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Baltimore County

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—
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THE SENATE OF MARYLAND
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**TESTIMONY OF SENATOR DELORES G. KELLEY
REGARDING SENATE BILL 384-HEALTH FACILITIES-
RESIDENTIAL SERVICE AGENCIES-COMPLIANCE WITH
STATE LABOR LAWS**

BEFORE THE SENATE FINANCE COMMITTEE

February 11, 2021

Mr. Vice-Chair and Members:

**The current pandemic is highlighting a long standing
and increasing problem of many “personal care aides”
being misclassified intentionally or unintentionally as
independent contractors, by the agencies which recruit
them, control their work assignments duties, hours,**

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and net pay. Such independent contractors also collect fees owed from either the client, who is served, or from the client's insurer. Yet many companies or business owners classify the workers whom they send into the homes of ill or disabled clients as "independent contractors," not as employees of the business owner or agency which controls every aspect of the worker's employment.

Senate Bill 384 is here, not to punish, but to educate such misguided agency heads or employers so they are

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clear about specification and legal requirements for properly classifying their home care workers.

The Bill's reporting requirements regarding worker's pay rate and classification as employee or independent contractor simply applies only to Medicaid-funded home care, and not to the rest of Maryland's home care market. This limited reporting requirement is consistent with Maryland's existing policy that businesses receiving state funds should be transparent in using such funds.

SB 384 requires agencies involved in personal home care simply to read and sign the guidance document

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which they will receive once every three years, when applying for renewal of licensure from the Maryland Department of Health. Also, the bill clarifies that the only new requirement applies only to Medicaid-funded home care, not to home care funded from any other sources.

There are no enforcement provisions in SB 384. If the Department finds continuing problems of personal care misclassification once the Bill's requirements are in place, we can decide at that time how to further address the misclassification problem residential care agencies. The Bill does permit the Department to not

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renew the license of any residential Service Agency that persists in misclassifying its workers.

The Bill requires agencies to read and to sign the guidance document only once every three years, when applying for renewal of licenses from the Maryland Department of Health, rather than every year. This Bill requires reporting of the worker's employment classification (i.e. employee or independent contractor) and pay rate.

There are no enforcement provisions in this Bill, the purpose of which is to help state agencies work

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together to end misclassification by residential service agencies.

Given the current pandemic, we need more personal care workers to care for home-bound and/or disabled and elderly residents.

Misclassification of home care works is both a race equity issue and a gender equity issue, as such a very high percentage of these workers in Maryland are Black women and other women of color. When they're misclassified, it can cause financial disaster for them and their families if they're injured, because it is much

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**harder for a misclassified worker to get worker's
compensation. I therefore urge your favorable report
of Senate Bill 384.**