AMWA Position Statement on Legislation That Negatively Affects the Livelihood of Freelance Medical Communicators

The American Medical Writers Association (AMWA) supports the right of self-employed medical communicators to practice as independent contractors. AMWA strongly disagrees with legislation that would either discourage companies from hiring freelance medical communicators or force independent contractors to become employees, which will diminish their autonomy and may cause harm to their business model and relationships.

Many medical communicators choose to be self-employed. This business relationship benefits both parties: companies can tap into the unique knowledge and expertise of independent contractors as needed for individual projects, and the self-employed business model affords medical communicators a high level of autonomy and flexibility. AMWA recognizes the legitimate concerns about worker misclassification and the exploitation of workers that can result from the gig economy. Although legislation designed to protect these workers is well intentioned, if the definition of a freelance worker is written too narrowly, it will prevent those who freely choose to work as independent contractors from continuing to operate under that business model.

Although there is a need to protect exploited workers, AMWA urges legislators to ensure that the resulting laws allow those who are legitimate independent contractors by choice to continue to practice as freelance professionals.

About AMWA

Founded in 1940, AMWA is the leading professional organization for writers, editors, and other communicators of medical information. AMWA serves as a resource for professional medical communicators, promoting excellence in medical communication and providing educational resources in support of that goal. With more than 4,000 members in the United States, Canada, and 30 other countries, AMWA members are committed to accurately and ethically making information about health and medicine clear and meaningful.

Background Information

Medical communicators working as independent contractors (freelancers) bring their knowledge and expertise to a broad range of clients. Freelancers include working parents, people with disabilities, small business owners, those nearing retirement, and people who otherwise need or prefer the flexibility of managing their own schedules while generating income in their chosen profession.

Legislation and proposed legislation concerning independent contractors in several states could disrupt how self-employed writers and editors do business in the future. In California, AB 5 took effect on January 1, 2020, and similar legislation is being considered in New Jersey (S4204/A5936), New York (S6699A/A8721A), and other states this year.

Specific concerns about the definition of independent contractors in existing or proposed legislation include

• The stand-alone requirement that an independent contractor “performs work that is outside the usual course of the hiring entity’s business.” Many freelance medical communicators perform work that is aligned with a company’s core business, either because the independent contractor brings a unique expertise or because the company has a transient overflow of work. These opportunities benefit both the independent contractor and the company.
• A requirement that work be performed away from the company’s place of business. Although it is reasonable to require independent contractors to maintain a separate place of business, many freelance medical communicators meet with their clients at the company’s place of business from time to time. These face-to-face meetings facilitate both the specific project and the relationship between the independent contractor and the company.
• A low cap on the number of submissions to a single company. In some instances, freelance medical communicators provide their clients with blog posts or submissions to newsletters on a weekly or more frequent basis. This type of work is common and reasonable for a freelance medical communicator.
• Vague wording that will force legislation to be clarified through litigation. A lack of clarity in the language of the law will discourage companies from hiring independent contractors under any circumstances based on the fear of being fined or sued despite genuine efforts to comply with the law.

What You Can Do

• Call and write your state legislators about these concerns (https://openstates.org/find_your_legislator/).
• Explore social media and website groups that provide information about legislation in several states.
• Consult a labor attorney in your state to better understand the specifics of the legislation in your area and how it affects your freelance business model.
• Develop talking points to explain your business model to clients and potential clients.