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American Medical Writers Association Opposes H.R. 842, the PRO Act, Legislation That Negatively Affects the Livelihood of Freelance Medical Communicators

ROCKVILLE, MD (March 12, 2021) – The U.S. House of Representatives voted 225-206 to pass H.R. 842, the Protecting the Right to Organize (PRO) Act, and if enacted into law, could disrupt how self-employed writers and editors do business in the future. The PRO Act would put into effect changes to the National Labor Relations Act (NLRA) that would limit workers’ ability to be classified as independent contractors. The American Medical Writers Association (AMWA), whose membership includes independent contractors and those who hire them, previously released a Position Statement on Legislation That Negatively Affects the Livelihood of Freelance Medical Communicators.

According to Gail Flores, PhD, AMWA President, “AMWA remains firm in its position regarding legislation that might discourage companies from hiring freelance medical communicators – we do not support it.” As a freelance medical writer based in California, Dr. Flores has “witnessed the fallout from California’s poorly written 2019 state bill, AB5, which failed to protect its intended targets and rather harmed contract workers who choose to work on a freelance basis.” The impact of California law AB5 was that many companies canceled contracts instead of hiring their contractors. Dr. Flores emphasized that “legislation aimed at protecting individuals in the gig economy and other settings who could potentially be exploited needs to be written or revised in a manner that does not damage the careers and businesses of all freelance and contract workers by being too restrictive. Such individuals make up a large percentage of the US workforce, and due to the nature of their work and their clients, redefining their relationships as employee-employer is not a viable option.”

The requirement of part “B” of the ABC Test stating that an independent contractor “performs work that is outside the usual course of the hiring entity’s business” is potentially problematic. 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.

AMWA supports the removal of the ABC Test from the PRO Act and urges the continuation of the use of the IRS standard to determine whether a worker is misclassified as an employee. The current IRS
standard — “The general rule is that an individual is an independent contractor if the payer has the right to control or direct only the result of the work, not what will be done and how it will be done” — allows independent contractors to work in the same industry as their clients.

Background information on the issue along with suggestions for what people can do to make their voices heard is available at www.amwa.org/position_statement.

**About the American Medical Writers Association**
Founded in 1940, the American Medical Writers Association (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. AMWA represents more than 4,000 members in the US, Canada, and 30 other countries who are committed to accurately and ethically making information about health and medicine clear and meaningful.

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