

ASSEMBLY BILL

No. 1667

Introduced by Assembly Member Dodd

January 15, 2016

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 1667, as introduced, Dodd. Home Care Services Consumer Protection Act.

Existing law establishes the Home Care Services Consumer Protection Act, which provides 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 home care organization to which the affiliated home care aide~~
 7 ~~one or affiliated home care aide applicant is associated.~~ *both of*
 8 *the following:*

9 (1) *The home care organization or organizations with which*
 10 *the affiliated home care aide or affiliated home care aide applicant*
 11 *is associated.*

12 (2) *The home care aide domestic referral agency or*
 13 *organizations with which an independent home care aide is*
 14 *associated.*

15 ~~(j)~~

16 (n) “Home care organization” means an individual, 18 years of
 17 age or older, firm, partnership, corporation, limited liability
 18 company, joint venture, association, or other entity that arranges
 19 for home care services by an affiliated home care aide to a client,
 20 and is licensed pursuant to this chapter.

21 ~~(k)~~

22 (o) “Home care organization applicant” means an individual,
 23 18 years of age or older, or a firm, partnership, corporation, limited
 24 liability company, joint venture, association, or other entity where
 25 the individual or individuals applying for the license are 18 years
 26 of age or older and are requesting to become a home care
 27 organization licensee and the department has received and is
 28 processing the complete home care organization application and
 29 nonrefundable application fee.

30 ~~(l)~~

31 (p) “Home care organization application” means the official
 32 form, designated by the department, to request to become a licensed
 33 home care organization.

34 ~~(m)~~

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

40 ~~(n)~~

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

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

19 ~~(p)~~

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

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

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

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

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

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

- 1 (A) Services authorized to be provided by a licensed home
- 2 health agency under Chapter 8 (commencing with Section 1725).
- 3 (B) Services authorized to be provided by a licensed hospice
- 4 pursuant to Chapter 8.5 (commencing with Section 1745).
- 5 (C) Services authorized to be provided by a licensed health
- 6 facility pursuant to Chapter 2 (commencing with Section 1250).
- 7 (D) In-home supportive services provided pursuant to Article
- 8 7 (commencing with Section 12300) of Chapter 3 of Part 3 of
- 9 Division 9 of, or Section 14132.95, 14132.952, or 14132.956 of,
- 10 the Welfare and Institutions Code.
- 11 (E) A community care facility licensed pursuant to Chapter 3
- 12 (commencing with Section 1500), a residential care facility for
- 13 persons with chronic life-threatening illness licensed pursuant to
- 14 Chapter 3.01 (commencing with Section 1568.01), a residential
- 15 care facility for the elderly licensed pursuant to Chapter 3.2
- 16 (commencing with Section 1569), or a facility licensed pursuant
- 17 to the California Child Day Care Facilities ~~Act~~, *Act* (Chapter 3.4
- 18 (commencing with Section 1596.70)), which includes day care
- 19 centers, as described in Chapter 3.5 (commencing with Section
- 20 1596.90), family day care homes, as described in Chapter 3.6
- 21 (commencing with Section 1597.30), and employer-sponsored
- 22 child care centers, as described in Chapter 3.65 (commencing with
- 23 Section 1597.70).
- 24 (F) A clinic licensed pursuant to Section 1204 or 1204.1.
- 25 (G) A home medical device retail facility licensed pursuant to
- 26 Section 111656.
- 27 (H) An organization vendored or contracted through a regional
- 28 center or the State Department of Developmental Services pursuant
- 29 to the Lanterman Developmental Disabilities Services Act (Chapter
- 30 1 (commencing with Section 4500) of Division 4.5 of the Welfare
- 31 and Institutions Code) and the California Early Intervention
- 32 Services Act (Title 14 (commencing with Section 95000) of the
- 33 Government Code) to provide services and supports for persons
- 34 with developmental disabilities, as defined in Section 4512 of the
- 35 Welfare and Institutions Code, when funding for those services is
- 36 provided through the State Department of Developmental Services
- 37 and more than 50 percent of the recipients of the home care services
- 38 provided by the organization are persons with developmental
- 39 disabilities.

1 (I) An alcoholism or drug abuse recovery or treatment facility
2 as defined in Section 11834.02.

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

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

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

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

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

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

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

22 1796.17. (a) Each home care organization *and each home care*
23 *aide domestic referral agency* shall be separately licensed. This
24 chapter does not prevent a licensee from obtaining more than one
25 ~~home care organization~~ license or obtaining a ~~home care~~
26 ~~organization~~ license in addition to other licenses issued by the
27 department, or both.

