February 4, 2020

The Honorable Richard Neal The Honorable Kevin Brady
Chairman Ranking Member
Committee on Ways and Means Committee on Ways and Means
United States House of Representatives United States House of Representatives
Washington, DC 20515 Washington, DC 20515

Dear Chairman Neal and Ranking Member Brady:

On behalf of the American Bar Association (ABA), which is the largest voluntary association of lawyers and legal professionals in the world, I write to commend you for holding a hearing on January 28, titled, “Legislative Proposals for Paid Family and Medical Leave,” and ask that you make these comments part of the hearing record.

The United States is one of only a few countries in the world where workers have no nationally guaranteed right to job-protected family and medical leave. Virtually every other country in the world guarantees workers the right to paid maternity leave, and a growing number of countries also offer paid paternity leave. According to the Organization for Economic Cooperation and Development (OECD), which is comprised of 36 countries, including the United States, almost all OECD countries provide mothers with at least 14 weeks of maternity leave at 50 percent of previous earnings. The United States is the only OECD country to offer no statutory entitlement to paid leave of any kind on a national basis. Instead, as you know from the testimony recently presented, the right of U.S. workers to paid family and medical leave is determined by the state in which they live or by the company for which they work. Congressional action is long overdue.

We understand that there is deep-seated disagreement over how to devise and administer a program that guarantees the civilian workforce job-protected family and medical leave. We nonetheless are encouraged that there is strong bipartisan consensus among the members of your Committee that Congress needs to take action to update this nation’s family and medical leave policies to reflect the reality of the 21st Century workforce.

We are concerned, though, that another important component of our nation’s outdated workplace policies was not considered during the hearing – the urgent need to provide U.S. workers with paid sick days. This is a problem that has concerned some Members of Congress since 2005, when legislation to remedy this problem was first introduced. Similar legislation has been introduced this Congress, and it deserves your prompt attention.

Paid sick leave differs from paid family and medical leave because it is for shorter illnesses or short-term medical emergencies and is generally funded by the employer as part of an
employment benefit package. At present, ten states and the District of Columbia have enacted legislation requiring employers to provide paid sick leave to their employees. In addition, over 30 cities and counties have adopted paid sick leave laws. Some private businesses – especially larger businesses – also have voluntarily provided qualifying members of their workforce with paid sick days.

Paid sick leave laws vary in terms of the size of employer, the type of employee (part-time, full-time, years of employment, among others), and the amount of leave time allowed the employee. All of the laws permit the worker to take the paid sick leave to care for their own illness or that of specified family members, including children and spouses, same-sex domestic partners, domestic partners, and a person with whom the worker has a committed relationship, depending on the state. Some of these laws are considered “Paid Sick and Safe Day” laws because a worker is also permitted to use the leave to address the impacts of domestic violence, sexual assault, or stalking.

Despite this patchwork of coverage, legislation introduced as the Healthy Families Act this Congress (H.R. 1784 and S. 840) states that 29 percent of the private sector workforce and nine percent of the public-sector workforce lack paid sick leave. For workers in the lowest quartile of earners, 55 percent lack paid sick leave. Employees who get sick should not be deterred from taking time off to get well (which would also protect coworkers from contracting their illness) because they cannot afford to lose a day’s pay or they fear it will jeopardize their jobs.

U.S. workers – whether employed by a small or large business, whether working part-time or full-time – need paid, job-guaranteed sick leave and family and medical leave. We urge you and your colleagues to continue to take a leadership role in fostering discussion and advancing solutions that will provide comprehensive, job-protected leave so that all U.S. workers can have the opportunity to maintain employment and meet their own medical, family, and caregiving responsibilities.

Thank you for the opportunity to share the views of the ABA on this important topic.

Sincerely,

Judy Perry Martinez

cc: Members of the Committee on Ways and Means