

**Bianca, Pam**

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**Sent:** Tuesday, March 10, 2015 11:00 PM  
**To:** LABTestimony  
**Cc:** CK Owner - Maria Ciannavei  
**Subject:** Committee on Labor and Public Employees Testimony Regarding SB 990

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March 9, 2015

**Committee on Labor and Public Employees**  
**Testimony Regarding SB 990**  
**Consumer Protection in the Home Care Industry**

Dear Members of the Committee:

I am writing today **in support of Proposed Bill No. 990 as amended** in the submitted amendment, because I am very concerned about the protection of the consumer and caregiver in the home care industry. I thank you for the opportunity to submit my comments.

My name is Maria Ciannavei and I have worked with older adults and their families my entire career. Since 2011 I have owned Comfort Keepers of Bloomfield, an employment model, non-medical home care agency, registered with the CT Department of Consumer Protection HCA.0000.563. I am also a member of the CT Chapter of the Home Care Association of America and the CT Homemaker Companion Association.

**Obtaining much needed home care services for oneself or a family member should not be fraught with the transference of risks and obligations to the consumer, generally borne by the entity providing or arranging such care. The Consumer should not be forced into becoming an "Accidental Employer."**

Over the past several years, the CT Chapter of the HCAOA has sponsored legislation that would try to protect the worker and consumer, while providing that employer based responsibilities be borne by the entity placing a caregiver in the home. **Objection to these bills have raised issues that are not within the purview of the committee** and serve to distract from the issues at hand. The purpose of our proposed legislation (below) is to provide for the employee the protections of workers compensation insurance, unemployment insurance and minimum wage.

In the testimony filed by the HCAOA, the arguments made are detailed, but few discuss issues of the worker or the client. Additionally, no mention was made to the plight of the consumer, except as relates to affordability of the lower cost Registry alternative.

- The consumer is interested in obtaining care for themselves or a loved one.
- Few if any have as an objective, to become the employer of the caregiver.

- An uninsured workers' injury jeopardizes the assets of the consumer up to and including their home.
- Unpaid unemployment insurance, after a claim is made by an unemployed caregiver, opens the consumer to retroactive bills for unpaid unemployment insurance, which may then invite more bills and levies by other taxing jurisdictions.
- If none of these disastrous events occur, the consumer, if intent on being compliant with applicable laws, will be faced with other insurance and tax payments that will no longer make the registry model the low cost alternative it once appeared to be to the consumer.

In none of the testimonies from those in opposition to the previous proposals of legislation, do the respondents take exception to the use of the term "employee." **Failure to note that would be acquiescence THAT THE CAREGIVERS ARE IN FACT EMPLOYEES OF SOMEONE.** Definition as to who is the actual employer is the only question.

As no one party has stepped forward to definitively declare themselves the employer, each scenario depends upon either a novice employer who may or may not report payments to the caregiver, or the caregiver (contractor) who, with no recorded income or liabilities on file with the state or IRS, must decide if he or she will be compliant and declare and pay the taxes. **Few working arrangements leave the roles of employer and employee so vague. Nor are there many working arrangements which give one the choice to either comply or not to comply with rules that virtually all others must follow. Forcing either of these groups into a role they should not be in, is an unfair imposition upon the senior and a disservice to the caregiver.**

We urge the committee that this bill, with our proposed amendment, should be voted favorably. We will be happy to continue to work with DOL and this committee to make this bill move forward.

Thank you for the opportunity to provide this testimony.

**Maria Ciannavei  
Comfort Keepers  
Bloomfield CT**

### **Senate Bill 990-proposed amendment – Changes shown are CAPITALIZED**

Section 1. (NEW) *(Effective October 1, 2015)* (a) Notwithstanding the provisions of section 20-679a of the general statutes, as amended by this act, no consumer who receives (1) homemaker services, as defined in section 20-670 of the general statutes, (2) homemaker-home health aide services, as defined in section 19a-490 of the general statutes, or (3) companion services, as defined in section 20-670 of the general statutes, provided by (A) a homemaker-companion agency, as defined in section 20-670 of the general statutes, (B) a homemaker-home health aide agency, as defined in section 19a-490 of the general statutes, or (C) a registry, as defined in section 20-670 of the general statutes, OR AN OWNER OR OCCUPANT OF THE PREMISES WHERE ANY SUCH SERVICES ARE PROVIDED, shall be deemed the employer of

any individual referred to, supplied to or placed with such consumer by such agency or registry to provide the services described in subdivisions (1) to (3), inclusive, of this subsection.

