

ASSEMBLY BILL

No. 782

Introduced by Assembly Member Dababneh

February 25, 2015

An act to amend Sections 1796.12, 1796.14, 1796.17, 1796.22, 1796.24, 1796.29, 1796.32, 1796.33, 1796.34, 1796.36, 1796.37, 1796.38, 1796.40, 1796.41, 1796.42, 1796.43, 1796.44, 1796.45, 1796.47, 1796.49, 1796.51, 1796.52, 1796.55, and 1796.61 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 782, as introduced, Dababneh. Home Care Services Consumer Protection Act.

Existing law establishes the Home Care Services Consumer Protection Act, which provides, on and after January 1, 2016, for the licensure and regulation of home care organizations, as defined, by the State Department of Social Services, and for the registration of home care aides. Violation of the act is a misdemeanor. Existing law requires background clearances for home care aides and home care organizations, as specified. Existing law authorizes an individual who possesses, among other things, a valid Alien Registration Card, and who has submitted an application, to initiate a background examination to be either a registered home care aide or to be a licensed home care organization.

This bill would, among other things, make the provisions of the act applicable to home care aide domestic referral agencies, as defined, including licensure, fees, enforcement and fines, and regulation of registered home care aides having agreements with those agencies. The bill would require a home care aide domestic referral agency to provide specified information to a person to whom a home care aide is referred,

including specified information about the person’s potential employer responsibilities. The bill would authorize any individual who possesses either a valid Alien Registration Receipt Card or valid Permanent Resident Card to initiate a background examination to be either a registered home care aide or to be a licensed home care organization or a licensed home care aide domestic referral agency. The bill would also authorize a person who is a current licensee or employee in a facility licensed by the department, a certified foster parent, a certified administrator, or a registered TrustLine provider to transfer his or her current criminal record clearance or exemption for purposes of licensure under these provisions, as long as he or she fulfills certain requirements, including signing a declaration verifying his or her identity under the penalty of perjury. Because the bill creates new crimes by expanding the act to include home care aide referral agencies and requiring a specified declaration to be signed under the penalty of perjury, it would impose a state-mandated local program.

This bill would also correct an erroneous cross-reference.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1796.12 of the Health and Safety Code
- 2 is amended to read:
- 3 1796.12. For purposes of this chapter, the following definitions
- 4 shall apply:
- 5 (a) “Affiliated home care aide” means an individual, 18 years
- 6 of age or older, who is employed by a home care organization to
- 7 provide home care services to a client and is listed on the home
- 8 care aide registry.
- 9 (b) “Child” or “children” means an individual or individuals
- 10 under 18 years of age.
- 11 (c) “Client” means an individual who receives home care
- 12 services from a registered home care aide.

1 (d) “Department” means the State Department of Social
2 Services.

3 (e) “Director” means the Director of Social Services.

4 (f) “Family member” means any spouse, by marriage or
5 otherwise, domestic partner, child or stepchild, by natural birth or
6 by adoption, parent, brother, sister, half-brother, half-sister,
7 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt,
8 uncle, first cousin, or any person denoted by the prefix “grand” or
9 “great,” or the spouse of any of these persons, even if the marriage
10 has been terminated by death or dissolution.

11 (g) “Home care aide applicant” means an individual, 18 years
12 of age or older, who is requesting to become a registered home
13 care aide and the department has received and is processing the
14 individual’s complete home care aide application and
15 nonrefundable application fee.

16 (h) “Home care aide application” means the official form,
17 designated by the department, to request to become a registered
18 home care aide.

19 (i) “*Home care aide domestic referral agency*” means an
20 employment agency, as defined in Section 1812.5095 of the Civil
21 Code and 687.2 of the Unemployment Insurance Code that offers,
22 refers, provides, or attempts to provide work for an independent
23 home care aide who is providing home care services, and shall be
24 licensed pursuant to this chapter.

25 (j) “*Home care aide domestic referral agency applicant*” means
26 an individual, 18 years of age or older, or a firm, partnership,
27 corporation, limited liability company, joint venture, association,
28 or other entity that is requesting to become a home care aide
29 domestic referral agency licensee, and the department has received
30 and is processing the complete home care aide domestic referral
31 agency application and nonrefundable application fee.

32 (k) “*Home care aide domestic referral agency application*”
33 means the official form, designated by the department, to request
34 to become a licensed home care aide domestic referral agency.

35 (l) “*Home care aide domestic referral agency licensee*” means
36 an individual, 18 years of age or older, firm, partnership,
37 corporation, limited liability company, joint venture, association,
38 or other entity having the authority and responsibility for the
39 operation of a licensed home care aide domestic referral agency.

40 (i)

- 1 (m) “Home care aide registry” means a department-established
 2 and department-maintained Internet Web site of registered home
 3 care aides and home care aide applicants, ~~which~~ *that* includes ~~all~~
 4 ~~of the following:~~ the individual’s name, registration number,
 5 registration status, registration expiration date, and, if applicable,
 6 ~~the one or both of the following:~~
- 7 (1) ~~The home care organization to which~~ *or organizations that*
 8 the affiliated home care aide or affiliated home care aide applicant
 9 is associated.
- 10 (2) *The home care aide domestic referral agency or*
 11 *organizations with which an independent home care aide is*
 12 *associated.*
- 13 (j)
- 14 (n) “Home care organization” means an individual, 18 years of
 15 age or older, firm, partnership, corporation, limited liability
 16 company, joint venture, association, or other entity that arranges
 17 for home care services by an affiliated home care aide to a client,
 18 and is licensed pursuant to this chapter.
- 19 (k)
- 20 (o) “Home care organization applicant” means an individual,
 21 18 years of age or older, or a firm, partnership, corporation, limited
 22 liability company, joint venture, association, or other entity where
 23 the individual or individuals applying for the license are 18 years
 24 of age or older and are requesting to become a home care
 25 organization licensee and the department has received and is
 26 processing the complete home care organization application and
 27 nonrefundable application fee.
- 28 (t)
- 29 (p) “Home care organization application” means the official
 30 form, designated by the department, to request to become a licensed
 31 home care organization.
- 32 (m)
- 33 (q) “Home care organization licensee” means an individual, 18
 34 years of age or older, firm, partnership, corporation, limited liability
 35 company, joint venture, association, or other entity having the
 36 authority and responsibility for the operation or management of a
 37 licensed home care organization.
- 38 (n)
- 39 (r) “Home care services” means nonmedical services and
 40 assistance provided by a registered home care aide to a client who,

1 because of advanced age or physical or mental disability, cannot
2 perform these services. These services enable the client to remain
3 in his or her residence and include, but are not limited to, assistance
4 with the following: bathing, dressing, feeding, exercising, personal
5 hygiene and grooming, transferring, ambulating, positioning,
6 toileting and incontinence care, assisting with medication that the
7 client self-administers, housekeeping, meal planning and
8 preparation, laundry, transportation, correspondence, making
9 telephone calls, shopping for personal care items or groceries, and
10 companionship. This subdivision shall not authorize a registered
11 home care aide to assist with medication that the client
12 self-administers that would otherwise require administration or
13 oversight by a licensed health care professional.

14 ~~(o) “Registered home care aide” means an affiliated home care~~
15 ~~aide or independent home care aide, 18 years of age or older, who~~
16 ~~is listed on the home care aide registry.~~

17 ~~(p)~~

18 (s) “Independent home care aide” means an individual, 18 years
19 of age or older, who is not employed by a home care organization,
20 but who is listed on the home care aide registry and is providing
21 home care services through a direct agreement with a client.

22 (t) *“Registered home care aide” means an affiliated home care*
23 *aide or independent home care aide who is 18 years of age or*
24 *older and is listed on the home care aide registry.*

25 SEC. 2. Section 1796.14 of the Health and Safety Code is
26 amended to read:

27 1796.14. (a) Individuals who are not employed by a home care
28 organization *or referred by a home care aide domestic referral*
29 *agency* but who provide home care services to a client may be
30 listed on the home care aide registry.

31 (b) An affiliated home care aide shall be listed on the home care
32 aide registry prior to providing home care services *through a home*
33 *care organization. An independent home care aide shall be listed*
34 *on the home care aide registry prior to being referred by a home*
35 *care aide domestic referral agency* to a client.

36 (c) (1) Home care aides shall not include individuals who are
37 providing home care services as part of their job duties through
38 one of the following entities:

39 (A) Services authorized to be provided by a licensed home
40 health agency under Chapter 8 (commencing with Section 1725).

