



## **Senate Bill 879, An Act Concerning Nonsolicitation Agreements in the Home Health Services Industry.**

Commerce Committee

February 23, 2021

Home Care Association of America Connecticut advocates for employer-based home care agencies that employ, train, monitor and supervise caregivers; create a plan of care for the client; and work toward a safe and secure environment for the person at home. HCAOA Connecticut members are mostly small businesses that employ several thousand caregivers providing quality, affordable home care to thousands of elderly consumers, persons who are disabled and veterans across the state.

HCAOA Connecticut thanks the Commerce Committee for introducing Senate Bill 879. HCAOA Connecticut **strongly supports the bill** and respectfully requests that the committee **approve** it.

Senate Bill 879 amends the ban on noncompete agreements adopted as part of the state budget in 2019 to clarify that home care agencies would be able to enforce certain, limited nonsolicitation agreements that many agencies have with caregivers. These agreements, which would be limited to one year, are customary in the industry and help protect the one asset that agencies have. They prevent the clients from being taken private or to another competing agency. Additionally, the agreements make home care agencies more marketable, foster economic development, support small businesses and will help the growing home care sector and improve the state's economy.

The state budget provision that adopted the ban was overly broad and captured standard, lawful business practices used for many years. It may have unintended consequences, including limiting access to care for the very persons it was designed to protect. HCAOA Connecticut does not believe most lawmakers intended to do that.

Many home care agency owners use nonsolicitation agreements that are narrowly drafted with a relatively short, reasonable time limit on a caregiver's ability after

leaving employment with the agency and go to work for a consumer with whom the agency placed the caregiver. Without such agreements, owners risk losing their business to the very persons they trained to provide care.

There are many valid policy reasons why home care agencies should be permitted to use nonsolicitation agreements, such as they:

- Are vital to operations, assuring companies have skilled employees available to respond to the needs of clients.
- Assure that caregivers do not retain a client that an owner has invested resources in and trained, or vice versa, for a reasonable and limited period of time.
- Without the agreements, it would be difficult to assure the quality of services provided.
- Are an effective tool for protecting agencies from losing private pay clients to “under-the-table” competitors.

The home care industry does not want to limit the ability of caregivers to earn a living, many of whom are working multiple, temporary assignments, so they may have to work for different agencies. Agencies simply seek to protect assets they have worked hard to attain over a long period of time.

Senate Bill 879 balances the competing interests at stake without disrupting home care agency owners’ ability to operate their businesses, allowing caregivers to earn a living and enabling senior consumers to continue to have access to quality, affordable care.

Staff attorneys may want to change the title of the bill to *An Act Concerning Nonsolicitation Agreements in the Home Care Industry* to accurately reflect its application to homemaker-companion agencies that provide nonmedical care to consumers. The home care industry also includes home health services.

Please contact Mark McGoldrick, Chairman, HCAOA Connecticut, (203) 924-4949, with any questions or visit [www.hcaoa.org](http://www.hcaoa.org) for additional information about Home Care Association of America.