

ASSEMBLY BILL

No. 1054

Introduced by Assembly Member Burke

February 26, 2015

An act to amend Sections 1796.14 and 1796.17 of the Health and Safety Code, relating to home care services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1054, as introduced, Burke. Home care services: licensing and registration: regional center vendors.

Existing law, The Home Care Services Consumer Protection Act, beginning January 1, 2016, provides for the licensure and regulation of home care organizations, as defined, by the State Department of Social Services, and the registration of home care aides. The act excludes specified entities from the definition of a home care organization, including an organization vendored or contracted through a regional center or the State Department of Developmental Services to provide services and supports for persons with developmental disabilities when funding for those services is provided through the State Department of Developmental Services and more than 50 percent of the recipients of the home care services provided by that organization are persons with developmental disabilities. Existing law also excludes certain types of individuals as home care aides for the purposes of these provisions, including individuals who work at organizations that provide services and supports to people with developmental disabilities, as noted above. Willful or repeated violation of these provisions is a crime.

This bill would include in the definition of home care organization, for purposes of the act, an organization that is vendored or contracted through a regional center or the State Department of Developmental

Services to provide services and supports for persons with developmental disabilities when funding for those services is provided through the State Department of Developmental Services and more than 50 percent of the recipients of the home care services provided by that organization are persons with developmental disabilities and would make individuals who work in those organizations home care aides, for purposes of the act. By expanding the definition of a crime, this bill would impose a state-mandated local program.

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 1796.14 of the Health and Safety Code
- 2 is amended to read:
- 3 1796.14. (a) Individuals who are not employed by a home care
- 4 organization but who provide home care services to a client may
- 5 be listed on the home care aide registry.
- 6 (b) An affiliated home care aide shall be listed on the home care
- 7 aide registry prior to providing home care services to a client.
- 8 (c) (1) Home care aides shall not include individuals who are
- 9 providing home care services as part of their job duties through
- 10 one of the following entities:
- 11 (A) Services authorized to be provided by a licensed home
- 12 health agency under Chapter 8 (commencing with Section 1725).
- 13 (B) Services authorized to be provided by a licensed hospice
- 14 pursuant to Chapter 8.5 (commencing with Section 1745).
- 15 (C) Services authorized to be provided by a licensed health
- 16 facility pursuant to Chapter 2 (commencing with Section 1250).
- 17 (D) In-home supportive services provided pursuant to Article
- 18 7 (commencing with Section 12300) of Chapter 3 of Part 3 of
- 19 Division 9 of, or Section 14132.95, 14132.952, or 14132.956 of,
- 20 the Welfare and Institutions Code.
- 21 (E) A community care facility licensed pursuant to Chapter 3
- 22 (commencing with Section 1500), a residential care facility for

1 persons with chronic life-threatening illness licensed pursuant to
2 Chapter 3.01 (commencing with Section 1568.01), a residential
3 care facility for the elderly licensed pursuant to Chapter 3.2
4 (commencing with Section 1569), or a facility licensed pursuant
5 to the California Child Day Care Facilities Act, (Chapter 3.4
6 (commencing with Section 1596.70)), which includes day care
7 centers, as described in Chapter 3.5 (commencing with Section
8 1596.90), family day care homes, as described in Chapter 3.6
9 (commencing with Section 1597.30), and employer-sponsored
10 child care centers, as described in Chapter 3.65 (commencing with
11 Section 1597.70).

12 (F) A clinic licensed pursuant to Section 1204 or 1204.1.

13 (G) A home medical device retail facility licensed pursuant to
14 Section 111656.

15 ~~(H) An organization vendored or contracted through a regional~~
16 ~~center or the State Department of Developmental Services pursuant~~
17 ~~to the Lanterman Developmental Disabilities Services Act (Chapter~~
18 ~~1 (commencing with Section 4500) of Division 4.5 of the Welfare~~
19 ~~and Institutions Code) and the California Early Intervention~~
20 ~~Services Act (Title 14 (commencing with Section 95000) of the~~
21 ~~Government Code) to provide services and supports for persons~~
22 ~~with developmental disabilities, as defined in Section 4512 of the~~
23 ~~Welfare and Institutions Code, when funding for those services is~~
24 ~~provided through the State Department of Developmental Services~~
25 ~~and more than 50 percent of the recipients of the home care services~~
26 ~~provided by the organization are persons with developmental~~
27 ~~disabilities.~~

28 ~~(I)~~

29 (H) An alcoholism or drug abuse recovery or treatment facility
30 as defined in Section 11834.02.