- 1 (B) Services authorized to be provided by a licensed hospice
2 pursuant to Chapter 8.5 (commencing with Section 1745).
- 3 (C) Services authorized to be provided by a licensed health
4 facility pursuant to Chapter 2 (commencing with Section 1250).
- 5 (D) In-home supportive services provided pursuant to Article
6 7 (commencing with Section 12300) of Chapter 3 of Part 3 of
7 Division 9 of, or Section 14132.95, 14132.952, or 14132.956 of,
8 the Welfare and Institutions Code.
- 9 (E) A community care facility licensed pursuant to Chapter 3
10 (commencing with Section 1500), a residential care facility for
11 persons with chronic life-threatening illness licensed pursuant to
12 Chapter 3.01 (commencing with Section 1568.01), a residential
13 care facility for the elderly licensed pursuant to Chapter 3.2
14 (commencing with Section 1569), or a facility licensed pursuant
15 to the California Child Day Care Facilities Act, (Chapter 3.4
16 (commencing with Section 1596.70)), which includes day care
17 centers, as described in Chapter 3.5 (commencing with Section
18 1596.90), family day care homes, as described in Chapter 3.6
19 (commencing with Section 1597.30), and employer-sponsored
20 child care centers, as described in Chapter 3.65 (commencing with
21 Section 1597.70).
- 22 (F) A clinic licensed pursuant to Section 1204 or 1204.1.
- 23 (G) A home medical device retail facility licensed pursuant to
24 Section 111656.
- 25 (H) An organization vendored or contracted through a regional
26 center or the State Department of Developmental Services pursuant
27 to the Lanterman Developmental Disabilities Services Act (Chapter
28 1 (commencing with Section 4500) of Division 4.5 of the Welfare
29 and Institutions Code) and the California Early Intervention
30 Services Act (Title 14 (commencing with Section 95000) of the
31 Government Code) to provide services and supports for persons
32 with developmental disabilities, as defined in Section 4512 of the
33 Welfare and Institutions Code, when funding for those services is
34 provided through the State Department of Developmental Services
35 and more than 50 percent of the recipients of the home care services
36 provided by the organization are persons with developmental
37 disabilities.
- 38 (I) An alcoholism or drug abuse recovery or treatment facility
39 as defined in Section 11834.02.

1 (J) A facility in which only Indian children who are eligible
2 under the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901
3 et seq.) are placed and is either of the following:

4 (i) An extended family member of the Indian child, as defined
5 in Section 1903 of Title 25 of the United States Code.

6 (ii) A foster home that is licensed, approved, or specified by the
7 Indian child's tribe pursuant to Section 1915 of Title 25 of the
8 United States Code.

9 (2) Home care aides shall not include individuals providing
10 services authorized to be provided pursuant to Section 2731 of the
11 Business and Professions Code.

12 (d) Home care aides shall not include a nonrelative extended
13 family member, as defined in Section 362.7 of the Welfare and
14 Institutions Code.

15 (e) In the event of a conflict between this chapter and a provision
16 listed in subdivision (b), (c), or (d), the provision in subdivision
17 (b), (c), or (d) shall control.

18 SEC. 3. Section 1796.17 of the Health and Safety Code is
19 amended to read:

20 1796.17. (a) Each home care organization *and each home care*
21 *aide domestic referral agency* shall be separately licensed. Nothing
22 in this chapter shall prevent a licensee from obtaining more than
23 one ~~home care organization~~ license or obtaining a ~~home care~~
24 ~~organization~~ license in addition to other licenses issued by the
25 department, or both.

26 (b) A home care organization *or a home care aide domestic*
27 *referral agency* shall not include the following:

28 (1) A home health agency licensed under Chapter 8
29 (commencing with Section 1725).

30 (2) A hospice licensed under Chapter 8.5 (commencing with
31 Section 1745).

32 (3) A health facility licensed under Chapter 2 (commencing
33 with Section 1250).

34 (4) A person who performs services through the In-Home
35 Supportive Services program pursuant to Article 7 (commencing
36 with Section 12300) of Chapter 3 of Part 3 of Division 9 of, or
37 Section 14132.95, 14132.952, or 14132.956 of, the Welfare and
38 Institutions Code.

39 (5) A home medical device retail facility licensed under Section
40 111656.

1 (6) An organization vendored or contracted through a regional
2 center or the State Department of Developmental Services pursuant
3 to the Lanterman Developmental Disabilities Services Act
4 (Division 4.5 (commencing with Section 4500) of the Welfare and
5 Institutions Code) and the California Early Intervention Services
6 Act (Title 14 (commencing with Section 95000) of the Government
7 Code) to provide services and supports for persons with
8 developmental disabilities, as defined in Section 4512 of the
9 Welfare and Institutions Code, when funding for those services is
10 provided through the State Department of Developmental Services
11 and more than 50 percent of the recipients of the home care services
12 provided by the organization are persons with developmental
13 disabilities.

14 (7) An employment agency, as defined in Section 1812.5095
15 of the Civil Code, *Code and Section 687.2 of the Unemployment*
16 *Insurance Code*, that procures, offers, refers, provides, or attempts
17 to provide ~~an independent home care aide who provides home care~~
18 ~~services clients; a domestic worker, except an employment agency~~
19 *that is a home care aide domestic referral agency as defined in*
20 *subdivision (i) of Section 1796.12.*

21 (8) A community care facility licensed pursuant to Chapter 3
22 (commencing with Section 1500), a residential care facility for
23 persons with chronic life-threatening illness licensed pursuant to
24 Chapter 3.01 (commencing with Section 1568.01), a residential
25 care facility for the elderly licensed pursuant to Chapter 3.2
26 (commencing with Section 1569), or a facility licensed pursuant
27 to the California Child Day Care Facilities Act (Chapter 3.4
28 (commencing with Section 1596.70)), which includes day care
29 centers, as described in Chapter 3.5 (commencing with Section
30 1596.90), family day care homes, as described in Chapter 3.6
31 (commencing with Section 1597.30), and employer-sponsored
32 child care centers, as described in Chapter 3.65 (commencing with
33 Section 1597.70).

34 (9) An alcoholism or drug abuse recovery or treatment facility
35 as defined in Section 11834.02.

36 (10) A person providing services authorized pursuant to Section
37 2731 of the Business and Professions Code.

38 (11) A clinic licensed pursuant to Section 1204 or 1204.1.

39 (12) A nonrelative extended family member, as defined in
40 Section 362.7 of the Welfare and Institutions Code.

1 (13) A facility providing home care services in which only
2 Indian children who are eligible under the federal Indian Child
3 Welfare Act (25 U.S.C. Sec. 1901 et seq.) are placed and which
4 satisfies either of the following:

5 (A) An extended family member of the Indian child, as defined
6 in Section 1903 of Title 25 of the United States Code.

7 (B) A foster home that is licensed, approved, or specified by
8 the Indian child's tribe pursuant to Section 1915 of Title 25 of the
9 United States Code.

10 (14) Any other individual or entity providing services similar
11 to those described in this chapter, as determined by the director.

12 (c) In the event of a conflict between this chapter and a provision
13 listed in subdivision (b), the provision in subdivision (b) shall
14 control.

15 SEC. 4. Section 1796.22 of the Health and Safety Code is
16 amended to read:

17 1796.22. Any individual who has submitted a home care aide
18 application and who possesses any one of the following
19 identification cards may initiate a background examination to be
20 a registered home care aide:

21 (a) A valid California driver's license.

22 (b) A valid identification card issued by the Department of
23 Motor Vehicles.

24 (c) A valid Alien Registration *Receipt Card or valid Permanent*
25 *Resident Card*.

26 (d) In the case of a person living in a state other than California,
27 a valid numbered photo identification card issued by an agency of
28 the state other than California.

29 SEC. 5. Section 1796.24 of the Health and Safety Code is
30 amended to read:

31 1796.24. (a) (1) The department shall establish a home care
32 aide registry pursuant to this chapter and shall continuously update
33 the registry information. Upon submission of the home care aide
34 application and fingerprints or other identification documents
35 pursuant to Section 1796.22, the department shall enter into the
36 home care aide registry the person's name, identification number,
37 and an indicator that the person has submitted a home care aide
38 application and fingerprints or identification documentation. This
39 person shall be known as a "home care aide applicant."

1 (2) A person shall not be entitled to apply to be a registered
2 home care aide and shall have his or her registration application
3 returned without the right to appeal if the person would not be
4 eligible to obtain a license pursuant to Section 1796.40 or 1796.41.

