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## Congress of the United States House of Representatives

### **Become an original cosponsor of H.R. 3066, "The Companionship Exemption Protection Act"**

October 3, 2011

Dear Colleague,

Last week, I introduced H.R. 3066, "The Companionship Exemption Protection Act." This important legislation helps keep non-medical home care more affordable, helps preserve legitimate jobs and create new ones.

As you know, the companionship exemption provision of the Fair Labor Standards Act is administered by the Department of Labor. This exemption was established to preserve and protect in-home care and the seniors and disabled who receive this care. Under this exemption, home care providers pay their caregivers an hourly rate, but are not required to pay overtime rates to the caregivers who provide the care.

This exemption is very important as it helps ensure that caregiver services remain affordable and flexible to our seniors who need this home care. Without the protection of the companionship exemption, the cost of home care to seniors would increase dramatically, resulting in fewer options for our seniors. These important services help to keep seniors out of expensive institutional care, which will cost the government more through additional Medicare and Medicaid expenditures.

Under current law, the scope of the companionship exemption is undefined and is determined by the Secretary of Labor. Since different administrations have different interpretations of the "companionship exemption", this creates a great level of uncertainty for caregivers and the companies who employ them. In fact, the current Secretary of Labor may issue a proposed rule this fall to narrow the scope of the companionship exemption. In order to address this uncertainty, I introduced H.R. 3066, "The Companionship Exemption Protection Act." This legislation adds clarity and defines "companionship services" as including third party non-medical in-home care as defined in the legislation. This change would provide the needed stability for home care employers.

The need for caregivers is growing exponentially to meet the needs of the ever increasing aging population. All caregivers employed by third-party providers are W-2 employees, who undergo thorough screening and background checks, for the safety of seniors and those who are disabled.

If the Secretary of Labor were to succeed at narrowing the companionship exemption, it would increase the cost of homecare to seniors and the disabled making it unaffordable to some requiring the care. This would stifle the growth of the home care sector as entrepreneurs and business owners would be less likely to maintain or expand their home care businesses. During this current economic slowdown, Congress needs to do all it can to preserve existing, legitimate jobs and foster new job opportunities rather than contract it. The "Companionship Exemption Protection Act" is one way to do just that.

Lastly, it important to point out the unique setting of home care and the unique time commitment that it requires. For example, it is often more practical for a caregiver to do the entire overnight shift at a client's home, rather than drive home at night and back the next morning. This overnight stay is for the convenience of both parties. During this overnight stay, caregivers can sleep while the senior is sleeping. I believe it is unfair to penalize seniors with an overtime payment for this overnight stay. Such an overtime payment would both be unfair to the senior and make companion care unaffordable.

Additionally, caregivers are not interchangeable. They build relationships of trust and familiarity with their clients, and clients prefer to have the same caregiver with them for longer durations, rather than having a disruption in the continuity of care due to an overtime threshold.

I urge you to consider signing on as a co-sponsor to "The Companionship Exemption Protection Act" for the above stated reasons. This legislation is needed to protect seniors and the disabled who need and receive care in your congressional district.

If you have any questions, need additional information, or would like to cosponsor, please contact Sarah Riser in my office 5-4155 or [sarah.riser@mail.house.gov](mailto:sarah.riser@mail.house.gov).

Thanks again for your attention to this matter and for your support.

Sincerely,



Lee Terry  
Member of Congress