members of the Labor and Public Employees Committee:

My name is Peter DiMaria. I am the owner of Home Helpers franchise in Enfield, CT. Our office offers reliable, secure, ensured non-medical home care and companion services in the communities of North Central Connecticut, including, --but not limited to--, Enfield, Stafford, Suffield, Somers, Ellington, Tolland, Vernon, Broad Brock, Melrose, Woodstock and Manchester. I have been an Enfield resident for most of my life and I am proud to offer services that help the elderly in our community.

I am writing to you in support of the intent of House Bill 5368, An Act Concerning Homemaker Services and Homemaker Companion Agencies, which is the object of a public hearing at the Labor and Public Employees Committee on Tuesday, March, 8, 2016, at the Legislative Office Building in Hartford. The bill designates homemaker-companion agencies and registries as employers of individuals providing home care services to consumers for the purposes of unemployment compensation, wages and workers' compensation. It is my understanding that it will help protect workers, consumers and elderly persons. It is consistent with state policy in that it would help address worker misclassification in the home care industry. The bill is supported by many organizations and individuals who care for elderly consumers in their homes and employs caregivers across the state, including the Connecticut Chapter of the Homecare Association of America.

It is my understanding 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.

I hereby advise Labor and Public Employees Committee to approve this bill because:

- It protects workers and consumers. Caregivers are employees, not independent contractors. Agencies that misclassify workers by not paying unemployment or workers' compensation insurance mistreat workers and put consumers at risk of liability for caregiver injuries, payment of unemployment insurance and employment-based taxes. This class of worker is not a self-directed independent contractor and therefore must be classified as an employee of an employer. Burdening seniors or consumers whose sole concern is obtaining needed care is unfair and a fiscally unsound policy for the state. It extends exemptions from liability and protection from third party lawsuits to persons receiving

care services, their families and individuals acting as conservators of the person. Senior citizens do not always understand the implications of classifying workers as independent contractors.

- It generates revenue for the state. The bill would facilitate additional contributions to the state's unemployment compensation insurance trust fund, which has been insolvent since 2009 and is underfunded, according to the Dept. of Labor. Responsible employers have paid assessments to reimburse the federal government for principal and interest for borrowed funds to pay unemployment benefits in Connecticut. The bill would enable the state to meet its obligations to unemployed workers and not have to borrow from the federal government or require other legitimate employers to contribute more than their fair share to the fund and subsidize other employers not playing by the same rules.
- It is consistent with state administered programs. The vast majority of home care agencies in Connecticut treat their workers as employees. Recognizing that these types of workers are in fact employees - not independent contractors - the State of Connecticut itself, under the Personal Care Assistance Medicaid Waiver Program, which allows eligible persons to receive assistance under Medicaid to pay for a Personal Care Assistant (PCA), has contracted with fiscal intermediaries to handle the employer responsibilities (unemployment compensation insurance, tax withholding, etc.) of Medicaid clients who elect to hire their own caregivers under a number of "self-directed" care options and programs.
- There is Legal precedent. In the matter of Paffen v. Griswold Special Care, 9019-BR-97, the Connecticut Dept. of Labor Board of Review found that a companion employed by Griswold Special Care was not an independent contractor under the "ABC test" and therefore was entitled to unemployment compensation benefits. The case was affirmed on appeal by the Superior Court and remains good law.
- It is consistent with law and policy on worker misclassification. The bill is consistent with the law and public policy of the state and federal governments to eradicate worker misclassification.

Again, I strongly urge the Committee that this bill should be voted favorably and I will be happy to continue to work with DOL, this Committee and the Connecticut Chapter of the Home Care Association of America to help make this bill move forward.

Respectfully,



Peter Dimaria

Owner

Home Helpers of North Central Connecticut