5 (b) (1) Before approving an individual for registration, the
6 department shall check the individual's criminal history pursuant
7 to Section 1522. Upon completion of the searches of the state
8 summary criminal offender record information and the records of
9 the Federal Bureau of Investigation, the home care aide applicant
10 shall be issued a criminal record clearance or granted a criminal
11 record exemption if grounds do not exist for denial pursuant to
12 Section 1522. The department shall enter that finding in the
13 person's record in the home care aide registry and shall notify the
14 person of the action. This person shall be known as a "registered
15 home care aide." If the home care aide applicant meets all of the
16 conditions for registration, except receipt of the Federal Bureau
17 of Investigation's criminal offender record information search
18 response, the department may issue a clearance if the home care
19 aide applicant has signed and submitted a statement that he or she
20 has never been convicted of a crime in the United States, other
21 than a minor traffic violation. If, after approval, the department
22 determines that the registrant has a criminal record, registration
23 may be revoked pursuant to Section 1796.26.

24 (2) For purposes of compliance with this section, the department
25 may permit a home care organization ~~applicant or applicant, a~~
26 *home care aide domestic referral agency applicant*, a home care
27 organization ~~licensee licensee, or a home care aide domestic~~
28 *referral agency licensee* to request the transfer of a home care
29 aide's current criminal record clearance or exemption for a licensed
30 care facility issued by the department. A signed criminal record
31 clearance or exemption transfer request shall be submitted to the
32 department and shall include a copy of the person's driver's license
33 or valid identification card issued by the Department of Motor
34 Vehicles, or a valid photo identification issued by another state or
35 the United States government if the person is not a California
36 resident. Upon request of the licensee or home care aide applicant,
37 the department shall verify whether the individual has a clearance
38 or exemption that can be transferred pursuant to the requirements
39 of this chapter.

1 (3) The department shall hold criminal record clearances and
2 exemptions in its active files for a minimum of three years after
3 the individual is no longer on the registry in order to facilitate a
4 transfer request.

5 SEC. 6. Section 1796.29 of the Health and Safety Code is
6 amended to read:

7 1796.29. The department shall do both of the following in the
8 administration of the home care aide registry:

9 (a) Establish and maintain on the department's Internet Web
10 site the registry of registered home care aides and home care aide
11 applicants.

12 (1) To expedite the ability of a consumer to search and locate
13 a registered home care aide or home care aide applicant, the
14 Internet Web site shall enable consumers to look up the registration
15 status by providing the registered home care aide's or home care
16 aide applicant's name, registration number, registration status,
17 registration expiration date, and, if applicable, the home care
18 organization with which the affiliated home care aide is *associated*
19 *or the home care aide domestic referral agency with which the*
20 *independent home care aide is associated.*

21 (2) The Internet Web site shall not provide any additional,
22 individually identifiable information about a registered home care
23 aide or home care aide applicant. The department may request and
24 may maintain additional information for registered home care aides
25 or home care aide applicants, as necessary for the administration
26 of this chapter, which shall not be publicly available on the home
27 care aide registry.

28 (3) *The Internet Web site shall distinguish between an affiliated*
29 *and independent home care aide for purposes of informing*
30 *potential consumers and the public of the differences between the*
31 *two classifications.*

32 (4) *A home care aide may be registered simultaneously as an*
33 *affiliated and independent home care aide, and may be affiliated*
34 *with more than one home care organization simultaneously or*
35 *associated with more than one home care aide domestic referral*
36 *agency simultaneously. A registered home care aide may be*
37 *affiliated with home care organizations and associated with home*
38 *care aide domestic referral agencies simultaneously.*

39 (b) Update the home care registry upon receiving notification
40 from a home care organization ~~that an affiliated~~ *or a home care*

1 *aide domestic referral agency that the home care aide is no longer*
 2 *employed by the home care—organization; organization or*
 3 *associated with the home care domestic referral agency.*

4 SEC. 7. Section 1796.32 of the Health and Safety Code is
 5 amended to read:

6 1796.32. ~~Any~~ *An individual who has submitted an application*
 7 *and who possesses any one of the following identification cards*
 8 *may initiate a background examination to be a licensed home care*
 9 ~~*organization; organization or a licensed home care aide domestic*~~
 10 ~~*referral agency:*~~

- 11 (a) A valid California driver’s license.
- 12 (b) A valid identification card issued by the Department of
 13 Motor Vehicles.
- 14 (c) A valid Alien Registration *Receipt Card or a valid*
 15 *Permanent Resident Card.*
- 16 (d) In the case of a person living in a state other than California,
 17 a valid numbered photo identification card issued by an agency of
 18 the state other than California.

19 SEC. 8. Section 1796.33 of the Health and Safety Code is
 20 amended to read:

21 1796.33. ~~In order to~~ *(a) To obtain a home care organization*
 22 ~~*license, license or a home care aide domestic referral agency*~~
 23 ~~*license,*~~ the following individual or individuals shall consent to
 24 the background examination described in Section 1796.23:

- 25 (a)
- 26 (1) The owner of the ~~home care organization;~~ *applicant,* if the
 27 owner is an individual.
- 28 (b)
- 29 (2) If the owner of a ~~home care organization~~ *the applicant* is a
 30 corporation, limited liability company, joint venture, association,
 31 or other entity, an individual having a 10-percent or greater
 32 ownership in that entity and the chief executive officer or other
 33 person serving in a similar capacity. The department shall not issue
 34 a provisional license or license to any corporate home care
 35 organization applicant that has a member of the board of directors,
 36 executive director, or officer who is not eligible for licensure
 37 pursuant to Sections 1796.40 and 1796.41.
- 38 (b) *A person who is a current licensee or employee in a facility*
 39 *licensed by the department, a certified foster parent, a certified*
 40 *administrator, or a registered TrustLine provider may transfer his*

1 *or her current criminal record clearance or exemption for purposes*
 2 *of licensure pursuant to this chapter pursuant to subdivision (h)*
 3 *of Section 1522. The person shall, instead, submit to the*
 4 *department, along with the person’s application, a copy of his or*
 5 *her identification card, as required pursuant to Section 1522, and*
 6 *a declaration verifying the person’s identity that is signed under*
 7 *penalty of perjury.*

8 SEC. 9. Section 1796.34 of the Health and Safety Code is
 9 amended to read:

10 1796.34. (a) A person or a private or public organization, with
 11 the exception of any person who performs in-home supportive
 12 services through the In-Home Supportive Services program
 13 pursuant to Article 7 (commencing with Section 12300) of Chapter
 14 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or
 15 Section 14132.95, 14132.952, or 14132.956 of the Welfare and
 16 Institutions Code, and the exceptions provided for in subdivision
 17 ~~(b)~~, (c), shall not do any of the following, unless it is a *licensed*
 18 *home care organization* licensed pursuant to this chapter:

19 (1) Own, manage, or represent himself, ~~herself herself~~, or itself
 20 to be a home care organization by name, advertising, soliciting,
 21 or any other presentments to the public, or in the context of services
 22 within the scope of this chapter, imply that he, she, or it is licensed
 23 to provide those services or to make any reference to employee
 24 bonding in relation to those services.

25 (2) Use the terms “home care organization,” “home care,”
 26 “in-home care,” or any combination of those terms, within its
 27 name.

28 ~~(b) This section does not apply to either of the following:~~

29 ~~(1) Any person who performs in-home supportive services~~
 30 ~~through the In-Home Supportive Services program pursuant to~~
 31 ~~Article 7 (commencing with Section 12300) of Chapter 3 of Part~~
 32 ~~3 of Division 9 of, or Section 14132.95, 14132.952, or 14132.956~~
 33 ~~of, the Welfare and Institutions Code.~~

34 ~~(2) An employment agency, as defined in Section 1812.5095~~
 35 ~~of the Civil Code, that procures, offers, refers, provides, or attempts~~
 36 ~~to provide an independent home care aide who provides home care~~
 37 ~~to clients.~~

38 *(b) A person or a private or public organization, except a county*
 39 *providing in-home supportive services pursuant to Article 7*
 40 *(commencing with Section 12300) of Chapter 3 of Part 3 of*

1 *Division 9 of the Welfare and Institutions Code, and the exceptions*
 2 *provided for in subdivision (c), shall not do any of the following,*
 3 *unless it is a licensed home care aide domestic referral agency:*

4 (1) *Represent himself, herself, or itself to be a home care aide*
 5 *domestic referral agency by name, advertising, soliciting, or any*
 6 *other presentment to the public, or in the context of services within*
 7 *the scope of this chapter, imply that he, she, or it is licensed to*
 8 *provide those services or to make any reference to employment*
 9 *agency or bonding in relation to those services.*

