



State and National Criminal Background Checks by Home Care Agencies

Legislation proposed by the Department of Consumer Protection would require homemaker-companion agencies to conduct a state and national criminal background check on applicants for employment in accordance with Conn. Gen. Stat. sec. 19-17a. This would involve a costly, detailed and time-consuming process that includes fingerprinting of each potential employee.

HCAOA Connecticut supports comprehensive background checks as an effective, efficient means of identifying individuals who should not serve as caregivers to vulnerable seniors and disabled persons. However, the DCP proposal would mandate a level of investigation that would be neither helpful nor practical in an industry that hires thousands of caregivers every year.

HCAOA Connecticut would support, as an alternative, comprehensive background checks conducted by a pre-employment background screening services company that include a search of the online federal database of Excluded Individuals/Entities maintained by the U.S. Department of Health and Human Services Office of Inspector General. The proposal (attached) would preclude agencies from employing caregivers on the list, including those who committed any of the enumerated crimes as proposed by DCP.

The DCP proposal imposes additional costs but offers little benefit over the current process

There is no single national database containing complete and up-to-date records of all criminal arrests and convictions in the United States. The FBI fingerprint background check depends on data reported by state and county governments, which is not uniform, all-inclusive, or necessarily current and accurate. Different jurisdictions have different standards for fingerprinting: lower-level offenses and misdemeanors, including larceny, assault, prostitution, breach of peace, and other crimes that should disqualify a person from working in home care, may not be picked up by the fingerprint check. The FBI database was not designed for employment-related screening and does not reflect any independent investigation or verification by the bureau. A 2015 study by the U.S. Government Accountability Office cited significant inaccuracies in the FBI database.

Currently, most home care agencies contract with private vendors, which conduct criminal background checks consisting of a review of various state and federal databases, using personal identifiers (name, date of birth, and Social Security number) and focused on Connecticut and any other state where an applicant has resided in the previous three years.

Since all arrests and court dispositions are conducted at the state and local level, this is the most relevant place to conduct a search.

The comprehensive nature of the current criminal background checks ensures an effective, multi-level investigation into an applicant's history and qualifications for employment with a home care agency. There is no evidence that a properly-conducted comprehensive background check is an ineffective tool for evaluating a prospective employee's suitability, nor is there reason to believe that requiring a fingerprint-based criminal background check will result in reduced instances of elder abuse.

Fingerprinting would be a costly barrier to employment

Requiring applicants, many of whom do not have a driver's license or own a car, to travel to a State Police barracks, pay more than \$100 in fees, and wait weeks for a result creates a serious barrier to employment in a fast-growing industry. Currently, an applicant for a caregiver position can be screened and placed with a client within hours of selection. Requiring otherwise-qualified prospective caregivers to undergo fingerprint checks would unduly delay their entry into the workplace.

This delay would also put at risk seniors discharged from hospitals or nursing facilities with little notice to families. To serve seniors in immediate need, home care agencies must hire and staff caregivers quickly. Fortunately, private vendors can provide same-day turnaround on background checks; such responsiveness in emergencies would be impossible if agencies had to wait weeks for the results of FBI background checks.

Most caregivers work for multiple agencies over the course of a year. Repeatedly performing FBI background checks on the same individual would burden both the home care industry and the State Police, yet nothing in the proposed legislation provides for creation of a repository of background checks available to potential employers.

A search of an existing national database would gather more useful information

The proposed legislation also includes a listing of enumerated crimes, most involving healthcare facilities or programs and more likely to be committed by sophisticated criminal enterprises than individual caregivers. To avoid liability, Medicaid providers (including many home care agencies) currently and routinely check the list of excluded individuals and entities maintained by the HHS OIG. It would not be too costly or onerous for HCAs to search that list as part of a revised definition of comprehensive background checks.

Home care agencies exist to ensure the well-being of their clients. Careful hiring is only the first step in providing safe and reliable home care service. The oversight offered by agency home care is an essential and ongoing safeguard for our clients, further underscoring the need to preserve and support the agency care model as a matter of public policy.