



Senate Bill 384: *Health Facilities – Residential Service Agencies –
Compliance with State Labor Laws*

Senate Finance Committee
February 11, 2021

Position: SUPPORT with Amendment

On behalf of the Maryland-National Capital Homecare Association (MNCHA), whose members include Medicare-certified home health agencies, private duty companies and durable medical equipment suppliers across the State, we support Senate Bill 384 with an amendment. Simply stated, the bill requires the Office of the Attorney General, in consultation with the Maryland Department of Labor, to produce a guidance document concerning the application of employee protection laws to the employment of personal care aides employed by residential service agencies. The bill also requires a residential service agency receiving Medicaid reimbursement to report the classification and the rate of pay for personal care aides to the Department of Health.

MNCHA supports the development and distribution of the guidance document to ensure that residential service agencies understand the distinction between employee and independent contractor. MNCHA also supports the requirement for residential agencies to certify compliance with applicable laws. However, as drafted, the bill requires that the certification be done on initial license and upon renewal. During the 2018 Session, legislation was enacted that created non-lapsing licenses for health care facilities, including residential service agencies. Therefore, MNCHA recommends altering the language to require certification as a condition of initial licensure and every three years on a form developed by the Department of Labor.

MNCHA, however, does not support the reporting of pay rates for personal care aides and request that this provision be stricken from the bill. This adds another administrative burden on residential service agencies which are already struggling, which has been exacerbated through low Medicaid reimbursement rates and the lack of State funds to offset COVID-19 pandemic costs.

With these changes, MNCHA supports a favorable report.

For More Information:

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