

February 24, 2022

Councilmember Vincent C. Gray
Chairman of the Committee on Health
1350 Pennsylvania Avenue, NW
Washington, D.C, 20004

Councilmember Kenyan R. McDuffie
Chairman of the Committee on Business &
Economic Development
1350 Pennsylvania Avenue, NW
Washington, D.C, 20004

RE: Oppose B24-0305 Professional Employer Organization Registration Act of 2021

Dear Chairman Gray, Chairman McDuffie, and other members of the Committees:

I am writing to you to urge you to oppose B24-0305, the Professional Employer Organization (PEO) Registration Act of 2021, which would require professional employer organizations that offer health insurance in the District to register with the Department of Insurance, Securities, and Banking. It also authorizes the Mayor to collect registration fees, impose fines, and suspend and revoke certificates of registration. This bill would have negative impacts on the marketplace—and consequently on small businesses that already struggle with healthcare costs.

While B24-0305 aims to be a registration bill designed to increase local regulation of the PEO industry, it would have the opposite effect. The legislation takes away local regulatory authority over PEOs and then goes further by overriding laws that protect employers and their workers. For instance, the legislative text would treat coverage through PEOs as a “single employer health benefit plan,” which would exempt PEOs from ACA protections that apply to small businesses and their workers. Under current DC law, PEOs must comply with ACA protections for small businesses. Passing this legislation would undo that.

The bill would also take away regulatory authority. The bill would consider PEOs, “not to be engaging in the sale of insurance.” This would mean that the Department of Insurance, Securities, and Banking (DISB) would not have oversight and regulatory control over PEOs, meaning PEOs that offer health insurance to their clients in the District would not be subject to key oversight by the agency that regulates health insurance and protects consumers. This is particularly concerning considering that the PEO industry has a history of fraud and abuse across the country. Restricting regulators’ authority invites more fraud and abuse.

Finally, this type of legislation opens the door to market destabilization. If PEOs are exempted from small group requirements, they can cherry pick the healthiest businesses and people to cover, while leaving older and sicker people and small businesses in certain industries to rely on the ACA regulated markets. This practice will destabilize state regulated small group (small business) and individual private health insurance markets. This would result in higher premiums if healthy people are pulled out of the risk pool.

Ensuring strong and robust individual and small group healthcare marketplaces is vitally important to the District’s entrepreneurs because this is essential to keeping costs down for business owners and their employees. PEOs are dangerous additions to the marketplace that undermine the small group market and would likely raise costs for small business owners. I strongly urge you to oppose B24-0305.

Sincerely,

Awesta Sarkash
Small Business Majority