28 (b) A home care organization *or a home care aide domestic*
29 *referral agency* does not include the following:

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

32 (2) A hospice licensed under Chapter 8.5 (commencing with
33 Section 1745).

34 (3) A health facility licensed under Chapter 2 (commencing
35 with Section 1250).

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

1 (5) A home medical device retail facility licensed under Section
2 111656.

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

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

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

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

38 (10) A person providing services authorized pursuant to Section
39 2731 of the Business and Professions Code.

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

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

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

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

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

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

14 (c) In the event of a conflict between this chapter and a provision
15 listed in subdivision (b), the provision in subdivision (b) ~~controls.~~
16 *shall control.*

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

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

23 (a) A valid California driver’s license.

24 (b) A valid identification card issued by the Department of
25 Motor Vehicles.

26 (c) A valid Alien Registration *Receipt Card or valid Permanent*
27 *Resident Card.*

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

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

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

1 application and fingerprints or identification documentation. This
2 person shall be known as a “home care aide applicant.”

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

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

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

1 or exemption that can be transferred pursuant to the requirements
2 of this chapter.

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

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

9 1796.29. The department shall do both of the following in the
10 administration of the home care aide registry:

11 (a) (1) Establish and maintain on the department's Internet
12 Web site the registry of registered home care aides and home care
13 aide applicants.

14 ~~(1)~~

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

24 ~~(2)~~

25 (3) The Internet Web site shall not provide any additional,
26 individually identifiable information about a registered home care
27 aide or home care aide applicant. The department may request and
28 may maintain additional information for registered home care aides
29 or home care aide applicants, as necessary for the administration
30 of this chapter, that shall not be publicly available on the home
31 care aide registry.

32 (4) *The Internet Web site shall distinguish between an affiliated*
33 *and independent home care aide for purposes of informing*
34 *potential consumers and the public of the differences between the*
35 *two classifications.*

36 (5) *A home care aide may be registered simultaneously as an*
37 *affiliated and independent home care aide, and may be affiliated*
38 *with more than one home care organization simultaneously or*
39 *associated with more than one home care aide domestic referral*
40 *agency simultaneously. A registered home care aide may be*

1 *affiliated with home care organizations and associated with home*
 2 *care aide domestic referral agencies simultaneously.*

3 (b) Update the home care registry upon receiving notification
 4 from a home care organization *or a home care aide domestic*
 5 *referral agency that an affiliated the home care aide is no longer*
 6 *employed by the home care—organization. organization or*
 7 *associated with the home care domestic referral agency.*

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

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

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

16 (b) A valid identification card issued by the Department of
 17 Motor Vehicles.

18 (c) A valid Alien Registration *Receipt Card or a valid*
 19 *Permanent Resident Card.*

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

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

25 1796.33. ~~In order to~~ *(a) To obtain a home care organization*
 26 *license or a home care aide domestic referral agency license, the*
 27 *following individual or individuals shall consent to the background*
 28 *examination described in Section 1796.23:*

29 ~~(a)~~

30 *(1) The owner of the home care organization, applicant, if the*
 31 *owner is an individual.*

32 ~~(b)~~

33 *(2) If the owner of a home care organization the applicant is a*
 34 *corporation, limited liability company, joint venture, association,*
 35 *or other entity, an individual having a 10-percent or greater*
 36 *ownership in that entity and the chief executive officer or other*
 37 *person serving in a similar capacity. The department shall not issue*
 38 *a provisional license or license to any corporate home care*
 39 *organization applicant that has a member of the board of directors,*

1 executive director, or officer who is not eligible for licensure
2 pursuant to Sections 1796.40 and 1796.41.

3 *(b) A person who is a current licensee or employee in a facility*
4 *licensed by the department, a certified foster parent, a certified*
5 *administrator, or a registered TrustLine provider may transfer his*
6 *or her current criminal record clearance or exemption for purposes*
7 *of licensure pursuant to this chapter pursuant to subdivision (h)*
8 *of Section 1522. The person shall, instead, submit to the*
9 *department, along with the person’s application, a copy of his or*
10 *her identification card, as required pursuant to Section 1522, and*
11 *a declaration verifying the person’s identity that is signed under*
12 *penalty of perjury.*

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

15 1796.34. (a) A person or a private or public organization, with
16 the exception of any person who performs in-home supportive
17 services through the In-Home Supportive Services program
18 pursuant to Article 7 (commencing with Section 12300) of Chapter
19 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or
20 Section 14132.95, 14132.952, or 14132.956 of the Welfare and
21 Institutions Code, and the exceptions provided for in subdivision
22 ~~(b)~~, (c), shall not do any of the following, unless he, she, or it is a
23 licensed *home care organization licensed* pursuant to this chapter:

24 (1) Own, manage, or represent himself, ~~herself~~ *herself*, or itself
25 to be a home care organization by name, advertising, solicitation,
26 or any other presentments to the ~~public, or public or~~, in the context
27 of services within the scope of this chapter, imply that he, she, or
28 it is licensed to provide those services or to make any reference to
29 employee bonding in relation to those services.