31 ~~(J)~~

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

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

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

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

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

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

10 SEC. 2. Section 1796.17 of the Health and Safety Code is
11 amended to read:

12 1796.17. (a) Each home care organization shall be separately
13 licensed. Nothing in this chapter shall prevent a licensee from
14 obtaining more than one home care organization license or
15 obtaining a home care organization license in addition to other
16 licenses issued by the department, or both.

17 (b) A home care organization shall not include the following:

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

20 (2) A hospice licensed under Chapter 8.5 (commencing with
21 Section 1745).

22 (3) A health facility licensed under Chapter 2 (commencing
23 with Section 1250).

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

29 (5) A home medical device retail facility licensed under Section
30 111656.

31 ~~(6) An organization vendored or contracted through a regional
32 center or the State Department of Developmental Services pursuant
33 to the Lanterman Developmental Disabilities Services Act
34 (Division 4.5 (commencing with Section 4500) of the Welfare and
35 Institutions Code) and the California Early Intervention Services
36 Act (Title 14 (commencing with Section 95000) of the Government
37 Code) to provide services and supports for persons with
38 developmental disabilities, as defined in Section 4512 of the
39 Welfare and Institutions Code, when funding for those services is
40 provided through the State Department of Developmental Services~~

1 and more than 50 percent of the recipients of the home care services
2 provided by the organization are persons with developmental
3 disabilities.

4 ~~(7)~~

5 (6) An employment agency, as defined in Section 1812.5095
6 of the Civil Code, that procures, offers, refers, provides, or attempts
7 to provide an independent home care aide who provides home care
8 services clients.

9 ~~(8)~~

10 (7) A community care facility licensed pursuant to Chapter 3
11 (commencing with Section 1500), a residential care facility for
12 persons with chronic life-threatening illness licensed pursuant to
13 Chapter 3.01 (commencing with Section 1568.01), a residential
14 care facility for the elderly licensed pursuant to Chapter 3.2
15 (commencing with Section 1569), or a facility licensed pursuant
16 to the California Child Day Care Facilities Act (Chapter 3.4
17 (commencing with Section 1596.70)), which includes day care
18 centers, as described in Chapter 3.5 (commencing with Section
19 1596.90), family day care homes, as described in Chapter 3.6
20 (commencing with Section 1597.30), and employer-sponsored
21 child care centers, as described in Chapter 3.65 (commencing with
22 Section 1597.70).

23 ~~(9)~~

24 (8) An alcoholism or drug abuse recovery or treatment facility
25 as defined in Section 11834.02.

26 ~~(10)~~

27 (9) A person providing services authorized pursuant to Section
28 2731 of the Business and Professions Code.

29 ~~(11)~~

30 (10) A clinic licensed pursuant to Section 1204 or 1204.1.

31 ~~(12)~~

32 (11) A nonrelative extended family member, as defined in
33 Section 362.7 of the Welfare and Institutions Code.

34 ~~(13)~~

35 (12) A facility providing home care services in which only
36 Indian children who are eligible under the federal Indian Child
37 Welfare Act (25 U.S.C. Sec. 1901 et seq.) are placed and which
38 satisfies either of the following:

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

1 (B) A foster home that is licensed, approved, or specified by
2 the Indian child’s tribe pursuant to Section 1915 of Title 25 of the
3 United States Code.

4 ~~(14)~~

5 (13) Any other individual or entity providing services similar
6 to those described in this chapter, as determined by the director.

7 (c) In the event of a conflict between this chapter and a provision
8 listed in subdivision (b), the provision in subdivision (b) shall
9 control.

10 SEC. 3. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.