CARDINAL SERVICES, INC.

October 16, 2017

Fred Bruyns and Chris Clark
Oregon Department of Consumer and Business Services
Workers' Compensation Division
350 Winter Street NE Salem, OR 97309-0405

Re: Lowering the bar for worker leasing licenses

Cardinal Services is a privately held human resource provider, based in Oregon since its 1984 inception. We are a licensed worker leasing company and a staffing company. 90% of our business is in Oregon.

Our involvement in division 50 dates to implementation of the 1993 bill. Where some observers want standardized state rules for their multi-state members, our intent is to preserve the state of the industry in Oregon.

The worker leasing, or professional employer, industry involves a high degree of trust. Considerable money passes through providers on the way from employers to employees, tax authorities, insurance contracts, and other legal recipients. Oregon and other states require providers to be licensed. Some states only require registration. Some states have no requirements.

Generally, the financial trust is deserved. For an industry with $150 billion in annual revenue, relatively little financial and insurance fraud has occurred. The record in Oregon is particularly clean, thanks to a good licensing framework and a history of quality enforcement personnel in the Department.

Unfortunately, not all states have the same record.

- Oregon agencies may be familiar with the Mainstay Business Solutions case from the early 2000's in California. Carriers are still trying to collect tens of millions in premium dollars.
- In 2014, operators of a string of Texas professional employer organizations were ordered to prison and to pay $133 million.
- In 2015, the owner of a Florida professional employer was sentenced to 12 years in prison and ordered to pay $108 million.
- Three weeks ago, the owner of a Tennessee-based Professional Employer was ordered to spend 8 years in prison and to pay $15 million.

Texas, Florida and Tennessee have licensing laws. These and 12 other states allow reliance on ESAC. The Tennessee case arose after a workplace fatality in California. California neither requires a license, nor any special registration, unless the professional employer serves the garment industry.

We agree wholeheartedly with Mr. Ed Lenz of the American Staffing Association. Redefining service providers based on origin or source of the employee would resolve most of the current ambiguity. If not readily fixed, then extending the time frame to between 90 days and one year, is good interim policy.

We also support the National Association of Professional Employer Organization's (NAPEO) call to update terminology. Though not quite the term of art portrayed –NAPEO's original name was the National Staff Leasing Association – we do support adding 'professional employer'. The word 'organization' is unnecessary.

NAPEO's suggestion to streamline the renewal process also makes sense. Requiring the same information every two years isn't efficient, but also isn't overly onerous.

However, NAPEO's request to permit acceptance of independent assurance to "satisfy *registration* requirements" is troubling. Oregon has a license requirement, not registration, which we believe is not terribly difficult, particularly for a professional, and especially given the stakes: unpaid wages, taxes and insurance premium.

We are also concerned that ESAC would require DCBS to take an additional step to disseminate worker leasing notice/termination compliance data to ESAC. If this isn't contemplated, then we are concerned ESAC doesn't track all compliance data. Their list of worker leasing companies is 6 months old.

On the specific issues:

- 1328 – We strongly oppose this. A limited registration could effectively equate another state's registration process with Oregon's licensing process. Two vastly different things. The result would either be higher enforcement costs, or abuse.
- 1330 – We support clarifying the requirement. We strongly oppose making an exception for client defaults. This would create non-complying employers where they don't exist today, merely because an employer breaches their agreement with the licensee. Keep it the same 30 days required of carriers.
- 1370 – We oppose this. Creates coverage issues to prevent rare situations. Professional employers in touch with their clientele know about such moves in advance.
- 1306 – We support a waiver, assuming the Department retains ability to compel production.
- 1233 – We support this for combinable entities. We oppose piggybacking as it would exacerbate coverage issues.
- 1364 – Create reference section if necessary. They are too easily found to warrant a move.

In conclusion, we think Oregon's framework has worked remarkably well. We oppose efforts to weaken or dismantle it. Thank you for the opportunity to comment.

Sincerely,

Mike Freeman