



STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

TESTIMONY OF DEPARTMENT OF CONSUMER PROTECTION COMMISSIONER JERRY FARRELL, JR.

PRESENTED TO THE GENERAL LAW COMMITTEE

FRIDAY, FEBRUARY 13, 2009

Senator Colapietro, Representative Shapiro, Senator Witkos, Representative Bacchiochi and Honorable Members of the Committee. Thank you for providing me with the opportunity to comment on four DCP legislative proposals before you today.

SB-778 AN ACT AMENDING THE WORKERS' COMPENSATION ACT

Current law requires state agencies such as Consumer Protection to obtain "sufficient evidence" of workers' compensation insurance before they issue new or renewal licenses to applicants. Specifically, the law mandates that no license be issued unless a candidate submits proof of insurance coverage in the form of a "certificate". The intent of this 1986 legislation was to ensure that employers - such as home improvement contractors and new home construction companies - comply with state laws to provide workers' compensation coverage for their employees. If they do not, workers who are injured on the job must be paid by the State's Second Injury Fund.

The Department of Consumer Protection has been increasingly unable to fully comply with this "hard-copy" certificate requirement not only because it entails a labor-intensive, manual review process for tens of thousands of renewal applications but also because it conflicts with agency efforts to streamline and automate its services to the public which now include an online license renewal process. In 1995, the Department established a wholesale lockbox arrangement with a bank in order to ensure the immediate deposit of state funds and to expedite the issuance of renewal licenses to the public. This new process, however, necessitated the replacement of the "hard-copy" insurance declaration with a signed statement included on the renewal application form certifying to the appropriate workers' compensation insurance coverage. In 2001, we upgraded to a retail lockbox arrangement which does not allow any paperwork other than the renewal coupon and payment to be mailed to the bank. This situation of technical non-compliance was noted by the Auditors of Public Accounts in our audit reports for the fiscal years ending June 30, 2004 thru June 30, 2007. As a result, we have been working with the State Workers' Compensation Commission in order to address the needs of both agencies while ensuring compliance with the statutes.

Accordingly, I am requesting your approval for an amendment to the law that would allow us to accept a certified statement rather than a separate "hard-copy" workers' compensation

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insurance certificate from tens of thousands of applicants for renewal license. It is significant to note that the Auditors of Public Accounts welcomed our intent to submit a legislative proposal that would add a fourth form of "sufficient evidence" for workers compensation insurance coverage. We have also implemented their suggestion that we work with the State Workers' Compensation Commission to share information about our licensees in order to reduce the number of uninsured employers operating in the State thereby protecting employees in the workplace and minimizing the number of claims that must be paid by the State's Second Injury Fund.

I am hopeful that you will approve our request for an amendment to the Workers' Compensation statutes so that we can continue to improve our delivery of services to Connecticut citizens wherever possible through the use of new technology. Passage of this particular bill will directly benefit the Connecticut businesses and citizens whose livelihoods are impacted by the timeliness of our services.

SB-779 AN ACT PROVIDING CONSUMER PROTECTIONS TO PURCHASERS OF OUTDOOR WOOD-BURNING FURNACES

This proposed legislation seeks to amend Section 22a-174k of the Connecticut General Statutes by requiring sellers of outdoor wood-burning furnaces (OWF's) to provide potential purchasers of such products in this state with the following:

- Three day right of cancellation
- Consumer information package that includes full disclosure of the current restrictions on locating and operating OWF's in Connecticut

Specifically, Senate Bill 779 would ensure that potential buyers in Connecticut are made aware of the restrictions governing OWF siting and operation before they complete the purchase of a device that they may not be able to legally install on their property. Furthermore, it facilitates the informed purchase of outdoor wood-burning furnaces and creates purchaser protections while promoting local air quality.

In addition to these proposed consumer protections, Section 2 (c) of the raised bill requires retailers to maintain a record of the notice to OWF purchasers for five years. We feel that this is unnecessary and ask that you strike this record-keeping requirement from the bill. Sufficient penalty is imposed on a seller/vendor for failure to issue the required notifications in advance of an OWF sale.

The Department of Consumer Protection urges the passage of Senate Bill 779 which was developed in concert with the Department of Environmental Protection because it provides additional protections to consumers. Since the purchasers of home improvement services, dating services, health club memberships and weight-loss programs all enjoy a three-day right of cancellation, we believe there should also be a buyer protection program for the purchasers of outdoor wood-burning furnaces.

