Testimony of William Lenahan, Fairfield, CT.
To Homemaker and Companion Agency Task Force
summarizing verbal testimony provided on November 4, 2022,
and providing additional testimony

Honorable Chairpersons Foley, McGoldrick and Homemaker and Companion Agency (HCA) Task Force Members; thank you for volunteering your time for the protection, health and wellness of our vulnerable seniors.
My name is William Lenahan, a senior currently residing in Fairfield CT.

I am hopeful the Task Force (TF) will be the "Beacon of Hope" to recommend insightful, positive and requisite HCA industry change to protect our seniors.

Background:

Since 2019, either as an individual or as a member of the Fairfield Senior Advocates (FSA is a non-partisan, all volunteer group advocating on senior issues at both the local and state levels), I (we) have been actively involved in pursuing legislation to protect and improve the lives of our CT seniors. I was compelled to action in 2019 upon hearing about a senior suffering with dementia whose life savings was totally squandered by home care providers that took him in limos to the CT casinos. I(we) actively work with many of state legislators on various issues along with state commissions such as Aging, Health Services and Finance, etc. Positive legislation has been enacted but more is clearly required for our elder/senior community and adequate "funding" for senior programs is paramount.

I am testifying because in addition to the above elder abuse, one of the 11/4/2022 testifiers – relayed their horrific story of painful neglect and lack of enforcement/follow through by the Dept. of Consumer Protection(DCP).
On Friday's Public Hearing (11-04-2022), it was no surprise to hear more elder abuse stories and DCP's seemingly lack of enforcement. It was however enlightening to witness testimony from two agency owners indicating changes were needed.

Given the above, I summit my oral summary plus add-ons. The below suggestions and information/questions for TF discussion were targeted utilizing both my former experiences as a senior corporate executive and a corporate owner (not in Health Care). Some ideas the TF has probably discussed and/or noted for the upcoming TF meeting. But I hope my input will assist in further TF dialogue sparking incremental and requisite change recommendations.

While the TF is cognizant of the "elephant in the room" – **funding.**
I urge the TF not to temper recommendations based on financial constraints. Please stay resolute and develop all positive consensus recommendations for the Aging Committee's review. Allow the Aging Committee to determine whether and how to fund the recommendations they select. Any potential legislation would ultimately be reviewed and cost determinations identified by the Office of Legislative Research and Office of Fiscal Analysis.

Broad areas for suggested improvement would be:

> Establish **new** comprehensive rules/ regulations for HCA agency owners/operators and employees.

Provide effective "communication" on all rules/ regulations with a clear understanding of this information by **all** parties including clients.

Establish Professional Training / Recruitment programs for both employees and owners/operators in addition to Licensing Employees.

Perform Strict Enforcement of rules/regulations with enhanced state agency audits and follow through. Provide **meaningful** penalties for frequent or egregious offenders.

Develop a broad-based Education program to all industry participants n multiple languages.

Which State Agency would provide the most appropriate industry guidelines, regulations, enforcement and education?

I recommend the Task Force investigate the **"advantages/disadvantages"** of the Dept of Consumer Protection (DCP) or Dept of Public Health managing the licensing/oversight of the HCA industry.

-Per the October 21,2022 DPH presentation, most states that license HCA's assign the licensing/oversight of HCA's to the same agency responsible for Home Health Care Agencies.

As a senior, if I was a client, client's family member, or conservator; I would not intuitively search for DCP for home care service information.
I would search for a state agency handling various health issues.

While it is not a direct comparison nor a correlation of one (1);
DPH has a 28 page document on Home Health Care rules and regulations for owners/employees when applying for a license. DCP has a three (3) page document on rules and regulations for licensing with a majority of space allocated to an information questionnaire page. Albeit, DCP has additional website information on employee requirements – mostly regarding background checks.
More professional standards on rules and regulations are needed.