30 (2) Use the terms “home care organization,” “home care,”
31 “in-home care,” or any combination of those terms, within its
32 name.

33 ~~(b) This section does—~~*A person or a private or public*
34 *organization, except a county providing in-home supportive*
35 *services pursuant to Article 7 (commencing with Section 12300)*
36 *of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions*
37 *Code, and the exceptions provided for in subdivision (c), shall not*
38 ~~apply to do either of the following: following,~~ *unless it is a licensed*
39 *home care aide domestic referral agency:*

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

7 (2) Include in its name the term “home care aide domestic
 8 referral agency,” “home care organization,” “home care,”
 9 “in-home care,” or any combination of those terms.

10 ~~(1) Any~~

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

16 ~~(2) An employment agency, as defined in Section 1812.5095~~
 17 ~~of the Civil Code, that procures, offers, refers, provides, or attempts~~
 18 ~~Subdivision (a) does not apply to provide an independent a home~~
 19 ~~care aide who provides home care to clients. domestic referral~~
 20 ~~agency organization.~~

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

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

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

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

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

1 organization *or home care aide domestic referral agency* shall
2 have an office in California and shall comply with both of the
3 following:

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

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

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

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

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

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

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

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

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

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

33 (7) Completes a department orientation.

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

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

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

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

2 (C) A residential care facility for the elderly, as defined in
3 Section 1569.2.

4 (D) A child day care facility, as defined in Section 1596.750.

5 (E) A day care center, as described in Chapter 3.5 (commencing
6 with Section 1596.90).

7 (F) A family day care home, as described in Chapter 3.6
8 (commencing with Section 1597.30).

9 (G) An employer-sponsored child care center, as described in
10 Chapter 3.65 (commencing with Section 1597.70).

11 (H) A home care organization licensed pursuant to this chapter.

12 (10) Discloses any revocation or other disciplinary action taken,
13 or in the process of being taken, against a license held or previously
14 held by the entities specified in paragraph (9).

15 (11) Provides evidence that every member of the board of
16 directors, if applicable, understands his or her legal duties and
17 obligations as a member of the board of directors and that the home
18 care organization's operation is governed by laws and regulations
19 that are enforced by the department.

20 (12) Provides any other information as may be required by the
21 department for the proper administration and enforcement of this
22 chapter.

23 (13) Cooperates with the department in the completion of the
24 home care organization license application process. Failure of the
25 home care organization licensee to cooperate may result in the
26 withdrawal of the home care organization license application.
27 "Failure to cooperate" means that the information described in this
28 chapter and in any rules and regulations promulgated pursuant to
29 this chapter has not been provided, or not *been* provided in the
30 form requested by the department, or both.

31 (b) A home care organization licensee shall renew the home
32 care organization license every two years. The department may
33 renew a home care organization license if the licensee satisfies the
34 requirements set forth in this chapter, including all of the following:

35 (1) Files a complete home care organization license renewal
36 application, including the nonrefundable fees required pursuant to
37 Section 1796.49, both of which shall be postmarked on or before
38 the expiration of the license.

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

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

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

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

13 (6) Provides any other information as may be required by the
14 department for the proper administration and enforcement of this
15 chapter.

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

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

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

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

34 (1) *Files a complete home care aide domestic referral agency
35 application, including payment of the fees required pursuant to
36 subdivision (b) of Section 1796.49.*

