

Testimony of Bonnie Caldwell

Executive Director

Child Care Providers United – Pennsylvania

House Bill 685

Good afternoon. My name is Bonnie Caldwell. I have been a family child care provider for almost twenty years in the small town of Curwensville, Pennsylvania. I currently care for six children, ages 5 to 11, in my home. I also serve as the Executive Director Child Care Providers United Pennsylvania (CCPU-PA), which is part of the National Union of Hospital and Health Care Employees (NUHHCE), the American Federation of State, County and Municipal Employees, (AFSCME) and the Services Employees International Union. CCPU-PA represents both family child care and relative/neighbor providers in Pennsylvania.

As a provider from Clearfield County, which is vastly rural, most of the child care that occurs is solely occurring in family child care homes. Our county has 13 centers, 12 group child care homes, and 54 family child care providers. Clearfield County is the third largest in the state the centers are located in only two towns within the county and only one center offers child care during non-traditional hours. Many parents utilize the home based settings for child care especially in rural counties within our state.

One of the major hurdles to home-based providers entering the regulated system is the zoning barrier created, often times unknowingly, by local municipalities. Many

municipalities don't fully understand what a home-based provider is and apply regulations that are unrealistic (like requiring off-street parking for six vehicles) and costly (fencing your entire property) changes to their homes. To apply for a zoning variance it can cost a provider anywhere from \$100 to \$1000. However, this does not include the cost of making any required changes to their home, such as fences, widening driveways, exit lights, etc. Current family providers have been shut down by municipalities not because they were out of compliance with state regulations but because they failed to get all the necessary paperwork with their municipality. As a result of these problems, CCPU put forward a piece of zoning legislation (HB 1474) during the 2008 session. This legislation passed through the House but not the Senate.

I am here today to express CCPU's concerns about this bill. We certainly understand and support inspection of family day care homes. However, mandating liability insurance will not necessarily accomplish that goal. We can't hand over the Department of Public Welfare's responsibility of inspecting homes to an insurance company. According to the Department of Public Welfare, about 15 percent of homes are randomly inspected each year. This number is very low. Increasing the number of staff assigned to inspect homes would be an obvious first step. Mandating liability insurance certainly can be a consideration but insurance would not guarantee that homes are in compliance with state laws and regulations.

Liability insurance obviously benefits family day care providers because it protects us from financial ruin in the event of a lawsuit. Most of us would choose to have it if we could afford it and have access to it.

I urge the Committee to take a step back to explore the many issues raised by this bill. I urge the Committee to do what many other states have done before instituting such a major change that many have many unintended consequences. And, that is to proceed with caution due to the many issues that might arise and for which they are not easy solutions.

In some states, including Pennsylvania, insurance carriers cancel insurance policies once they discover that the policy owner operates a child care business in her home. Florida<sup>i</sup> and Oregon<sup>ii</sup> prohibits insurance carriers from refusing to issue or renew a policy on a private home on the basis that the policyholder is a family day care provider. Florida and Oregon also requires family providers to have a separate policy or endorsement if providers decide to purchase liability insurance. South Carolina requires homes without liability insurance to have a statement from the custodial parent acknowledging receipt of the notice that the provider does not have liability insurance but does not require providers to carry insurance policies. Hawaii requires family child care providers operating in town houses to indemnify townhouse associations.<sup>iii</sup> California requires family day care homes to maintain liability insurance, or a file of affidavits signed by parents acknowledging the provider does not have liability insurance.<sup>iv</sup> Washington has a similar law, permitting family home providers to opt out of the requirement.<sup>v</sup>

About six states and DC require general liability insurance for the home. The District of Columbia's law requiring providers to have liability insurance also requires insurance carriers to offer liability insurance to providers. Oklahoma requires providers have policies of at least two hundred thousand dollars but exempts providers unable to get a policy due to financial reasons or lack of availability of an underwriter. Providers must notify parents and the state licensing agency when they don't have coverage but this will not be a ground for suspension.<sup>vi</sup> Other states certainly are exploring it, but there is not a national trend to impose this mandate on home-based care.

Before passing this bill, I urge the Committee to set up a comprehensive study on the availability of comprehensive liability insurance for child day care homes and the cost of the coverage. The study also should break down the cost based on amounts of coverage required. For example, how much would a policy for \$250,000 per incident cost versus \$500,000 per incident, etc. The study also should assess the impact of the cost on family day care homes, provide an analysis of providers that currently have liability insurance and the reasons providers do not have insurance. The study should explore payment methods that would permit providers to make monthly payments without having to pay exorbitant interest rates, rather than paying a lump sum up front. Finally, if the study indicates that the cost of comprehensive liability insurance may too expensive for some providers, an opt-out provision should be included requiring providers to inform parents that the providers did not carry insurance.

Another element missing from this bill is any requirements on the insurance industry. The Committee should also explore input from the insurance industry before imposing mandates on family providers to ensure their participation in this effort. And, if the study indicates that the cost of comprehensive liability insurance is not available or is too expensive for providers, an opt-out provision should be included that would inform parents that the provider did not carry insurance.

In closing I would like to emphasize that providers already are asked to provide care in a setting where the subsidies do not cover the cost of care and where the food program reimbursement rates do not cover the cost of food. According to OCDEL 93% of family child care homes are caring for low-income children. The subsidized rates are significantly lower than private pay rates. Imposing additional requirements that will add to the cost of operating a business in their homes will only lead to more providers dropping their registration, resulting in an increase in unregulated care. At a time when we are trying to improve the quality of care, instituting a measure that will take us in the opposite direction is simply unwise public policy.

I appreciate the opportunity to appear before this Committee and provide you with our concerns.

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<sup>i</sup> 1998 Fla. Laws ch. 6;

<sup>ii</sup> 1995 Ore. Laws 685.

<sup>iii</sup> 2001 Hi Act 225.

<sup>iv</sup> Stats 1990 Ch 1050.

<sup>v</sup> 2005 Wa. C. 473.

<sup>vi</sup> 2008 OK. Laws 58.