10 (2) *Include in its name the term “home care aide domestic*
 11 *referral agency,” “home care organization,” “home care,”*
 12 *“in-home care,” or any combination of those terms.*

13 (c) (1) *This section does not apply to a person who performs*
 14 *in-home supportive services through the In-Home Supportive*
 15 *Services program pursuant to Article 7 (commencing with Section*
 16 *12300) of Chapter 3 of Part 3 of Division 9 of, or Section 14132.95,*
 17 *14132.952, or 14132.956 of, the Welfare and Institutions Code.*

18 (2) *Subdivision (a) does not apply to a home care aide domestic*
 19 *referral agency organization.*

20 (3) *Subdivision (b) does not apply to a home care organization.*

21 SEC. 10. Section 1796.36 of the Health and Safety Code is
 22 amended to read:

23 1796.36. (a) *A home care organization or a home care aide*
 24 *domestic referral agency that has its principal place of business*
 25 *in another state, in addition to the other requirements of this*
 26 *chapter, before arranging for home care services provided by an*
 27 *affiliated a registered home care aide to a client in the state, shall*
 28 *comply with all of the following:*

29 (1) *Have an office in California.*

30 (2) *Maintain all pertinent records of the operation in California*
 31 *at the California office. All records shall be available to review,*
 32 *copy, audit, and inspect by the department.*

33 (b) *If the home care organization or home care aide domestic*
 34 *referral agency is a foreign corporation, foreign limited liability*
 35 *company, foreign limited partnership, foreign association, or a*
 36 *foreign limited liability partnership, as defined in Sections 170,*
 37 *171, 171.03, 171.05, and 16101 of the Corporations Code, before*
 38 *arranging for home care services provided by an affiliated a*
 39 *registered home care aide to a client in the state, the home care*
 40 *organization or home care aide domestic referral agency shall*

1 have an office in California and shall comply with both of the
2 following:

3 (1) Register with the Secretary of State to conduct intrastate
4 business in California.

5 (2) Maintain all pertinent records of the operation in California
6 at the California office. All records shall be available to review,
7 copy, audit, and inspect by the department.

8 SEC. 11. Section 1796.37 of the Health and Safety Code is
9 amended to read:

10 1796.37. (a) The department ~~may~~ *shall* issue a home care
11 organization license to a home care organization applicant that
12 satisfies the requirements set forth in this chapter, including all of
13 the following:

14 (1) Files a complete home care organization application,
15 including the fees required pursuant to Section 1796.49.

16 (2) Submits proof of general and professional liability insurance
17 in the amount of at least one million dollars (\$1,000,000) per
18 occurrence and three million dollars (\$3,000,000) in the aggregate.

19 (3) Submits proof of a valid workers' compensation policy
20 covering its affiliated home care aides. The proof shall consist of
21 the policy number, the effective and expiration dates of the policy,
22 and the name and address of the policy carrier.

23 (4) Submits proof of an employee dishonesty bond, including
24 third-party coverage, with a minimum limit of ten thousand dollars
25 (\$10,000). This proof shall be submitted at each subsequent
26 renewal.

27 (5) Provides the department, upon request, with a complete list
28 of its affiliated home care aides, and proof that each satisfies the
29 requirements of Sections 1796.43, 1796.44, and 1796.45.

30 (6) Passes a background examination, as required pursuant to
31 Section 1796.33.

32 (7) Completes a department orientation.

33 (8) Does not have any outstanding fees or civil penalties due to
34 the department.

35 (9) Discloses prior or present service as an administrator, general
36 partner, corporate ~~officer~~ *officer*, or director of, or discloses that
37 he or she has held or holds a beneficial ownership of 10 percent
38 or more in, any of the following:

39 (A) A community care facility, as defined in Section 1502.

40 (B) A residential care facility, as defined in Section 1568.01.

- 1 (C) A residential care facility for the elderly, as defined in
2 Section 1569.2.
- 3 (D) A child day care facility, as defined in Section 1596.750.
- 4 (E) A day care center, as described in Chapter 3.5 (commencing
5 with Section 1596.90).
- 6 (F) A family day care home, as described in Chapter 3.6
7 (commencing with Section 1597.30).
- 8 (G) An employer-sponsored child care center, as described in
9 Chapter 3.65 (commencing with Section 1597.70).
- 10 (H) A home care organization licensed pursuant to this chapter.
- 11 (10) Discloses any revocation or other disciplinary action taken,
12 or in the process of being taken, against a license held or previously
13 held by the entities specified in paragraph (9).
- 14 (11) Provides evidence that every member of the board of
15 directors, if applicable, understands his or her legal duties and
16 obligations as a member of the board of directors and that the home
17 care organization’s operation is governed by laws and regulations
18 that are enforced by the department.
- 19 (12) Provides any other information as may be required by the
20 department for the proper administration and enforcement of this
21 chapter.
- 22 (13) Cooperates with the department in the completion of the
23 home care organization license application process. Failure of the
24 home care organization licensee to cooperate may result in the
25 withdrawal of the home care organization license application.
26 “Failure to cooperate” means that the information described in this
27 chapter and in any rules and regulations promulgated pursuant to
28 this chapter has not been provided, or not provided in the form
29 requested by the department, or both.
- 30 (b) A home care organization licensee shall renew the home
31 care organization license every two years. The department may
32 renew a home care organization license if the licensee satisfies the
33 requirements set forth in this chapter, including all of the following:
34 (1) Files a complete home care organization license renewal
35 application, including the nonrefundable fees required pursuant to
36 Section 1796.49, both of which shall be postmarked on or before
37 the expiration of the license.
- 38 (2) Submits proof of general and professional liability insurance
39 in the amount of at least one million dollars (\$1,000,000) per
40 occurrence and three million dollars (\$3,000,000) in the aggregate.

1 (3) Submits proof of a valid workers' compensation policy
2 covering its affiliated home care aides. The proof shall consist of
3 the policy number, the effective and expiration dates of the policy,
4 and the name and address of the policy carrier.

5 (4) Submits proof of an employee dishonesty bond, including
6 third-party coverage, with a minimum limit of ten thousand dollars
7 (\$10,000).

8 (5) Does not have any outstanding fees or civil penalties due to
9 the department.

10 (6) Provides any other information as may be required by the
11 department for the proper administration and enforcement of this
12 chapter.

13 (7) Cooperates with the department in the completion of the
14 home care organization license renewal process. Failure of the
15 home care organization licensee to cooperate may result in the
16 withdrawal of the home care organization license renewal
17 application. "Failure to cooperate" means that the information
18 described in this chapter and in any rules and regulations
19 promulgated pursuant to this chapter has not been provided, or not
20 provided in the form requested by the department, or both.

21 (c) (1) The department shall notify a licensed home care
22 organization in writing of its registration expiration date and the
23 process of renewal.

24 (2) Written notification pursuant to this subdivision shall be
25 mailed to the registered home care organization's mailing address
26 of record at least 60 days before the registration expiration date.

27 *(d) The department shall issue a home care aide domestic
28 referral agency license to a home care aide domestic referral
29 agency applicant that satisfies the requirements set forth in this
30 chapter, including, but not limited to, all of the following:*

31 *(1) Has filed a complete home care aide domestic referral
32 agency application, including payment of the fees required
33 pursuant to subdivision (b) of Section 1796.49.*

34 *(2) Has submitted proof of general and professional liability
35 insurance in the amount of at least one million dollars (\$1,000,000)
36 per occurrence and three million dollars (\$3,000,000) in the
37 aggregate.*

38 *(3) Has submitted evidence of compliance with the bond
39 requirements in accordance with Section 1812.503 of the Civil
40 Code.*

