



Comprehensive Nursing Services, Inc.
Comprehensive Home Health Services

January 19, 2021

Del. Lily Qi
House Office Building, Room 223
6 Bladen St., Annapolis, MD 21401

Testimony IN SUPPORT OF SB384-Health Facilities – Residential Service Agencies – Compliance With State Labor 3 Laws

Dear Delegate Qi,

My name is Dr. Mark Bayne, and I am the co-owner of Comprehensive Nursing Services, Inc. CNS is a licensed Residential Service Agency accredited by the Joint Commission. We provided in-home nursing services for over 33 years to medically technology-dependent patients. I am testifying today in support of SB384.

The Independent Contractor Defined as per the IRS states: "The general rule is that an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done." This statement conflicts with our Maryland COMAR regulation 10.07.05.12 (Section E) for Nursing Supervision, which states:

(1) For clients who require skilled services or assistance with the activities of daily living, an agency shall have a registered nurse to provide oversight for:

(a) Implementation of the care plan;

(b) Delegation;

(c) Supervision; and

(d) Training.

(2) The registered nurse shall provide periodic, on-site supervision of care:

(a) At least every 45 days if the staff administers medications to the client;

(b) At least every three months if the staff assists the client with self-administration of medications;

(c) At least every four months if the staff does not administer medications or assist the client with medication self-administration; or



Joint Commission Accredited

8817 Belair Road | Suite 203 | Baltimore, MD | 21236-2446
410.529.0078 | Fax 410.529.4511 | www.comp nursing.com

(d) At a greater frequency established by the registered nurse due to the client's medical condition or clinical status.

(3) The agency shall maintain accurate documentation of the supervision that is provided by the registered nurse.

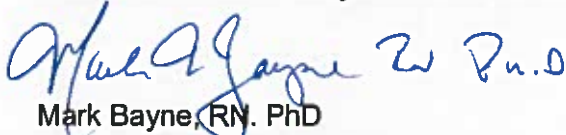
Mr. Jared Murphy, the attorney for DLLR agreed that this business practice is out of compliance, and RSA's cannot function with subcontractors.

Aside from operating outside the labor law, agencies that utilize sub-contractors do not provide the proper safeguards to their clients.

Operating under 1099 is unjust to employees. Applicants applying to my company find themselves to have tax struggles because, under their former 1099 employer, they did not realize the agency was not withholding Federal and State taxes. These employees potentially are also not covered under malpractice or workers' compensation.

Additionally, this is unfair to the agencies that follow the COMAR regulations with W-2 employees. Agencies like mine are responsible for FUTA, Maryland unemployment, and FICA. We also carry professional liability and workers' compensation insurance. Agencies operating within the labor laws scope with W-2 employees must pay these additional costs to run a business. I am also required to pay for overtime and healthcare to qualifying employees. Agencies that employ subcontractors do not carry this overhead.

Lastly, this is unfair to the State of Maryland. The State has lost revenue due to agencies operating outside the scope of the labor laws. RSA's using subcontracted employees, the State of Maryland, cannot collect Federal and State unemployment from these agencies". Last year, my company, Comprehensive Nursing Services, paid over ten thousand dollars in Maryland State Unemployment taxes. Thank you for your time,



Mark Bayne, RN, PhD
Director of Nursing Services
Comprehensive Nursing Services, Inc
8817 Belair Road, Suite 203
Baltimore, Maryland 21236-2446
Tel-410.529.0078
Fax-410.5295019