(b) Notwithstanding the provisions of section 20-679a of the general statutes, as amended by this act, no consumer shall be liable, during the duration of time any individual provides any service described in subdivisions (1) to (3), inclusive, of subsection (a) of this section to such consumer, for (1) payment of contributions for the purposes of compliance with chapter 567 of the general statutes, in relation to such individual, (2) payment of workers' compensation insurance for the purposes of chapter 568 of the general statutes, in relation to such individual, or (3) payment of wages for the purposes of compliance with chapter 558 of the general statutes, in relation to such individual WITHOUT SUFFICIENT EVIDENCE OF (A) COMPLIANCE WITH THE WORKERS' COMPENSATION INSURANCE CLASSIFICATION CODE 8835 PUBLIC HEALTH NURSING, OR ITS EQUIVALENT, AS IDENTIFIED BY THE NATIONAL COUNCIL ON COMPENSATION INSURANCE, (B) THE SELF-INSURANCE REQUIREMENTS OF SUBSECTION (b) OF SECTION 31-284 OF THE GENERAL STATUTES, OR (C) STATE UNEMPLOYMENT INSURANCE RECORDS SHOWING THAT SUCH INSURANCE WAS REPORTED AND PAID ON BEHALF OF THE SAME CLASS OF WORKER PURSUANT TO CHAPTER 567 OF THE GENERAL STATUTES. THE HOMEMAKER-COMPANION AGENCY, HOMEMAKER-HOME HEALTH AIDE AGENCY OR REGISTRY THAT PROVIDES SUCH SERVICES SHALL BE LIABLE FOR PAYMENT OF SUCH CONTRIBUTIONS, INSURANCE OR WAGES.

(c) Any consumer who receives any service described in subdivisions (1) to (3), inclusive, of subsection (a) of this section provided by an individual referred to, supplied to or placed with such consumer by an agency or registry described in subparagraphs (A) to (C), inclusive, of subsection (a) of this section, AND AN OWNER OR OCCUPANT OF THE PREMISES WHERE ANY SUCH SERVICES ARE PROVIDED, shall be immune from civil liability for any damage, injury or financial harm ARISING OUT OF AN INJURY to such individual WHEN PROVIDING CARE TO THE CONSUMER resulting from any act, error or omission of the consumer, unless such damage, injury or financial harm was caused by the reckless, willful or wanton misconduct of the consumer. AND (ii) THE OWNER OR OCCUPANT OF THE PREMISES SHALL NOT BE IMMUNE FROM CIVIL LIABILITY FOR ANY DAMAGE, INJURY OR FINANCIAL HARM ARISING OUT OF AN INJURY TO SUCH WHEN PROVIDING CARE TO THE CONSUMER WHERE SUCH HARM WAS CAUSED BY THE RECKLESS, WILFUL OR WANTON MISCONDUCT OF THE OWNER OR OCCUPANT OR A CONDITION PRESENT IN A COMMON AREA OF THE PREMISES, OPEN TO THE PUBLIC OR IN THE CARE, CUSTODY OR CONTROL OF A PARTY OTHER THAN THE OWNER OR OCCUPANT.

Sec. 2. Subsection (b) of section 20-679a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(b) Each notice provided to a consumer pursuant to subsection (a) of this section shall be written in plain language and shall comply with the plain language standard detailed in section 42-152. Such notice shall include a statement identifying the registry as an employer, joint employer, leasing employer or nonemployer, as applicable, along with a statement advising the consumer he or she may be considered an employer under law and, if that is the case, the consumer may be held responsible for the payment of federal and state taxes, Social Security, overtime and minimum wage, unemployment, workers' compensation insurance payments and any other applicable payment required under state or federal law, except as excluded under section 1 of this act. The notice shall also include a statement that the consumer should consult a tax professional if he or she is uncertain about his or her responsibility for the payment of such taxes or payments.

Confidentiality Notice: This message and any attachments are confidential, intended only for the named recipient(s) and may contain information that is privileged or exempt from disclosure under applicable law. If you are not the intended recipient(s), you are notified that dissemination, distribution or copying of this message is strictly prohibited. Unauthorized use of this information may be a violation of law. If you receive this message in error, or you are not the intended recipient(s), please notify the person who sent you this e-mail by immediately calling Comfort Keepers office at 860-242-7739, and destroy this message and delete from your system without forwarding or copying. Thank you.