

September 2, 2025

Daniel Navarrete, Director
Division of Regulations, Legislation, and Interpretation
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue NW, Room S-3502
Washington, DC 20210

Re: RIN 1235-AA51 – Application of the Fair Labor Standards Act (FLSA) to Domestic Service (Proposed Rule)

Dear Director Navarrete:

On behalf of the Home Care Association of Florida (HCAF), which represents approximately 2,300 licensed home health agencies, thank you for the opportunity to comment on the U.S. Department of Labor's (DOL) proposed rule restoring the Fair Labor Standards Act (FLSA) companionship services and live-in domestic service exemptions to their pre-2013 scope.

HCAF's members deliver essential services that enable medically fragile, chronically ill, and elderly individuals to remain safely at home, avoiding unnecessary hospitalizations and institutional placement. The 2013 regulatory changes, implemented in 2015, produced lasting and unintended consequences: they distorted competition, reduced patient access to consistent care, and imposed compliance burdens that do not advance patient safety. Correcting these inequities is essential to preserve and strengthen access to home care.

RESTORING PARITY ACROSS MODELS OF CARE DELIVERY

The 2013 rule created a two-tiered marketplace by prohibiting licensed agencies from using the exemptions while nurse registries and similar models continued operating in ways that often avoid FLSA coverage altogether. In Florida, nurse registries are regulated under a lighter licensure category and are not held to the same accountability standards as licensed agencies, yet they have filled extended-hour and live-in cases at lower cost precisely because they are not subject to the same wage-and-hour obligations. Licensed agencies, by contrast, must comply with rigorous state oversight, federal Medicare and Medicaid regulations, survey requirements, and payer mandates, yet were stripped of exemptions Congress created to facilitate affordable access to companionship and live-in services. The result is a marketplace that rewards structures designed to minimize regulatory exposure while penalizing agencies operating under stronger accountability frameworks. Restoring the exemptions will reestablish parity between service models and ensure that highly regulated providers are not placed at a structural disadvantage.

IMPACT ON PATIENT ACCESS AND CONTINUITY OF CARE

Current restrictions severely limit agencies' ability to staff extended-hour and live-in cases. Overtime triggers compel agencies to rotate multiple caregivers through what could otherwise be stable, continuous assignments. Families often encounter three or four workers in a single week – creating confusion and inconsistency – especially for patients with dementia, behavioral challenges, or complex medical needs who benefit most from

stable caregiver relationships. In some cases, families cannot secure the necessary level of care because the scheduling model is unworkable under the existing rule. Reinstating the exemptions will allow agencies to honor patient and family preferences, reduce unnecessary caregiver handoffs, and improve continuity of care. Staffing models should be built around patient needs, not around overtime mechanics that undermine stability.

Reinstating the companionship and live-in exemptions would also strengthen continuity of care and workforce stability by enabling qualified staff to work increased hours for a single, trusted agency rather than piecing together shifts across multiple employers. Concentrating hours with one agency reduces turnover, duplicative onboarding, Electronic Visit Verification (EVV), and training, while streamlining scheduling and cutting travel time. These efficiencies free up resources to reinvest in quality and access. Importantly, patients benefit from caregivers who know their routines and risks, while workers gain more predictable income, steadier schedules, and clearer pathways to benefits. In short, restoring the exemptions supports safer, more reliable care at home and a more sustainable staffing model for agencies and caregivers alike.

REGULATORY BURDENS THAT ADD COST WITHOUT ADDING VALUE

The 2013 rule also imposed the “20 percent duty split” test, requiring agencies to track whether a worker exceeded a threshold of non-companionship duties. This mandates extensive recordkeeping, auditing, and compliance monitoring – resources that could otherwise support caregiver training, quality improvement, or expanded services. These documentation requirements do not add measurable protections for patients, who are already safeguarded through state background screening, survey inspections, plan-of-care requirements, and payer oversight. Returning to pre-2013 standards would reduce administrative waste, streamline compliance, and redirect scarce resources to the frontline workforce and patient care.

WORKFORCE CHALLENGES IN THE REAL-WORLD CONTEXT

Some argue that removing automatic overtime protections could make caregiver roles less attractive. We appreciate the concern, but in Florida and similar states caregiver wages are determined primarily by Medicaid reimbursement rates and managed care contracting policies. Agencies must balance fragile reimbursement with competitive labor markets, and overtime mandates alone have not solved recruitment and retention challenges. Restoring the exemptions would level the playing field with registries; it will not, by itself, set wages. The home care workforce shortage is fundamentally a reimbursement problem, not a federal overtime problem. Agencies will continue to pay fair wages and manage overtime responsibly; what they need is regulatory flexibility to design schedules that maximize patient safety, ensure continuity, and sustain financial viability.

RECOMMENDATIONS FOR IMPLEMENTATION

To achieve the goals of this proposal while minimizing disruption, HCAF urges DOL to:

- Restore the companionship and live-in exemptions for third-party employers, eliminating the competitive imbalance that has disadvantaged licensed agencies.
- Issue clear, timely transition guidance so agencies, caregivers, and payers understand the implementation timeline, compliance expectations, and applicability to current scheduling arrangements.
- Coordinate with the Centers for Medicare & Medicaid Services (CMS) and state Medicaid programs to ensure reimbursement methodologies reflect the restored flexibility – particularly for live-in and extended-hour care – so agencies are not penalized financially for adopting the staffing approaches patients and families prefer.

CONCLUSION

HCAF strongly supports restoring the FLSA exemptions for companionship services and live-in domestic service to their pre-2013 scope. This policy correction will level the playing field across business models, enhance patient

access and continuity, reduce administrative burdens, and give agencies flexibility to responsibly staff the most complex cases. At a time when home care is under intense pressure from workforce shortages and inadequate reimbursement, federal policy should support – rather than hinder – providers accountable to patients, payers, and regulators.

We respectfully urge DOL to finalize the proposed rule and issue clear implementation guidance that prioritizes stability for patients, fairness for providers, and sustainability for the caregiving workforce.

Sincerely,

A handwritten signature in black ink that reads "Denise Bellville". The script is fluid and cursive, with the first letters of "Denise" and "Bellville" being capitalized and prominent.

Denise Bellville, RN
Executive Director