As background, restrictions on the siting and operating of outdoor wood-burning furnaces were enacted by the General Assembly in response to citizens' complaints about the impact of OWF smoke on the air quality and public health. Since this legislation was passed in 2005, the

Department of Environmental Protection (DEP) has recorded more than 400 complaints about the new criteria for setting up and operating OWF's. Specifically, the siting restrictions outlined in the law make compliance impossible for some owners while the cost of coming into compliance is beyond the means of others. Furthermore, some OWF owners have not only expended significant funds on purchase and installation but also on unsuccessful efforts to comply with the regulations. Clearly, consumers need to be made aware of the legal requirements for OWF installation and operation before they purchase these products.

The operation of an outdoor wood-burning furnace produces emissions that impact the environment. OWF's, like all other wood-burning devices, release fine particulates into the air which, when inhaled, can aggravate existing heart and lung diseases and cause cardiovascular symptoms, asthma attacks and bronchitis. OWF design generally leads to incomplete combustion resulting in frequent periods of excessive smoking and much higher quantities of particulate matter than other wood-burning devices. While some cleaner models are available, the North East States for Coordinated Air Use Management (NESCAUM) estimates that most OWF's produce at least 20 times more emissions of particulate matter (PM) than the current generation of EPA-certified woodstoves. In addition, while fireplaces and wood stoves used seasonally may operate for only a few hours a day, OWF's can operate all day and all year when used for both space heating and hot water applications. The negative impact to the environment from OWF's is exacerbated when, contrary to both the 2005 statute and manufacturers' instructions, materials such as household garbage, tires or pressure treated wood (containing highly-toxic arsenic) are combusted. Maine, Massachusetts, New Hampshire, New York and Vermont have adopted - or are in the process of adopting - more stringent rules governing OWF's.

SB-780 AN ACT CONCERNING THE SOLICITATION OF CHARITABLE FUNDS ACT

This bill would increase the threshold gross revenue amount that requires charitable organizations to obtain an audit report by a certified public accountant. Each year, thousands of charitable organizations are required to register and provide financial reports to the Department of Consumer Protection's Public Charities Unit. Any organization with gross receipts of \$200,000 or more must include an audit opinion from a CPA with its annual registration. Due to the heightened audit standards required of professional auditors, the cost of an audit has increased significantly in recent years. We understand that an audit can cost even a small organization \$5,000 or more and, while it is an important tool in preventing and discovering financial impropriety, we feel that the cost of this regulatory compliance must be taken into account when evaluating its reasonability and usefulness. For a charitable organization with \$200,000 in receipts, spending \$5,000 on an audit would mean that it is using 2.5 % of its revenue on the preparation of a single state government filing. We do not believe that diverting a significant amount of a charity's assets away from the accomplishment of its charitable purpose is in the public's interest. This is especially true in these times when charitable contributions are increasingly difficult to come by for many organizations.

Our proposed audit threshold - \$500,000 in gross receipts - is much more reasonable. A charitable organization with this level of revenue will most likely have an audit done routinely simply to keep its financial house in order.

HB-6301 AN ACT CONCERNING THE PRACTICE OF PHARMACY AND ELECTRONIC PRESCRIPTIONS

This legislative proposal would make two separate changes to existing law in the area of electronic prescriptions. They are as follows:

- Allow Connecticut pharmacies to maintain records of prescriptions electronically rather than in paper format as currently required
- Add Schedule II drugs to the list that physicians can prescribe and transmit electronically to pharmacies - current state law allows Schedule III, IV and V drugs to be transmitted electronically to pharmacies. It is significant to note that this proposed legislation (as well as the currently codified list of drugs) would only take effect when specifically allowed under The Federal Controlled Substances Act. At the present time, changes to the Federal Act consistent with the changes described have been enacted and are currently awaiting the promulgation of regulation by the Drug Enforcement Administration within the next several months.

If passed, this legislative proposal would:

- Further the use of “e-prescribing” and “e-health” and the associated efficiency and improvements that come with electronic/computer records
- Reduce the number of medication errors caused by illegible handwriting by allowing the expanded use of electronic transmission of prescriptions from physician to pharmacy
- Enable pharmacies to fill prescriptions more quickly, efficiently and accurately since allowing pharmacies to maintain their filled-prescription record-keeping electronically would result in a more efficient and dependable system. Furthermore, electronic prescribing is exempt from Federal requirements to use tamper-resistant paper, thereby reducing the burden on practitioners.
- Result in improved efficiency, accuracy and a reduction in costs, although federal legislation will be required to allow the practices contained in this proposal to take effect in Connecticut. However, as in similar legislation passed in previous years, we are preparing ourselves in advance of anticipated enabling Federal legislation.

I thank you for your time and attention and am open to any questions that you may have regarding our legislative proposals.

If you should require any additional information, please contact Gary Berner, Legislative Program Manager, at 713-6208.

Thank you.