TESTIMONY OF TOM FALIK, ON BEHALF OF THE CONNECTICUT ASSOCIATION OF HOME CARE REGISTRIES IN OPPOSITION TO HB-5439

Good afternoon Senator Prague, Representative Serra and the rest of the Aging Committee. Thank you for the time to testify on this important issue. My name is Tom Falik, and I am here today representing the CT Association of Home Care Registries.

Home Care Registries have operated in Connecticut for over 80 years. A Registry is a matchmaking service between "***Caregivers***" and elderly and disabled ***"Consumers"*** who need home care services.

- The Registry model of home care allows (1) the Consumer to contract directly with a screened and qualified Caregiver and for necessary homecare, and (2) the Caregiver to decide for whom he or she will work, and the price of and schedule for that work.
- The cost to the Consumer of hiring a Caregiver through a Registry can be 20% to 60% less than obtaining the same service from an employee-based agency. The Caregiver works directly for the Consumer, and is paid by the Consumer
- Caregivers placed by Registries pay Federal and State taxes. If a Caregiver is an independent contractor of the Consumer, the Consumer will file IRS Form 1099. If a Caregiver is an employee of the Consumer, the Consumer will withhold taxes and file IRS form W-2.

Effective January 1, 2012, all Registries are covered by the CT Homemaker-Companion Statute. As such, Home Care Registries:

- Are required to register with the Dept. of Consumer Protection;
- Must perform background checks on all Caregivers placed;
- Assist the Consumer in the preparation of a Plan of Care; and
- Provide disclosures to Consumers regarding the nature of the relationship and the potential tax implications

In our opinion, HB 5439 is poor public policy and should be defeated:

- The apparent intent of this Bill, and most certainly the effect, would be to KILL THE REGISTRY BUSINESS MODEL. We believe that this would be a terrible result for CT's seniors and persons with disabilities.
- HB-5439 purports to make the Registry liable for unemployment contributions, workers compensation AND WAGES in connection with a Caregiver that was merely placed by the Registry with the Consumer.
    - This totally ignores that the contractual relationship is between the Caregiver and the Consumer.
    - It would be virtually impossible for a Registry to comply with the terms of this Bill, since the Registry would have no control over (or even knowledge of) the amount of the wages being paid by the Consumer to the Caregiver.
- This is a thinly-disguised fiction which allows State government, solely for convenience purposes, to heap enormous liability on the matchmaker in the transaction, instead of dealing with the primary parties to the transaction.

- The CT unemployment insurance system does not lend itself well to this segment of the industry. Since many assignments are for very old and in-firm clients, they often end in the death of the client. When an assignment ends in this manner, if the Registry immediately has a new assignment, the Caregiver will usually stay with the Registry, but if there is not an immediate assignment, the Caregiver will typically go to another Registry. It does not make much sense to pay unemployment when Caregivers are constantly jumping from Registry to Registry.

If this Bill is passed, Consumers would be left with only two, much less-favorable options for obtaining home care services:

- They could obtain care from employee-based home care agencies, which are more expensive, or
- They can find Caregivers on Craig's List and through other non-professional advertising sources, greatly increasing the likelihood of:
    - Consumers being taken advantage of, physically and financially, by un-regulated, unscrupulous and criminal elements, because there will be no criminal background check or professional oversight, and
    - The State losing regulatory authority over, and all revenue from, many such arrangements, because they are often underground cash transactions

No other state in the country has passed legislation that kills the Registry business model. In 1999, a Committee of the Florida Legislature did a complete study on a proposal to kill Registries and came to the conclusion that that would be a bad idea because it would limit senior's choices as outlined above.

Another reason that this Bill would be bad for CT is that there are currently proposed Federal Department of Labor Regulations that would require all employee-based home care agencies to pay overtime to Caregivers.

- This Regulation, which would have a terrible effect on senior's who require live-in caregivers.
- An exception in the proposed regulations is created for Caregivers that work directly for the person needing care.
- If this Federal Regulation is adopted, Registries would be one of the few feasible and affordable ways that CT seniors could obtain screened and qualified live-in caregivers.

The bottom line on SB 330 is that it will remove a critically important option for obtaining homecare from seniors and persons with disabilities. It also will reduce the availability of caregivers, because <u>it will force caregivers to accept state mandated benefits, which they don't necessarily care about</u>, at the cost of <u>reducing the amounts that independent caregivers can earn.</u>

Registries have been covered by the CT Homemaker-Companion Statutes for less than 3 months, and that is clearly not enough time to gauge the impact of that legislation on this segment of the homecare industry. If it is felt that other changes are necessary to the statutory and/or regulatory approach to Registries, we are more than happy to join in those discussions. However, SB 330 will kill the Registry model in CT.

This is bad public policy, and should be defeated.

Thank you for allowing this time for me to testify.