

The Connecticut Chapter of The Home Care Association of America- supports notifying consumers of homecare services of potential risks and liabilities. However, HCAOA-CT cannot support notice after services have commenced. HCAOA-CT submitted legislation, as indicated below, providing notice before any services commence. HCAOA-CT does not support Senate Bill 932 as drafted and seeks an amendment to the bill.

The fact that the subject notice and for that matter all paperwork required by Connecticut General Statute 20-679a, including any agreements, plans of care or other customary paperwork agreed to between two parties conducting business being delivered from the provider to the client after services have commenced is a disservice to the client (consumer) and can be perceived as deceptive.

When the notice requirement was originally proposed in 2011, then Senate Bill 911, which provided as follows, was approved by the General Law Committee:

Sec. 3. (NEW) (Effective January 1, 2012) (a) A registry shall provide each consumer with a notice, to be signed by the consumer, specifying the legal liabilities of such registry to the individual supplied or referred to or placed with the consumer and to the consumer. The notice shall be given to the consumer before the commencement of services. Services shall not commence until the registry receives a copy of the notice signed by the consumer. If the registry maintains an Internet web site, a sample of the notice shall be posted on such Internet web site,

The notice period was changed before passage by the legislature resulting in the current notice period of seven days after services commence. The committee considered the seven-day notice requirement once and approved it.

The attached proposed amendment to Conn. Gen. Stat. sec. 20-679a (a) would best protect consumers:

Notice after the commencement of services does not protect the consumer and would only serve to benefit registries.

Protects the consumer from deceptive practices

Informing a consumer about the onerous assumption of liability is consistent with sound public policy. To make that notification after the fact violates that premise. There are numerous laws that permit the consumer a period of remorse or rescission.

Assumption of risk should be a choice

- While cost is a factor in the buying process, knowing why something is cheaper is critical to making an educated choice.
- Finding out that you have unknowingly become an employer together with all the risk, responsibilities and liabilities, along with unforeseen costs of taxes and insurance after making a selection of provider is the opposite of "consumer protection".
- Notifying the consumer after the commencement of services forces the consumer to choose between taking a chance that none of the possible risks will happen to him or her or start the whole process of selection over again.
- Let the buyer beware is very present in this notification structure.

This is not a game. These are human lives and the withholding of critical information may have dramatic if not dire financial consequences upon the consumer... consider that

- Without workers' compensation insurance, a consumer may be the only recourse an injured worker may have to compensate for medical costs, lost wages and rehabilitation and retraining. There are numerous examples of homes lost due to uninsured worker injury.
- A worker whose long term assignment has come to an end is now without work. They file for unemployment insurance. Their application is processed and benefits paid. Seeking the payer source against whose account this claim applies, the state learns there is none. A determination is made as to who paid the worker, how much and for how long and a bill is sent to the consumer or his estate for unpaid insurance, penalties and interest.
- An injured worker's claim delays the settlement of the estate of their deceased client.

Very few transactions result in the consumer assuming the liabilities of the contractor

- An analogy would be a homeowner wanting to put an addition onto his home.
 - They respond to a contractor who will propose to do the work
 - When told what the homeowner wants the contractor puts together a team of tradesmen to carry out the project
 - When presented with the proposal which is considerably below those of the competitors, the homeowner consents to the proposal and the contractor proceeds to send the tradesmen.
 - Work begin on the project.
 - A week goes by and the contractor comes to the owner with his contract.
 - Suddenly it is disclosed that all the tradesmen are to be legal employees of the homeowner, who must
 - Set up a payroll for each worker from each trade as they are not the employees of the Contractor and they must be employed by someone
 - The HO must obtain insurance, workers' comp and liability insurance
 - The HO must do his own plans and direct the workers
 - If the work is shoddy or the workers don't show, are late, or are drunk on the job, it is the HO who must rectify the situation.
 - Quality control is the responsibility of someone other than the Contractor
 - The Contractor advises that his compensation is based on the amount of labor and materials that the HO spends and the contractor gets paid monthly.
 - The Contractor never visits the site yet makes sure the HO advises him of how much was spent each month so he can bill the HO
 - Sometime after the job is done, the town advises the HO that the house is not in compliance with zoning and is improperly sited on the lot.
 - Seeking the help of the Contractor, the HO hears: They weren't my plans, my workers or my responsibility
 - After several years of litigation, the town finally settles with the HO

PROPOSED AMENDMENT TO SB 932

AN ACT CONCERNING WRITTEN NOTICE REQUIREMENTS FOR HOMEMAKER OR COMPANION SERVICES REGISTERIES

Section 1. Section 20-679a of the general statutes is repealed and the following is substituted in lieu thereof
(Effective October 1, 2015):

(a) [Not later than seven calendar days after the date on which a] A registry that supplies, refers or places an individual with a consumer[, the registry] shall provide the consumer with a written notice, to be signed by the consumer, specifying the legal liabilities of such registry to the individual supplied or referred to or placed with the consumer. The notice shall be given to the consumer before the commencement of services and such services shall not commence until the registry receives a signed copy of the notice from the consumer. If the registry maintains an Internet web site, a sample of the notice shall be posted on such Internet web site.

(b) Each notice provided to a consumer pursuant to subsection (a) of this section shall be conspicuous, written in boldface type and 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. 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.

(c) For purposes of this section, a homemaker-companion agency that supplies, refers or places an independent contractor with a consumer for the provision of companion or homemaker services shall be considered a registry, as defined in section 20-670, and shall be required to provide the consumer with a notice pursuant to subsection (a) of this section.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline.]