- 1 (4) *Has provided, if requested by the department, a list of*
2 *independent home care aides receiving referrals from the home*
3 *care aide domestic referral agency and proof that each of them*
4 *satisfies the requirements of Sections 1796.43, 1796.44, and*
5 *1796.45.*
- 6 (5) *The owner or owners of the home care aide domestic referral*
7 *agency has passed a background examination pursuant to Section*
8 *1796.33.*
- 9 (6) *The applicant is current in full payment of all fees or civil*
10 *penalties that the applicant owed the department.*
- 11 (7) *Has completed an orientation provided by the department.*
- 12 (8) *Has disclosed prior or present service as an administrator,*
13 *general partner, corporate officer, or director of, or has disclosed*
14 *that he or she has held or holds a beneficial ownership of 10*
15 *percent or more in, any of the following:*
- 16 (A) *A community care facility, as defined in Section 1502.*
- 17 (B) *A residential care facility, as defined in Section 1568.01.*
- 18 (C) *A residential care facility for the elderly, as defined in*
19 *Section 1569.2.*
- 20 (D) *A child day care facility, as defined in Section 1596.750.*
- 21 (E) *A day care center, as described in Chapter 3.5 (commencing*
22 *with Section 1596.90).*
- 23 (F) *A family day care home, as described in Chapter 3.6*
24 *(commencing with Section 1597.30).*
- 25 (G) *An employer-sponsored child care center, as described in*
26 *Chapter 3.65 (commencing with Section 1597.70).*
- 27 (H) *A home care aide domestic referral agency licensed*
28 *pursuant to this chapter.*
- 29 (9) *Has disclosed any revocation or other disciplinary action*
30 *taken, or in the process of being taken, against a license held or*
31 *previously held by an entity specified in paragraph (8).*
- 32 (10) *Has provided evidence that every member of the board of*
33 *directors, if applicable, understands his or her legal duties and*
34 *obligations as a member of the board of directors and that the*
35 *home care aide domestic referral agency's operation is governed*
36 *by laws and regulations that are enforced by the department.*
- 37 (11) *Has provided any other information required by the*
38 *department for the proper administration and enforcement of this*
39 *chapter.*

1 (12) (A) *Has cooperated with the department in the completion*
2 *of the home care aide domestic referral agency license application*
3 *process.*

4 (B) *The department may withdraw a home care aide domestic*
5 *referral agency license application if the applicant fails to*
6 *cooperate with the department in the application process. “Fails*
7 *to cooperate” means that the information described in this chapter*
8 *and in any rules and regulations adopted pursuant to this chapter*
9 *has not been provided, or not provided in the form requested by*
10 *the department, or both.*

11 (e) *A home care aide domestic referral agency licensee shall*
12 *renew the home care aide domestic referral agency license every*
13 *two years. The department may renew a home care aide domestic*
14 *referral agency license if the licensee satisfies the requirements*
15 *set forth in this chapter, including, but not limited to, all of the*
16 *following:*

17 (1) *Has filed a complete home care aide domestic referral*
18 *agency license renewal application, including payment of the*
19 *nonrefundable fees required pursuant to subdivision (b) of Section*
20 *1796.49, both of which shall be postmarked on or before the license*
21 *expiration date.*

22 (2) *Has submitted proof of general and professional liability*
23 *insurance in the amount of at least one million dollars (\$1,000,000)*
24 *per occurrence and three million dollars (\$3,000,000) in the*
25 *aggregate.*

26 (3) *Submits evidence of compliance with the bond requirements,*
27 *in accordance with Section 1812.503 of the Civil Code.*

28 (4) *Is current in payment in full of any fees or civil penalties*
29 *due to the department.*

30 (5) *Has provided any other information required by the*
31 *department for the proper administration and enforcement of this*
32 *chapter.*

33 (6) (A) *Has cooperated with the department in the completion*
34 *of the home care aide domestic referral agency license renewal*
35 *process.*

36 (B) *The department may withdraw an application for a renewal*
37 *of a home care aide domestic referral agency license if the*
38 *applicant fails to cooperate with the department in the application*
39 *process. “Fails to cooperate” means that the information described*
40 *in this chapter and in any rules and regulations adopted pursuant*

1 *to this chapter has not been provided, or not provided in the form*
 2 *requested by the department, or both.*

3 (f) (1) *The department shall notify a licensed home care aide*
 4 *domestic referral agency in writing of its registration expiration*
 5 *date and the process to renew a license.*

6 (2) *Written notification pursuant to this subdivision shall be*
 7 *mailed to the registered home care aide domestic referral agency's*
 8 *mailing address of record at least 60 days before the registration*
 9 *expiration date.*

10 (g) *Each home care aide domestic referral agency shall be*
 11 *separately licensed.*

12 (h) *This chapter does not prevent a licensee from obtaining*
 13 *more than one home care aide domestic referral agency license*
 14 *or obtaining a home care aide domestic referral agency license*
 15 *in addition to another license issued by the department, or both.*

16 SEC. 12. Section 1796.38 of the Health and Safety Code is
 17 amended to read:

18 1796.38. The department may deny an application for licensure
 19 or suspend or revoke any license issued pursuant to this chapter,
 20 pursuant to Sections 1550.5 and 1551 and in the manner provided
 21 in this chapter on any of the following grounds:

22 (a) Violation by the licensee of this chapter or of the rules and
 23 regulations promulgated under this chapter.

24 (b) Aiding, abetting, or permitting the violation of this chapter
 25 or of the rules and regulations promulgated under this chapter.

26 (c) Conduct which is inimical to the health, morals, welfare, or
 27 safety of either an individual receiving home care services or the
 28 people of the State of California.

29 (d) The conviction of a licensee, or other person mentioned in
 30 Section 1522, at any time before or during licensure, of a crime
 31 as defined in Section 1522.

32 (e) Engaging in acts of financial malfeasance concerning the
 33 operation of a home care ~~organization~~ *organization or a home*
 34 *care aide domestic referral agency.*

35 SEC. 13. Section 1796.40 of the Health and Safety Code is
 36 amended to read:

37 1796.40. (a) (1) If an application for a ~~home care organization~~
 38 *license under this chapter* indicates, or the department determines
 39 during the application review process, that the home care
 40 *organization applicant or the home care aide domestic referral*

1 *agency applicant* was previously issued a license under this chapter
2 or under Chapter 1 (commencing with Section 1200), Chapter 2
3 (commencing with Section 1250), Chapter 3 (commencing with
4 Section 1500), Chapter 3.01 (commencing with Section 1568.01),
5 Chapter 3.2 (commencing with Section 1569), Chapter 3.4
6 (commencing with Section 1596.70), Chapter 3.5 (commencing
7 with Section 1596.90), Chapter 3.6 (commencing with Section
8 1597.30), or Chapter 3.65 (commencing with Section 1597.70),
9 and the prior license was revoked within the preceding two years,
10 the department shall cease any further review of the application
11 until two years have elapsed from the date of the revocation. ~~All~~
12 ~~A home care organizations are~~ *organization or a home care aide*
13 *domestic referral agency* is exempt from the health planning
14 requirements contained in Part 2 (commencing with Section
15 127125) of Division 107.

16 (2) If an application for a license indicates, or the department
17 determines during the application review process, that the ~~home~~
18 ~~care organization~~ applicant previously was issued a certificate of
19 approval by a foster family agency that was revoked by the
20 department pursuant to subdivision (b) of Section 1534 within the
21 preceding two years, the department shall cease any further review
22 of the application until two years have elapsed from the date of
23 the revocation.

24 (3) If an application for a license indicates, or the department
25 determines during the application review process, that the ~~home~~
26 ~~care organization~~ applicant was excluded from a facility licensed
27 by the department pursuant to Section 1558, 1568.092, 1569.58,
28 or 1596.8897, the department shall cease any further review of the
29 application unless the excluded individual has been reinstated
30 pursuant to Section 11522 of the Government Code by the
31 department.

32 (b) If an application for a license indicates, or the department
33 determines during the application review process, that the ~~home~~
34 ~~care organization~~ applicant had previously applied for a license
35 pursuant to any of the chapters listed in paragraph (1) of
36 subdivision (a) and the application was denied within the last year,
37 the department shall cease further review of the application until
38 one year has elapsed from the date of the denial letter. In those
39 circumstances in which denials are appealed and upheld at an

1 administrative hearing, review of the application shall cease for
2 one year from the date of the decision and order of the department.

3 (c) If an application for a license indicates, or the department
4 determines during the application review process, that the ~~home~~
5 ~~care organization~~ applicant had previously applied for a certificate
6 of approval with a foster family agency and the department ordered
7 the foster family agency to deny the application pursuant to
8 subdivision (b) of Section 1534, the department shall cease further
9 review of the application as follows:

10 (1) In cases where the ~~home care organization~~ applicant
11 petitioned for a hearing, the department shall cease further review
12 of the application until one year has elapsed from the effective
13 date of the decision and order of the department upholding the
14 denial.

15 (2) In cases where the department informed the ~~home care~~
16 ~~organization~~ applicant of his or her right to petition for a hearing
17 and the ~~home care organization~~ applicant did not petition for a
18 hearing, the department shall cease further review of the application
19 until one year has elapsed from the date of the notification of the
20 denial and the right to petition for a hearing.