I do not have a particular agency bias because elder abuse can occur under any state agency. And with any state agency, improvements are ever changing.
However, the above information along with input below; should spark serious TF consideration on an agency transfer issue.
I suggest that the DPH license/oversee the HCA industry.

TRAINING / RECRUITMENT

DCP is seeking legislation requiring HCA employees to be trained and register with DCP. This would be a positive change.
DPH already has mandatory Home Health Care employee training.
Which agency DCP or DPH is more appropriate to establish HCA health related employee training?

This training program should initially be a video for broad base distribution in various languages followed ultimately with an in-person professional training program.

We know that obtaining a License for a HCA - requires no skill –
no special background other than a GED minimum and a required criminal background check (performed by DCP). As we heard, even someone owning a cleaning service could also operate a HCA - in the same location with perhaps employee overlap. There is little financial "barrier of entry" into the industry other than an annual licensing fee $375 and a $10,000 surety bond which could cost between $100 - $300 per annum (or be substituted via business insurance).

Per TF member Wanner's insightful inquiry during the Public Hearing, HCA owner/operator training should also be a requisite.
Public Act 21-37, Section 38 indicates owner/operator requirements.
But an informational training program video in various languages would be a major improvement.
The majority of HCA's are smaller companies that need training/direction.

The above begs the questions-

If no requisite employee training standard exists;

-How would employees know to professionally perform the Care Plan?

-Will employees fully understand that they are mandatory reporters and what their mandated responsibilities are?

If no training program for HCA owner/operators – would they know:

- How to conduct important comprehensive employee background checks.

- While DCP's Consumer Guide to Homemaker Companion Agencies (flier) indicates most HCA employees in contact with clients are mandatory reporters; Do owners truly know and fully understand that their employees are required to participate in elder abuse training within 90 days of hire, how to find an appropriate elder abuse training program, and that employees must report elder abuse within 24 hours?

-What contingency plan is required for employee no-shows or late shows? Are owners/office workers expected to cover?

- When new legislation on seniors is passed which affect HCA operations, how are they advised and is it in a timely and clearly understood manor (Bi-lingual or multilingual)?

Recruitment has been and is a major issue. Many qualified workers have left the industry especially during the pandemic. How can CT assist in educating and promoting workers into the industry? Develop a flier promoting an industry career? Is vocational schooling an option? Can CT sponsor more job fairs concentrating on recruitment within the industry (with multi-lingual staffers)?

Transportation issues are also challenging for HCA agencies. Employee's cars may break down, their ride may not show, Uber/Lyft are expensive - especially on their employee salary base, and public transport may not be a viable option.
How can the state provide relief?

Mandatory Employee Background Checks

We can not overlook nor under-appreciate the enormous mental and emotional strain undertaken by clients, client family members and/or conservators that results in an unknown stranger entering into a vulnerable senior's residence and performing services alone with the client. Their faith that the HCA has performed a comprehensive criminal background check on the employee(s) entering that home must be validated. Therefore, the oversight state agency must provide stringent audits that the vetting process is complete and satisfactory.
With DCP's two (2) FT investigators, are sufficient audits undertaken?
Penalties must be levied on those not performing accordingly.

> As an FYI, DCP's website advises agency owners/operators it is mandatory to conduct employee criminal background checks per
> Public Act 21-37, Section 38 – see statue below:

"Comprehensive background check" means a background investigation of a prospective employee performed by a homemaker companion agency, that includes: (A) A review of any application materials prepared or requested by the agency and completed by the prospective employee; (B) an in-person or video-conference interview of the prospective employee; (C) verification of the prospective employee's Social Security number; (D) if the position applied for within the agency requires licensure on the part of the prospective employee, verification that the required license is in good standing; (E) a check of the registry established and maintained pursuant to section 54-257; (F) [a review of criminal conviction information obtained through a search Substitute House Bill No. 6100 Public Act No. 21-37 29 of 138 of current criminal matters of public record in this state based on the prospective employee's name and date of birth] a local and national criminal background check of criminal matters of public record based on the prospective employee's name and date of birth that includes a search of a multistate and multijurisdiction criminal record locator or other similar commercial nationwide database with validation, and a search of the United States Department of Justice National Sex Offender Public Website, conducted by a third-party consumer reporting agency or background screening company that is accredited by the Professional Background Screening Association and in compliance with the federal Fair Credit Reporting Act; (G) if the prospective employee has resided in this state less than three years prior to the date of the application with the agency, a review of criminal conviction information from the state or states where such prospective employee resided during such three year period; and (H) a review of any other information that the agency deems necessary in order to evaluate the suitability of the prospective employee for the position.

