



March 8, 2016

The Honorable Edwin Gomes and
The Honorable Peter Tercyak, Co-Chairs
Connecticut Labor and Public Employees Committee
Legislative Office Building, Room 3800
Hartford, CT 06106

Dear Chairmen Gomes and Tercyak:

Right at Home offers in-home care and assistance to seniors and disabled adults who want to continue to live independently. Five Right at Home locations across Connecticut directly employ hundreds of caregivers who carefully serve frail clients and improve their quality of life.

We are writing in support of House Bill 5368, which would appropriately protect consumers by designating homemaker-companion agencies, registries and homemaker-home health agencies as employers of individuals providing homemaker and companion services and hold them liable for unemployment compensation, wages, and workers' compensation insurance.

HB 5368 protects workers and frail consumers.

Caregivers should be employees, not independent contractors. Agencies that misclassify workers as independent contractors by not paying unemployment or workers' compensation insurance mistreats workers and puts consumers at risk of liability for caregiver injuries, payment of unemployment insurance, and employment-based taxes. Burdening seniors or consumers whose sole concern is obtaining needed care is unfair and is a fiscally unsound policy for the state. This practice 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. Additionally, senior citizens do not always understand the implications of classifying workers as independent contractors.

HB 5368 generates needed 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 Department 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.

HB 5368 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. Also, Department of Social Services, under the Connecticut Home Care Program for Elders, will only contract with employer-based agencies. Thus, while an agency may operate as a different model and hold itself out to the public with independent contracts, it is barred from doing so with DSS; in order to remain compliant, such organizations have formed employer-based models.

HB 5368 is consistent with legal precedent.

In the matter of *Paffen v. Griswold Special Care*, 9019-BR-97, the Connecticut Department 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. The bill is also consistent with the law and public policy of Connecticut and federal governments to eradicate worker misclassification.

For the aforementioned reasons, we respectfully request your “aye” vote on House Bill 5368.

Sincerely,

David Babcock, Owner, Right at Home of Fairfield County

Susan Malafronte, Owner, Right at Home of New Haven County

Tim and Lisa Randall, Owners, Right at Home of Greater Fairfield County

Bob Scandura, Owner, Right at Home of Hartford County

Tracy Weiss, Owner, Right at Home of Middle Connecticut