

March 24, 2015

Dear Chairman Walberg, Ranking Member Wilson and Members of the U.S. House of Representatives Subcommittee on Workforce Protections:

On behalf of the undersigned organizations, which represent millions of employers who employ tens of millions of employees, we write to express our support for H.R. 1189, the Preserving Employee Wellness Programs Act, and to thank you for holding a hearing on this important legislation. H.R. 1189 will provide much needed clarification over the legality of voluntary workplace wellness programs and employers' use of financial incentives to encourage participation in such programs. The undersigned organizations strongly support these voluntary programs and are concerned that the Equal Employment Opportunity Commission's (EEOC) current guidance and enforcement positions creates legal uncertainty that will inevitably chill use of wellness programs.

Wellness programs are an essential tool for encouraging healthy lifestyles, improving health outcomes for U.S. workers and their families and lowering overall U.S. healthcare costs. Employers throughout the country have embraced these programs, with 46% of all large employers planning to offer them in 2015. Moreover, existing law, including the Affordable Care Act (ACA), encourages use of these programs, and a bipartisan provision in the ACA specifically permits the use of reasonable financial incentives to encourage employee participation.

Yet despite the endorsement of wellness programs in the ACA, EEOC has recently sued employers for offering programs, claiming key aspects of the programs violate the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA). By doing so, the Commission has put at risk these programs, which are critical tools for improving health for millions of Americans.

The Preserving Employee Wellness Programs Act will help eliminate this confusion by reaffirming existing law. The undersigned organizations and associations once again thank you for holding a hearing on this bill. We urge Congress to pass this legislation and put in place effective safeguards to protect proven wellness programs. We look forward to working with you and Congress on this important issue.

Sincerely,

Associated Builders and Contractors

Associated General Contractors

College and University Professional Association for Human Resources

HR Policy Association

Independent Electrical Contractors

International Foodservice Distributors Association

International Franchise Association

International Public Management Association for Human Resources

National Association of Manufacturers

National Association of Wholesaler-Distributors

National Council of Chain Restaurants

National Federation of Independent Business

National Grocers Association

National Public Employer Labor Relations Association

National Restaurant Association

National Retail Federation

Retail Industry Leaders Association

Society for Human Resource Management

U.S. Chamber of Commerce