Owner/operators are given the "employee" background check responsibility.

- How are HCA's conducting comprehensive background checks?

- Do they know HOW to conduct a "comprehensive background check" via a third-party consumer reporting agency or background screening company that is

accredited by the Professional Background Screening Association and in compliance with the federal Fair Credit Reporting Act?

- Are there clearly understood and written standards outlining what constitutes a full and satisfactory background check?

After the initial background check;
–are there requisite annual background checks for possible criminal activity during employment? If not -why not?
Criminality may occur after initial check.

Reliance on spot audits may **not** suffice.
I suggest upon renewal each year –the HCA provide a listing of ALL employees performing HC functions and certify that background checks have been performed (performance date and name of verifying company).
While state statues make it a misdemeanor to make false statements and this is reflected on the HCA application– a **signed affidavit** each year would re-enforce the threat of legal action for falsifying documents to a state agency. All could be electronically filed with the state.

FINGERPRINTING

Most local police will perform fingerprinting and forward it on to State Police, this would incrementally add to and provide an even more complete background method insuring the trustworthiness of an employee given a senior's life may depend on it. I have heard some employees may be "elusive" changing their names and/or address, hence, if an employee does have a criminal past – the fingerprinting process should flush it out. Push-back may occur from HCA's due to timing and costs (the process would take weeks and incur a fee). And it would be problematic to charge an optional client fee since some employees may work for a few clients. But, it would be worthwhile the TF investigating fingerprinting.

Question:

If a Task Force member's parent or loved one required Homemaker Companion care—wouldn't you feel more comfortable that a reliable, comprehensive background check was satisfactorily conducted and would be periodically performed each year, supported by: sufficient state audits, signed affidavits and possibly fingerprinting?

Complaints

The October 21,2022 DCP presentation indicated a total of 49 Complaints since 2021.
This appears significantly low.
Especially since 1 in 10 older adults experience elder abuse.

Elder abuse takes many forms, such as but not limited to: physical, mental and emotional abuse; neglect, abandonment, and financial fraud/theft.

A worker leaving a client with dementia or Alzheimer's alone to run an errand is elder abuse via neglect.
Last year's Task Force- To Study Ways to Protect Senior Citizens from Fraud recommended that Protective Services for the Elderly(PSE – a DSS group) case workers should be limited to no more than 25 cases per social worker. As a comparison, PSE has more than DCP's 2 FT employees.

The composition of these 49 complaints should be investigated.
How was the complaint *classified*:
Physical, Mental or Physical Abuse; Fraud/Theft; Neglect; Abandonment; or Contract Disputes with billing or non-performance of Care Plan, etc.

As was asked at the October meeting and should be fully reviewed
– How were these complaints handled and what was their timeline?

It would be important for DCP to drill down and present to the Task Force:
Any Agency having multiple complaints.
What type of complaint and how many? What were the penalties?
Define contract dispute classification– is it negligent care or non-compliance with Service Plan? Neglect is elder abuse.
What was the agency employee size?
What is the comparison breakdown by agency employee size with the number of complaints? Is it a normal bell curve distribution or are the majority of complaints with a certain agency size(s)?

With over 900 HCA agencies and 34,591 employees
–it is hard to imagine "all" are performing to all DCP rules and regulations.

