



To: Senator Kevin Mullin, Chair of the Senate Economic Development, Housing and General Affairs Committee; Senator Becca Balint; Senator Phillip Baruth; Senator Ann Cummings; Senator Bill Doyle
From: Peter Cobb, Director, VNAs of Vermont
Date: January 20, 2016

Please consider the following comments regarding the House-passed version of **H.187, An Act relating to absence from work for health care and safety.**

The members of the VNAs of Vermont recognize the value of providing paid sick leave for all employees and already provide paid time off for full-time employees but most home health agencies do not provide this benefit for per-diem employees. Should the state add a sick-time requirement for all employees, including per-diem employees, there will be significant costs to the agencies to administer and pay for this benefit without added reimbursement to agencies. In addition to the cost for paid time-off, human service agencies like the VNAs have the additional cost of replacing a worker when an employee is out sick.

Our specific concerns and requests regarding the House-passed version of H.187 are:

1. Carrying Over Time Earned from One Annual Period to Another

Section 483(d)(1) reads:

“...earned sick time that remains unused at the end of an annual period shall be carried over to the next annual period and the employee has the right to earn the balance between the unused portion and the maximum allowed.”

Carrying over time earned from one fiscal year to another places an additional administrative costs as the time earned have would have to be tracked manually and recorded differently than current paid leave. We ask that you consider striking this section of the proposed legislation.

2. Exemption for Per Diem Health Care Employees

Sections 481(3) and 481(5)(D) relate to per diem health care employees. These sections require a per diem health care employee be paid a “differential.” We question the requirement that per diems be paid a “differential” when a differential is not required for similar exceptions for state or school employees. We ask that the committee consider deleting the requirement that a differential be paid to per diem health care workers (Sections 481(3) and 481(5)(D)(iii)). We also recommend that Sections 481(5)(D)(i) and (ii) be deleted as there is no definition of “regular

schedule” and we believe this language is vague. Instead, we ask that the committee use the term “only works on a per diem or as needed basis” because this is the language typically used by health care providers. To implement these changes, VNAVt respectfully requests that the committee consider adopting the following amendments (amendments are italicized and bold faced):

21 V.S.A. § 481. DEFINITIONS

* * *

~~*(3) “Differential” means compensation paid in addition to the usual compensation paid to an employee of a health care facility as defined in 18 V.S.A. § 9432(8) who does not work on a regular schedule and who works only when he or she indicates that he or she is available to work and has no obligation to work when he or she does not indicate availability.*~~

* * *

(5) “Employee” has the same meaning as set forth in section 341 of this title. However, the term “employee” shall not include:

* * *

(D) An employee of a health care facility as defined in 18 V.S.A. § 9432(8) if the employee *only works on a per diem or as needed basis.*

~~*(i) is under no obligation to work a regular schedule;*~~

~~*(ii) works only when he or she indicates that he or she is available to work and has no obligation to work when he or she does not indicate availability; and*~~

~~*(iii) receives higher pay in the form of a differential as defined in subdivision (3) of this section, or some other increased compensation than that paid to an employee of a health care facility performing the same job on a regular schedule.*~~

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3. Consider allowing employers to continue existing policies that currently impact an employee’s ability to take time off. The bill does not address any existing policies like employee conduct or other factors that currently impact an employee’s ability to use time off.

4. Include 25 hours worked per week as minimum number to qualify for paid time off – We would like to recommend including 25 hours worked per week as the minimum number of hours needed to qualify for paid time off. Employees working less than 20 – 25 hours per week are often able to make up the time lost during the same week if they are sick.

5. Link the ability to earn paid time off to the work week- Earning 1 hour of paid time off for every 40 hours worked (not limited to a work week) would add administrative costs and requires separate tracking of time for these employees. In some cases this would require manual tracking.

Based on our understanding, we estimate that this law could add several hundred thousand dollars to the cost to provide home health care services without added reimbursement to the agencies. On a statewide basis, nearly 85% of the VNA's reimbursement comes from Medicare and Medicaid. We have little ability to cost shift or increase our rates to absorb the additional cost of paid sick time for very part time employees. We currently subsidize Medicaid services by more than \$7 million a year.

We'd respectfully request that the committee consider the proposals above as a way to mitigate some of the costs of this legislation to home health agencies.

Thank you for considering these comments. If you have any questions, please call me at 802-229-0579 (office) or 802-249-5167 (mobile).