21 (3) The department may continue to review the application if
22 it has determined that the reasons for the denial of the application
23 were due to circumstances and conditions that either have been
24 corrected or are no longer in existence.

25 (d) Cessation of review pursuant to this section does not
26 constitute a denial of the application.

27 SEC. 14. Section 1796.41 of the Health and Safety Code is
28 amended to read:

29 1796.41. (a) (1) If the department determines that a person
30 was issued a license pursuant to this chapter or Chapter 1
31 (commencing with Section 1200), Chapter 2 (commencing with
32 Section 1250), Chapter 3 (commencing with Section 1500), Chapter
33 3.01 (commencing with Section 1568.01), Chapter 3.2
34 (commencing with Section 1569), Chapter 3.4 (commencing with
35 Section 1596.70), Chapter 3.5 (commencing with Section 1596.90),
36 Chapter 3.6 (commencing with Section 1597.30), or Chapter 3.65
37 (commencing with Section 1597.70), and the prior license was
38 revoked within the preceding two years, the department shall
39 exclude the person from acting as, and require the home care
40 organization *or home care aide domestic referral agency* to remove

1 him or her from his or her position as, a member of the board of
2 directors, an executive director, or an officer of a licensee of ~~any~~
3 ~~a home care organizations organization or a home care aide~~
4 ~~domestic referral agency~~ licensed by the department pursuant to
5 this chapter.

6 (2) If the department determines that a person was previously
7 issued a certificate of approval by a foster family agency that was
8 revoked by the department pursuant to subdivision (b) of Section
9 1534 within the preceding two years, the department shall exclude
10 the person from acting as, and require the home care organization
11 ~~or home care aide domestic referral agency~~ to remove him or her
12 from his or her position as, a member of the board of directors, an
13 executive director, or an officer of a licensee of, ~~any a home care~~
14 ~~organizations organization or home care aide domestic referral~~
15 ~~agency~~ licensed by the department pursuant to this chapter.

16 (b) If the department determines that the person had previously
17 applied for a license under any of the chapters listed in paragraph
18 (1) of subdivision (a) and the application was denied within the
19 last year, the department shall exclude the person from acting as,
20 and require the home care organization ~~or home care aide domestic~~
21 ~~referral agency~~ to remove him or her from his or her position as,
22 a member of the board of directors, an executive director, or an
23 officer of a licensee of ~~any a home care organizations organization~~
24 ~~or home care aide domestic referral agency~~ licensed by the
25 department pursuant to this chapter as follows:

26 (1) In cases where the home care organization applicant ~~or home~~
27 ~~care aide domestic referral agency applicant~~ petitioned for a
28 hearing, the department shall exclude the person from acting as,
29 and require the home care organization ~~or home care aide domestic~~
30 ~~referral agency~~ to remove him or her from his or her position as,
31 a member of the board of directors, an executive director, or an
32 officer of a licensee of, ~~any a home care organizations organization~~
33 ~~or home care aide domestic referral agency~~ licensed by the
34 department pursuant to this chapter until one year has elapsed from
35 the effective date of the decision and order of the department
36 upholding a denial.

37 (2) In cases where the department informed the home care
38 organization applicant ~~or home care aide domestic referral agency~~
39 ~~applicant~~ of his or her right to petition for a hearing and the home
40 care organization applicant ~~or home care aide domestic referral~~

1 *agency applicant* did not petition for a hearing, the department
 2 shall exclude the person from acting as, and require the home care
 3 organization *or home care aide domestic referral agency* to remove
 4 him or her from his or her position as, a member of the board of
 5 directors, an executive director, or an officer of a licensee of, ~~any~~
 6 ~~a home care organizations~~ *organization or home care aide domestic*
 7 *referral agency* licensed by the department pursuant to this chapter
 8 until one year has elapsed from the date of the notification of the
 9 denial and the right to petition for a hearing.

10 (c) If the department determines that the person had previously
 11 applied for a certificate of approval with a foster family agency
 12 and the department ordered the foster family agency to deny the
 13 application pursuant to subdivision (b) of Section 1534, the
 14 department shall exclude the person from acting as, and require
 15 the home care organization *or home care aide domestic referral*
 16 *agency* to remove him or her from his or her position as, a member
 17 of the board of directors, an executive director, or an officer of a
 18 licensee of, ~~any a home care organizations~~ *or home care aide*
 19 *domestic referral agency* licensed by the department pursuant to
 20 this chapter and as follows:

21 (1) ~~In cases where the~~ *If the* home care organization applicant
 22 *or home care aide domestic referral agency applicant* petitioned
 23 for a hearing, the department shall exclude the person from acting
 24 as, and require the home care organization *or home care aide*
 25 *domestic referral agency* to remove him or her from his or her
 26 position as, a member of the board of directors, an executive
 27 director, or an officer of a licensee of, ~~any a home care~~
 28 ~~organizations~~ *organization or home care aide domestic referral*
 29 *agency* licensed by the department pursuant to this chapter until
 30 one year has elapsed from the effective date of the decision and
 31 order of the department upholding a denial.

32 (2) ~~In cases where~~ *If* the department informed the home care
 33 organization applicant *or home care aide domestic referral agency*
 34 *applicant* of his or her right to petition for a hearing and the home
 35 care organization applicant *or home care aide domestic referral*
 36 *agency applicant* did not petition for a hearing, the department
 37 shall exclude the person from acting as, and require the home care
 38 organization *or home care aide domestic referral agency* to remove
 39 him or her from his or her position as, a member of the board of
 40 directors, an executive director, or an officer of a licensee of, ~~any~~

1 ~~a home care organizations~~ organization or home care aide domestic
2 referral agency licensed by the department pursuant to this chapter
3 until one year has elapsed from the date of the notification of the
4 denial and the right to petition for a hearing.

5 (d) Exclusion or removal of an individual pursuant to this section
6 shall not be considered an order of exclusion for purposes of
7 Section 1796.25 or any other law.

8 (e) The department may determine not to exclude a person from
9 acting as or require that he or she be removed from his or her
10 position as a member of the board of directors, an executive
11 director, or an officer of a licensee of, ~~any~~ a home care
12 ~~organizations~~ organization or home care aide domestic referral
13 agency licensed by the department pursuant to this chapter if it
14 has been determined that the reasons for the denial of the
15 application or revocation of the facility license or certificate of
16 approval were due to circumstances or conditions that either have
17 been corrected or are no longer in existence.

18 SEC. 15. Section 1796.42 of the Health and Safety Code is
19 amended to read:

20 1796.42. (a) A home care organization licensee and a home
21 care domestic referral agency licensee shall do all of the following:

22 ~~(a)~~

23 (1) Post its license, business hours, and any other information
24 required by the department in its place of business in a conspicuous
25 location, visible both to clients and ~~affiliated~~ registered home care
26 aides.

27 (2) Report any suspected or known dependent adult or elder
28 abuse as required by Section 15630 of the Welfare and Institutions
29 Code and suspected or known child abuse as required by Article
30 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of
31 Part 4 of the Penal Code. A copy of each suspected abuse report
32 shall be maintained and available for review by the department
33 during normal business hours.

34 (b) In addition to the requirements of subdivision (a), a home
35 care organization licensee shall do all of the following:

36 ~~(b)~~

37 (1) Maintain and abide by a valid workers' compensation policy
38 covering its affiliated home care aides.

39 ~~(e)~~

1 (2) Maintain and abide by an employee dishonesty bond,
 2 including third-party coverage, with a minimum limit of ten
 3 thousand dollars (\$10,000).

4 ~~(d)~~

5 (3) Maintain proof of general and professional liability insurance
 6 in the amount of at least one million dollars (\$1,000,000) per
 7 occurrence and three million dollars (\$3,000,000) in the aggregate.

8 ~~(e)~~

9 (4) Report any suspected or known dependent adult or elder
 10 abuse as required by Section 15630 of the Welfare and Institutions
 11 Code and suspected or known child abuse as required by ~~Sections~~
 12 ~~11164 to 11174.3, inclusive, Article 2.5 (commencing with Section~~
 13 ~~11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code.~~ A copy
 14 of each suspected abuse report shall be maintained and available
 15 for review by the department during normal business hours.

