

March 17, 2015

The Honorable Lamar Alexander
United States Senate
Washington, D.C. 20510

RE: S. 620, the Preserving Employee Wellness Programs Act

Dear Chairman Alexander:

I am writing to express HR Policy Association's strong support for the Preserving Employee Wellness Programs Act, S. 620, which would reaffirm the wellness program incentives under the Affordable Care Act (ACA) that allow employee wellness programs to have financial incentives up to 30 percent of the cost of coverage (and 50% for tobacco cessation programs). We urge the Senate to pass this legislation this year. It is important for Congress to eliminate the legal confusion surrounding wellness program financial incentives that has been caused by the recent legal actions taken by the Equal Employment Opportunity Commission and restore certainty for employers who want to reward their employees for leading healthy lifestyles.

The HR Policy Association is the lead organization representing chief human resource officers of over 360 of the largest corporations doing business in the United States. The member companies, all of whom are large employers, provide health care coverage to over 21 million employees and dependents, and collectively spend more than \$76 billion annually on health care in the U.S. Most member companies offer wellness programs to their employees and dependents.

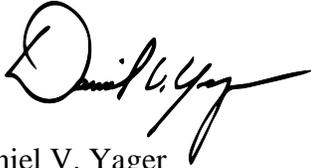
Employers are increasingly offering wellness programs as a means to improve employee health and productivity, bolster employee engagement and reduce health care costs, and the ACA strongly promotes such programs by permitting financial incentives for participation in them. However, in 2014, the Equal Employment Opportunity Commission began filing legal actions against employers with wellness programs its General Counsel views as violating the Americans with Disabilities Act (ADA) without providing any guidance to employers. Moreover, White House spokesperson Josh Earnest referred to one lawsuit as "inconsistent with what we know about wellness programs and the fact that we know that wellness programs are good for both employers and employees." With more and more employers offering wellness programs, it is essential that Congress act to clear up any legal uncertainty by reaffirming existing law, including the application of ERISA preemption of state and local laws to employer wellness programs.

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HR Policy supports the provision in the legislation that reaffirms the ADA's existing bona fide benefit plan safe harbor for wellness programs and strongly encourages the Senate to add a provision reaffirming that the existing ERISA preemption applies to wellness programs as well. We urge Congress not to miss this opportunity to address a serious problem with the ACA, and we look forward to working with you and your colleagues to enact this important legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel V. Yager". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail.

Daniel V. Yager
President and General Counsel

cc: Members of the Senate Health, Employment, Labor, and Pensions Committee