Another factor possibly affecting the low complaint number is:
Do clients, family members, conservators and employees know how to file a complaint?
Is the "How To Lodge a Complaint" being adequately marketed to our senior and industry communities?

Advertising- Education and Marketing:

The DCP October 21, 2022 presentation indicated Legislation is critically needed to prohibit HCA's from using words that suggest health services in their names or advertising – I concur this is needed because—Confusion abounds regarding differences between Home Health Care Agencies, Home Health Care Aides and Homemaker Companion Agencies.

"Education" and the "Marketing" of the above differences via consumer/industry education is a critical component to preclude confusion.

For example; why is the "How to File a Complaint" and the attendant "How to Follow-up" appear to be a mystery to many participants?
It is on DCP's website but it should also be clearly on:

1. Every HCA contract
2. DCP's Consumer Guide to Homemaker Companion flier and
3. DCP's to-be- developed Creating Advertising Guidelines flier.

I do commend DCP's efforts in creating the above fliers and their eventual placement on DCP's website. While redundant – I would also seek their placement and additional consumer education on the Commission on Women, Children, Seniors, Equity and Opportunity's website (CWCSEO) in the sub-section on Seniors.

These informational fliers need to be broadly distributed to:
Senior Centers, Agencies on Aging, NGO's focusing on Senior Health issues (ie: Ct Alzheimer's Assoc.), local town public health departments and social workers, hospitals, assisted living centers, rehabilitation centers, geriatric doctors and even libraries.
Periodically, advertise these fliers in CT media.

Contracts

All contracts should have a Care Plan as part of the contract. And all should be signed by both parties and electronically filed with the state to avoid any disputes between client and agency.

It would be beneficial if DCP could develop an "optional" professional contract/care plan template that agencies could utilize to achieve some guidance and it would provide a modicum of uniformity within the industry.

All HCA agencies should have a **contingency plan** if one of their employees doesn't report for work. All contracts should provide this plan.

While **client notes** are a DCP guideline – I would insist that the notes are a bi-monthly or monthly requisite - and filed with the agency and available for review by state, client, client family member or conservator.

Compliance and Penalties

As a former business owner, I do not support intrusive government regulations unless it is warranted for safety and/or fraud. But I would not want a competitor to secure an unfair advantage in time and money by circumventing government rules and regulations while I conform. I would also abhor a competitor tarnishing my industry.

To insure rules and regulation compliance, monetary penalties favor the larger, better financed agencies. I recommend a registry of violating agencies which would level the playing field.
Much like local health departments publishing a list of non-compliant food eateries re: sanitary regulations. This registry would be listed on the DCP and CWCSEO's websites. After resolving the violation – it would be determined how long until the violation listing removal. Repeat violators would be left on registry for a longer period.

The **ultimate penalty** for repeat violators should be revoking their license for several years. <u>This threat should be clear and understood by all owners/operators that it will be enacted.</u>
The penalty should be for the specific agency and for the agency owners/operators (and immediate family members).They should be barred from any ownership / operation in a CT HCA, HHC or other agency working with seniors.
Concern for client health should preempt any concern that closing an unscrupulous agency would disrupt the lives of clients, family members or employees. This disruption should be mitigated by having DCP /DPH assist those affected by directing them to other agencies while an independent consultant manages agency in the interim.
Client safety should always be prioritized and prevail over any decision.

While I opined that the marketing of the 11/4/2022 Public Hearing was not highly visible and may not have cut through the massive election campaign clutter in our media, perhaps the TF has sufficient insight from the testimony to move forward without conducting another time consuming Public Hearing.

Many agencies/employees are trustworthy industry participants.
I hope the TF will provide the Aging Committee with meaningful recommendations to help prevent elder abuse by untrained and untrustworthy HCA employees/agencies. Professional industry standards are lacking and clearly need to be enacted. Future professional education and training programs should be a broad-based, multi-lingual distribution to all parties.

Thank you for the opportunity to present this testimony.

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