16 (c) *In addition to the requirements of subdivision (a), a home*
 17 *care aide domestic referral agency licensee shall do all of the*
 18 *following:*

19 (1) *Comply with the bond requirements included in Section*
 20 *1812.503 of the Civil Code.*

21 (2) *Orally communicate to the person seeking home care aide*
 22 *services the disclosure set forth in this paragraph prior to the*
 23 *referral of the home care aide:*

24 *“(Name of the home care aide domestic referral agency) is not*
 25 *the employer of the domestic worker that it referred to you.*
 26 *Depending on your arrangement with the domestic worker, you*
 27 *may have employer responsibilities.”*

28 (3) *Within three business days after the home care aide domestic*
 29 *referral agency refers a registered home care aide to the person*
 30 *seeking home care aide services, that agency shall mail to the*
 31 *person seeking services the following statement printed in not less*
 32 *than 10-point type and in bold or italic.*

33

34 *“(Name of the home care aide domestic referral agency) is not*
 35 *the employer of the domestic worker it referred to you. The*
 36 *domestic worker may be your employee or an independent*
 37 *contractor depending on the relationship you have with him or*
 38 *her. If you direct and control the manner and means by which the*
 39 *domestic worker performs his or her work, you may have employer*
 40 *responsibilities, including employment taxes and workers’*

1 compensation, under state and federal law. For additional
2 information contact your local Employment Development
3 Department and the Internal Revenue Service. You may request,
4 in writing, for (name of home care aide domestic referral agency)
5 to provide you with a statement of payments made on your behalf
6 through the home care aide domestic referral agency's designated
7 trust account to assist you. (Name of home care aide domestic
8 referral agency) is a referral agency and does not employ, control,
9 or train any home care aide it refers.”

10

11 (4) In any paid advertising brochure or the home care aide
12 domestic referral agency's Internet Web site promoting the home
13 care aide domestic referral agency's services, insert the following
14 statement, in no less than 10-point type and in a color that
15 contrasts with the background so it is easily legible:

16 “(Name of the home care aide domestic referral agency) is a
17 referral agency”

18 (5) Provide, upon receipt of a written request from a client for
19 whom an independent home care aide provided the client services,
20 up to three years from the date of the request, a statement of
21 payments made through the agency's designated trust account on
22 behalf of the client to the registered home care aide.

23 SEC. 16. Section 1796.43 of the Health and Safety Code is
24 amended to read:

25 1796.43. (a) ~~Home care organizations~~ organization
26 that employ employs an affiliated home care aides aide or a home
27 care aide domestic referral agency that refers a home care aide
28 shall ensure the affiliated home care aides are aide is cleared on
29 the home care aide registry before placing the individual in direct
30 contact with ~~clients~~ a client. In addition, the home care
31 organization or home care aide domestic referral agency shall do
32 all of the following:

33 (1) Ensure any staff person, volunteer, or employee of a home
34 care organization who has contact with clients, prospective clients,
35 or confidential client information that may pose a risk to the clients'
36 health and safety has met the requirements of Sections 1796.23,
37 1796.24, 1796.25, 1796.26, and 1796.28 before there is contact
38 with clients or prospective clients or access to confidential client
39 information.

1 (2) Require home care aides to demonstrate that they are free
 2 of active tuberculosis disease, pursuant to Section 1796.45.

3 (3) Immediately notify the department when the home care
 4 organization no longer employs an individual as an affiliated home
 5 care aide, *aide, or a home care aide domestic referral agency*
 6 *removes an independent home care aide from its referral list.*

7 (b) This section shall not prevent a licensee from requiring a
 8 criminal record clearance of any individual exempt from the
 9 requirements of this section, ~~provided that the individual has client~~
 10 ~~contact~~ *section.*

11 SEC. 17. Section 1796.44 of the Health and Safety Code is
 12 amended to read:

13 1796.44. (a) A licensee shall ensure that prior to providing
 14 home care services, an affiliated home care aide shall complete
 15 the training requirements specified in ~~this section.~~ *subdivisions (b)*
 16 *and (c). A home care aide domestic referral agency shall ensure,*
 17 *prior to that person being referred to a client, that a registered*
 18 *home care aide demonstrate proficiency as provided in subdivision*
 19 *(d).*

20 (b) An affiliated home care aide shall complete a minimum of
 21 five hours of entry-level training prior to presence with a client,
 22 as follows:

23 (1) Two hours of orientation training regarding his or her role
 24 as caregiver and the applicable terms of employment.

25 (2) Three hours of safety training, including basic safety
 26 precautions, emergency procedures, and infection control.

27 (c) In addition to the requirements in subdivision (b), an
 28 affiliated home care aide shall complete a minimum of five hours
 29 of annual training. The annual training shall relate to core
 30 competencies and be population specific, which shall include, but
 31 not be limited to, the following areas:

32 (1) Clients' rights and safety.

33 (2) How to provide for and respond to a client's daily living
 34 needs.

35 (3) How to report, prevent, and detect abuse and neglect.

36 (4) How to assist a client with personal hygiene and other home
 37 care services.

38 (5) If transportation services are provided, how to safely
 39 transport a client.

1 *(d) (1) An independent home care aide who is being referred*
2 *by a home care aide domestic referral agency shall do all of the*
3 *following:*

4 *(A) Annually complete a proficiency exam that includes all of*
5 *the following topics:*

6 *(i) Client rights and safety.*

7 *(ii) Providing and responding to daily living needs.*

8 *(iii) Detecting, reporting, and preventing abuse and neglect.*

9 *(iv) Assisting with personal hygiene.*

10 *(v) Safely transporting clients, if transportation services are*
11 *provided by the registered home care aide.*

12 *(B) Provide verifiable references demonstrating that the home*
13 *care aide has the necessary experience to provide home care*
14 *services.*

15 *(2) An independent home care aide who does not complete the*
16 *proficiency exam shall not be eligible for referral to a prospective*
17 *client.*

18 *(3) The proficiency exam provided shall include home care*
19 *services related topics described in this subdivision and may be*
20 *provided through an online proficiency examination or a written*
21 *proficiency examination.*

22 ~~(d)~~

23 *(e) The entry-level training and annual training described in*
24 *subdivisions (b) and (c) may be completed through an online*
25 *training program.*

26 *(f) A registered home care aide who possesses a current and*
27 *valid certification from the State Department of Public Health as*
28 *a Certified Nurse Assistant or Certified Home Health Aide is*
29 *exempt from the requirements of subdivisions (c) and (d).*

30 SEC. 18. Section 1796.45 of the Health and Safety Code is
31 amended to read:

32 1796.45. (a) Affiliated home care aides hired on or after
33 January 1, 2016, or a registered home care aide entering into an
34 agreement with a home care aide domestic referral agency after
35 January 1, 2016, shall submit to an examination 90 days prior to
36 employment or the effective date of the agreement or within seven
37 days after employment or the effective date of the agreement to
38 determine that the individual is free of active tuberculosis disease.

39 (b) For purposes of this section, "examination" means a test for
40 tuberculosis infection that is recommended by the federal Centers

1 for Disease Control and Prevention (CDC) and that is licensed by
2 the federal Food and Drug Administration (FDA) and, if that test
3 is positive, an X-ray of the lungs. The aide shall not work as ~~an~~
4 ~~affiliated~~ *a registered* home care aide unless the licensee obtains
5 documentation from a licensed medical professional that there is
6 no risk of spreading the disease.

7 (c) After submitting to an examination, ~~an affiliated~~ *a* home
8 care aide whose test for tuberculosis infection is negative shall be
9 required to undergo an examination at least once every two years.
10 Once ~~an affiliated~~ *a* home care aide has a documented positive test
11 for tuberculosis infection that has been followed by an X-ray, the
12 examination is no longer required.

13 (d) After each examination, ~~an affiliated~~ *a* home care aide shall
14 submit, and the home care organization *or home care aide domestic*
15 *referral agency* shall keep on file, a certificate from the examining
16 practitioner showing that the ~~affiliated~~ home care aide was
17 examined and found free from active tuberculosis disease.

