Home Care
Association of America

Connecticut

House Bill 5478, An Act Concerning Technical and Minor Changes to the Labor Department Statutes.
Labor and Public Employees Committee
March 13, 2018

The Home Care Association of America was founded on the principle that quality 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 Home Care Association of America Connecticut employ several thousand caregivers providing quality care to thousands of elderly consumers across the state.

HCAOA Connecticut respectfully requests that the committee **amend House Bill 5478** to clarify the sleep time exemption in the hours worked requirements for live-in caregivers working for home care agencies.

Current law allows employees providing companionship services and their employers to agree to exclude a regularly scheduled sleep period from the work hours if the employee is required to be present at a worksite for at least 24 consecutive hours, adequate on-site sleeping facilities are provided to the employee, and the employee receives at least five hours of sleep time.

The proposed amendment, below, would allow any of the home care company's employees performing "domestic service employment," as defined in federal regulations, and not just those providing companionship services, to enter into such an agreement.

Federal regulations allow for the same exemption. Under the regulation, "domestic service employment" includes services of a household nature performed by a worker in or about a private home, including services performed by companions.

The amendment would conform state law to the federal regulation. It would allow home care companies in Connecticut to remain competitive. Also, the amendment is identical to a provision in the leadership amendment on the state budget adopted but ultimately not approved in September 2017. (Sec. 167 of Senate Amendment A to HB 7501, LCO no. 10069.)

Please contact Ray Boller, chairman of Home Care Association of America Connecticut, at (203) 984-4899 for any questions or additional information.

Proposed amendment

Subdivision (2) of section 31-76b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(2) (A) "Hours worked" include all time during which an employee is required by the employer to be on the employer's premises or to be on duty, or to be at the prescribed work place, and all time during which an employee is employed or permitted to work, whether or not required to do so, provided time allowed for meals shall be excluded unless the employee is required or permitted to work. Such time includes, but shall not be limited to, the time when an employee is required to wait on the premises while no work is provided by the employer. (B) All time during which an employee is required to be on call for emergency service at a location designated by the employer shall be considered to be working time and shall be paid for as such, whether or not the employee is actually called upon to work. (C) When an employee is subject to call for emergency service but is not required to be at a location designated by the employer but is simply required to keep the employer informed as to the location at which he may be contacted, or when an employee is not specifically required by his employer to be subject to call but is contacted by his employer or on the employer's authorization directly or indirectly and assigned to duty, working time shall begin when the employee is notified of his assignment and shall end when the employee has completed his assignment. (D) Notwithstanding the provisions of this subdivision, when an individual employed by a third-party provider [to provide "companionship services"] **and performing domestic service employment**, as defined in the regulations of the federal Fair Labor Standards Act, is required to be present at a worksite for a period of not less than twenty-four consecutive hours, such individual and his or her employer may agree in writing to exclude a regularly scheduled sleeping period of not more than eight hours from hours worked, provided (i) adequate on-site sleeping facilities are furnished to such individual, and (ii) such individual receives at least five hours of sleep time. If the scheduled sleeping period is more than eight hours, only eight hours will be excluded. If the scheduled sleeping period is interrupted by an assignment to work, the interruption shall be counted as hours worked. If such individual does not receive at least five hours of sleep time during the scheduled sleeping period, the entire sleeping period shall be considered hours worked; [. The provisions of this subparagraph shall be effective on and after the effective date of the United States Department of Labor's Final Rule concerning the Application of the federal Fair Labor Standards Act to Domestic Service published in the Federal Register of October 1, 2013;]

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline.]