



Hospice & Palliative Care Network
OF MARYLAND

TO: The Honorable Delores G. Kelley, Chair
Members, Senate Finance Committee
The Honorable Malcolm Augustine

FROM: Danna L. Kauffman
Pamela Metz Kasemeyer

DATE: February 11, 2021

RE: **OPPOSE** – *Senate Bill 486 – Labor and Employment – Employment Standards During an Emergency (Maryland Essential Workers’ Protection Act)*

On behalf of the LifeSpan Network, the Maryland-National Capital Homecare Association (MNCHA), and the Hospice & Palliative Care Network of Maryland (HPCNM), we respectfully oppose Senate Bill 486. Senate Bill 486 requires employers to provide essential employees with several new benefits during a declared emergency, including 1) an increase in hazard pay of \$3/hour; 2) employer reimbursement of healthcare costs; 3) a new leave program for bereavement and health leave; 4) employee right to refuse work; and 5) workplace safety standards. The members of LifeSpan, MNCHA and HPCNM have provided in-person care from the onset of the pandemic, in congregate settings such as nursing homes, assisted living communities, and hospice houses as well as in home-based settings. Against this backdrop, our comments focus on the impact that this bill will have on the health care sector and the ability to continue to provide health care services.

This bill attempts a “one-size” fits all approach, spanning fifteen distinct industries, from transportation to health care. From the definition of “emergency,” it is unclear the scope of this bill and what could trigger the bill’s requirements and for how long. Even though there is language in the bill that states the bill’s provisions would not apply retroactively, it appears that they would apply prospectively which provides its own challenges. The federal Health and Human Services Department has already stated that the current public health emergency will be extended through the end of 2021, meaning that it is likely that the State’s emergency proclamation will also remain in effect triggering the implementation of the bill’s provisions and further exacerbating the financial crisis affecting the members of LifeSpan, MNCHA and HPCNM and the care that they provide to residents and patients.

To continue to provide necessary care during the COVID-19 pandemic, health care providers have made large investments in personal protective equipment, environmental modifications to accommodate the need to isolate and quarantine, testing of both residents/patients and staff for surveillance purposes, and the payment of hazard pay to recruit and maintain a workforce. Safety protocols issued by the Centers for Disease Control and the Maryland Department of Health were required to be followed, which include many of the requirements in this bill, such as safety protocols. These were unbudgeted expenses. While some organizations received federal and/or State funds to offset some of the increased cost, that funding has failed to cover the full impact of the expenses and many health care organizations are facing significant financial strife, given that many of these unbudgeted expenses are ongoing rather than one-time purchases.

The requirements under Senate Bill 486, such as to pay healthcare costs, provide additional leave and pay \$3/hour in hazard pay, will only compound and worsen this situation. Given that much of the reimbursement for these services is provided by Medicaid and Medicare, there is no ability to pass increased costs to the consumers. The bill fails to provide any adjustment to the Medicaid program to cover these additional costs nor does it account for the limitation in Medicare funding. It is also important to note that the bill's provisions regarding hazard pay would apply to all employees who cannot work remotely, regardless of their risk exposure.

In addition, several provisions of this bill, simply cannot be safely implemented in health care settings. The requirement that an employer must evacuate and sanitize the "work site" if an infectious disease has been contracted during an emergency is very problematic. First, "infectious disease" is much too broad of a term. Second, a nursing home, assisted living, and/or hospice house cannot be evacuated for cleaning given that it is a residential setting. In addition, we are concerned about the practical aspects of allowing an employee to refuse to perform work. In health care, this is not an option and patient safety must be a factor.

For these reasons, the above-referenced associations respectfully request an unfavorable vote.

For more information call:

Danna L. Kauffman

Pamela Metz Kasemeyer

410-244-7000