18 (e) The examination is a condition of initial and continuing
19 employment with the home care organization. *The examination is*
20 *also a condition of a registered home care aide's initial and*
21 *continuing agreement with a home care aide domestic referral*
22 *agency.*

23 (f) ~~An affiliated~~ *A* home care aide who transfers employment
24 from one home care organization to another *or a registered home*
25 *care aide entering into an agreement with a home care aide*
26 *domestic referral agency* shall be deemed to meet the requirements
27 of subdivision (a) or (c) if the ~~affiliated~~ home care aide can produce
28 a certificate showing that he or she submitted to the examination
29 within the past two years and was found to be free of active
30 tuberculosis disease, or if it is verified by the home care
31 organization previously employing him or her ~~that it~~ *or by the*
32 *home care aide domestic referral agency that previously had an*
33 *agreement with him or her that the home care organization or*
34 *home care aide domestic referral agency* has a certificate on file
35 that contains that showing and a copy of the certificate is provided
36 to the new home care organization *or to the home care aide*
37 *domestic referral agency* prior to the affiliated home care aide
38 beginning ~~employment.~~ *employment or prior to a referral of the*
39 *independent home care aide by the home care aide domestic*
40 *referral agency.*

1 SEC. 19. Section 1796.47 of the Health and Safety Code is
2 amended to read:

3 1796.47. (a) (1) Administration of this program shall be fully
4 supported by fees and not civil penalties. Initial costs to implement
5 this chapter may be provided through a General Fund loan that is
6 to be repaid in accordance with a schedule provided by the
7 Department of Finance. The department shall assess fees for home
8 care organization *and home care aide domestic referral agency*
9 licensure, and home care aide registration related to activities
10 authorized by this chapter. The department may adjust fees as
11 necessary to fully support the administration of this chapter. Except
12 for General Fund moneys that are otherwise transferred or
13 appropriated for the initial costs of administering this chapter, or
14 penalties collected pursuant to this chapter that are appropriated
15 by the Legislature for the purposes of this chapter, no General
16 Fund moneys shall be used for any purpose under this chapter.

17 (2) A portion of moneys collected in the administration of this
18 chapter, as designated by the department, may be used for
19 community outreach consistent with this chapter.

20 (b) The Home Care Fund is hereby created within the State
21 Treasury for the purpose of this chapter. All licensure and
22 registration fees authorized by this chapter shall be deposited into
23 the Home Care Fund, except the fingerprint fees collected pursuant
24 to Section 1796.23, which shall be deposited into the Fingerprint
25 Fees Account. Moneys in this fund shall, upon appropriation by
26 the Legislature, be made available to the department for purposes
27 of administering this chapter.

28 (c) Any fines and penalties collected pursuant to this chapter
29 shall be deposited into the Home Care Technical Assistance Fund,
30 which is hereby created as a subaccount within the Home Care
31 Fund. Moneys in the Home Care Technical Assistance Fund shall,
32 upon appropriation by the Legislature, be available to the
33 department for the purposes of providing technical assistance,
34 training, and education pursuant to this chapter.

35 SEC. 20. Section 1796.49 of the Health and Safety Code is
36 amended to read:

37 1796.49. (a) A *home care organization* licensee shall pay the
38 following fees:

1 (1) A nonrefundable 24-month initial license fee, as prescribed
 2 by the department, for a licensee not currently licensed to provide
 3 home care services in the state.

4 (2) A two-year nonrefundable renewal fee, as determined by
 5 the department, based on the number of full-time equivalents
 6 (FTEs), including paid personnel or contractors needed to oversee
 7 the enforcement of this chapter.

8 (3) Other reasonable fees as prescribed by the department
 9 necessary for the administration of this chapter.

10 (b) *A home care aide domestic referral agency licensee shall*
 11 *pay the following fees to the department:*

12 (1) *A 24-month initial license fee, as prescribed by the*
 13 *department in an amount sufficient to cover the reasonable costs*
 14 *of administering the program, for a new home care aide domestic*
 15 *referral agency licensee not currently licensed to provide home*
 16 *care services in the state.*

17 (2) *A two-year renewal fee, as determined by the department*
 18 *in an amount sufficient to cover the reasonable costs of*
 19 *administering the program, based on the number of office locations*
 20 *operated by the licensee providing registered home care aides to*
 21 *clients.*

22 (3) *Other reasonable fees as prescribed by the department*
 23 *necessary for the administration of this chapter.*

24 ~~(b)~~

25 (c) The fees collected shall be deposited into the Home Care
 26 Fund pursuant to subdivision (b) of Section 1796.47, except the
 27 fingerprint fees collected pursuant to Section 1796.23, which shall
 28 be deposited into the Fingerprint Fees Account.

29 SEC. 21. Section 1796.51 of the Health and Safety Code is
 30 amended to read:

31 1796.51. ~~In order to~~ *To* carry out the provisions of this chapter,
 32 the department may establish procedures for the receipt,
 33 investigation, and resolution of ~~complaints~~ *a complaint* against a
 34 home care ~~organizations~~ *organization or home care aide domestic*
 35 *referral agency.*

36 SEC. 22. Section 1796.52 of the Health and Safety Code is
 37 amended to read:

38 1796.52. (a) The department may review and, if it determines
 39 necessary, investigate ~~complaints~~ *a complaint* filed against a home
 40 care ~~organizations~~ *organization or home care aide domestic*

1 *referral agency* regarding violations of this chapter or any rules
2 or regulations promulgated pursuant to this chapter.

3 (b) The department shall verify through random, unannounced
4 inspections that a home care organization *or home care aide*
5 *domestic referral agency* meets the requirements of this chapter
6 and the rules and regulations promulgated pursuant to this chapter.

7 (c) An investigation or inspection conducted by the department
8 pursuant to this chapter may include, but is not limited to,
9 inspection of the books, records, or premises of a home care
10 ~~organization.~~ *organization or home care aide domestic referral*
11 *agency.* ~~A home care~~ An organization's *or agency's* refusal to
12 make records, books, or premises available shall constitute cause
13 for the revocation of the ~~home care~~ organization's *or agency's*
14 license.

15 (d) Other than maintaining the home care registry, the
16 department shall have no oversight responsibility regarding
17 registered home care aides.

18 (e) Upon receipt of a report of suspected or known abuse, as set
19 forth in subdivision (e) of Section 1796.42, the department shall
20 cross-report the suspected or known abuse to local law enforcement
21 and Adult Protective Services if the alleged victim is 18 years of
22 age or older, or local law enforcement and Child Protective
23 Services if the alleged victim is under 18 years of age. Other than
24 the cross-reporting required by this subdivision, the department
25 shall not be required to investigate suspected or known abuse or
26 have other responsibilities related to the suspected or known abuse.
27 This subdivision shall not supersede the existing duty of home
28 health aides and home health agencies as mandated reporters to
29 report directly to local law enforcement or county adult protective
30 services pursuant to Section 15630.

31 SEC. 23. Section 1796.55 of the Health and Safety Code is
32 amended to read:

33 1796.55. (a) A home care organization *or home care aide*
34 *domestic referral agency* that operates in violation of any
35 requirement or obligation imposed by this chapter or any rule or
36 regulation promulgated pursuant to this chapter may be subject to
37 the fines levied or licensure action taken by the department as
38 specified in this chapter.

39 (b) When the department determines that a home care
40 organization *or home care aide domestic referral agency* is in

1 violation of this chapter or any rules or regulations promulgated
 2 pursuant to this chapter, a notice of violation shall be served upon
 3 the licensee. Each notice of violation shall be prepared in writing
 4 and shall specify the nature of the violation and the statutory
 5 provision, rule, or regulation alleged to have been violated. The
 6 notice shall inform the licensee of any action the department may
 7 take pursuant to this chapter, including the requirement of a plan
 8 of correction, assessment of a penalty, or action to suspend, revoke,
 9 or deny renewal of the license. The director or his or her designee
 10 shall also inform the licensee of rights to a hearing pursuant to this
 11 chapter.

12 (c) The department may impose a fine of up to nine hundred
 13 dollars (\$900) per violation per day commencing on the date the
 14 violation was identified and ending on the date each violation is
 15 corrected.

16 (d) The department shall adopt regulations establishing
 17 procedures for notices, correction plans, appeals, and hearings.

18 SEC. 24. Section 1796.61 of the Health and Safety Code is
 19 amended to read:

20 1796.61. (a) This chapter shall be implemented on January
 21 1, 2016.

22 (b) ~~Home~~A home care organization ~~applicants~~ *applicant, home*
 23 *care aide domestic referral agency applicant, and home care aide*
 24 ~~applicants~~ *applicant* who ~~submit applications~~ *submits an*
 25 *application* prior to January 1, 2016, shall be authorized to provide
 26 home care services without meeting the requirements of Section
 27 1796.45, provided the requirements of that section are met no later
 28 than July 1, 2016.

29 (c) ~~The applicants~~*An applicant* described in subdivision (b)
 30 shall meet all the requirements of this chapter no later than July
 31 1, 2016, in order to continue to provide home care services.

32 SEC. 25. No reimbursement is required by this act pursuant to
 33 Section 6 of Article XIII B of the California Constitution because
 34 the only costs that may be incurred by a local agency or school
 35 district will be incurred because this act creates a new crime or
 36 infraction, eliminates a crime or infraction, or changes the penalty
 37 for a crime or infraction, within the meaning of Section 17556 of
 38 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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