
EDUCATION & LABOR COMMITTEE

Congressman George Miller, Chairman

Thursday, October 25, 2007
Press Office, 202-226-0853

**Chairwoman Woolsey Statement at Subcommittee Hearing On
“H.R. 3582, the Fair Home Health Care Act”**

WASHINGTON, D.C. – *Below are the prepared remarks of U.S. Rep. Lynn Woolsey(D-CA), chairwoman of the Subcommittee on Workforce Protections, for a subcommittee hearing on “H.R. 3582, the Fair Home Health Care Act”*

Thank you for coming here today for this legislative hearing on H.R. 3582, the Fair Home Health Care Act, which provides home health care workers with minimum labor protections under the Fair Labor Standards Act (FLSA).

I introduced this legislation in response to a recent Supreme Court decision, Long Island Care at Home Ltd. v. Evelyn Coke, where the Court found that Evelyn Coke was not entitled to the minimum protections of the FLSA, specifically overtime pay.

Senator Harkin has introduced a companion bill in the Senate.

Evelyn Coke, who unfortunately could not be with us today, worked as a home health care worker for Long Island Care at Home, a for-profit home health care agency, for 20 years.

Home health care was her vocation and she worked an average of 42 hours a week caring for the elderly and disabled.

Sometimes she was required to work 24-hour shifts.

But she was not paid overtime during her 2 decades years of work as a home health care worker.

The Supreme Court found that Ms. Coke fell into a narrow exemption created by Congress in 1974, well over 30 years ago.

Ironically, when Congress created the exemption, it did so in the context of expanding the FLSA to cover most domestic workers---such as chauffeurs and housekeepers---who previously had no labor protections.

And the Congressional Record from that period shows that Congress did not mean to exclude home health care workers from the FLSA, but only those workers who provided baby sitting services for an elderly or disabled person on an ad hoc basis.

Nonetheless, Court found that Congress' intent was not clear, and that it meant to delegate the details of the exemption to the Department of Labor.

And it upheld a DOL regulation that exempted caregivers who worked for 3rd parties from FLSA protections.

I suppose we can argue about whether the Supreme Court's decision was technically correct.

But I do know that it was bad public policy, and if allowed to stand, continues the exploitation of a segment of America's workforce—mostly made up of women and minorities—that does important and difficult work and barely makes a living wage.

Moreover, there is nothing in the decision that acknowledged what most of us know: that home health care has changed drastically since 1974, when caregiving was largely provided by family and friends.

Today, about 2.4 million workers are employed by nursing homes, home health agencies, assisted living and other residential facilities. Over 800,000 of these workers provide in-home care.

As the baby boomers age, this need is going to explode.

According to one estimate, in 2000, 13 million elderly needed caregiver services.

By 2050, this number will grow to 27 million.

And the disabled population needing care is also expected to grow during this period from 5 to 8 million.

But even today there is a shortage of home health care workers.

Turnover is very high, and nearly one-half of the home health care workers leave their jobs each year.

This in turn impacts on the quality of care people receive and in many cases disrupts their care to the point where they are unable to stay at home.

The culprit is low pay.

The average home health care worker makes less than \$10.00 an hour, about half of what other workers make.

More than 20% live in poverty, and nearly half need some sort of public assistance to barely make ends meet.

And they oftentimes do not have the work benefits that most of us rely upon, such as health care, vacation and sick time.

This work is difficult and is taxing, both physically and emotionally.

Now I know that there are those, including members of the disability community, who say that if we pay home health care workers a decent wage, the disabled we will not be able to afford in-home care.

And I know that there are others who say that Medicaid and Medicare costs will soar, which will ultimately mean a cut-back in services to those who need it most.

These concerns are overblown. After all, at least 16 states, under their own state laws—including California, New Jersey, New York, Illinois and Minnesota—already pay overtime to some or all of their home health care workers.

And the sky has not fallen in those states.

These states recognize that it is simply morally reprehensible to exclude hard-working home health care workers from minimum labor protections.

H.R. 3582, the Fair Home Health Care Act restores minimum labor protections to these workers.

It doesn't cover occasional caregivers, and it doesn't reach live-in caregivers either, who are already exempted from overtime but not minimum wages.

It simply ensures that home health care workers are paid the bare minimum of what they deserve. I look forward to exploring the issues that this legislation presents and look forward to hearing the Panel's testimony.

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