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

- 1 (3) *Submits evidence of compliance with the bond requirements*
- 2 *in accordance with Section 1812.503 of the Civil Code.*
- 3 (4) *Provides, if requested by the department, a list of*
- 4 *independent home care aides receiving referrals from the home*
- 5 *care aide domestic referral agency and proof that each of them*
- 6 *satisfies the requirements of Sections 1796.43, 1796.44, and*
- 7 *1796.45.*
- 8 (5) *The owner or owners of the home care aide domestic referral*
- 9 *agency pass a background examination pursuant to Section*
- 10 *1796.33.*
- 11 (6) *Is current in full payment of all fees or civil penalties that*
- 12 *the applicant owed the department.*
- 13 (7) *Completes an orientation provided by the department.*
- 14 (8) *Discloses prior or present service as an administrator,*
- 15 *general partner, corporate officer, or director of, or discloses that*
- 16 *he or she has held or holds a beneficial ownership of 10 percent*
- 17 *or more in, any of the following:*
- 18 (A) *A community care facility, as defined in Section 1502.*
- 19 (B) *A residential care facility, as defined in Section 1568.01.*
- 20 (C) *A residential care facility for the elderly, as defined in*
- 21 *Section 1569.2.*
- 22 (D) *A child day care facility, as defined in Section 1596.750.*
- 23 (E) *A day care center, as described in Chapter 3.5 (commencing*
- 24 *with Section 1596.90).*
- 25 (F) *A family day care home, as described in Chapter 3.6*
- 26 *(commencing with Section 1597.30).*
- 27 (G) *An employer-sponsored child care center, as described in*
- 28 *Chapter 3.65 (commencing with Section 1597.70).*
- 29 (H) *A home care aide domestic referral agency licensed*
- 30 *pursuant to this chapter.*
- 31 (9) *Discloses any revocation or other disciplinary action taken,*
- 32 *or in the process of being taken, against a license held or*
- 33 *previously held by an entity specified in paragraph (8).*
- 34 (10) *Provides evidence that every member of the board of*
- 35 *directors, if applicable, understands his or her legal duties and*
- 36 *obligations as a member of the board of directors and that the*
- 37 *home care aide domestic referral agency's operation is governed*
- 38 *by laws and regulations that are enforced by the department.*
- 39 (11) *Provides any other information required by the department*
- 40 *for the proper administration and enforcement of this chapter.*

1 (12) (A) Cooperates with the department in the completion of
2 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) Files a complete home care aide domestic referral agency
18 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) Submits proof of general and professional liability insurance
23 in the amount of at least one million dollars (\$1,000,000) per
24 occurrence and three million dollars (\$3,000,000) in the aggregate.

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

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

29 (5) Provides any other information required by the department
30 for the proper administration and enforcement of this chapter.

31 (6) (A) Cooperates with the department in the completion of
32 the home care aide domestic referral agency license renewal
33 process.

34 (B) The department may withdraw an application for a renewal
35 of a home care aide domestic referral agency license if the
36 applicant fails to cooperate with the department in the application
37 process. “Fails to cooperate” means that the information described
38 in this chapter and in any rules and regulations adopted pursuant
39 to this chapter has not been provided, or not been provided in the
40 form requested by the department, or both.

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

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

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

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

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

16 1796.38. The department may deny an application for licensure
17 or suspend or revoke any license issued pursuant to this chapter,
18 pursuant to Sections 1550.5 and 1551 and in the manner provided
19 in this chapter on any of the following grounds:

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

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

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

27 (d) The conviction of a licensee, or other person mentioned in
28 Section 1522, at any time before or during licensure, of a crime
29 described in Section 1522.

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

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

35 1796.40. (a) (1) If an application for a ~~home care organization~~
36 ~~license~~ *license under this chapter* indicates, or the department
37 determines during the application review process, that the home
38 care organization applicant *or the home care aide domestic referral*
39 *agency applicant* was previously issued a license under this chapter
40 or under Chapter 1 (commencing with Section 1200), Chapter 2

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

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

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

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

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

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

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

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

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

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

27 1796.41. (a) (1) If the department determines that a person
28 was issued a license pursuant to this chapter or Chapter 1
29 (commencing with Section 1200), Chapter 2 (commencing with
30 Section 1250), Chapter 3 (commencing with Section 1500), Chapter
31 3.01 (commencing with Section 1568.01), Chapter 3.2
32 (commencing with Section 1569), Chapter 3.4 (commencing with
33 Section 1596.70), Chapter 3.5 (commencing with Section 1596.90),
34 Chapter 3.6 (commencing with Section 1597.30), or Chapter 3.65
35 (commencing with Section 1597.70), and the prior license was
36 revoked within the preceding two years, the department shall
37 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 a home care aide*
2 *domestic referral agency* licensed by the department pursuant to
3 this chapter.

4 (2) If the department determines that a person was previously
5 issued a certificate of approval by a foster family agency that was
6 revoked by the department pursuant to subdivision (b) of Section
7 1534 within the preceding two years, the department shall exclude
8 the person from acting as, and require the home care organization
9 *or home care aide domestic referral agency* to remove him or her
10 from his or her position as, a member of the board of directors, an
11 executive 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.

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

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

35 (2) In cases in which the department informed the home care
36 organization applicant *or home care aide domestic referral agency*
37 *applicant* of his or her right to petition for a hearing and the home
38 care organization applicant *or home care aide domestic referral*
39 *agency applicant* did not petition for a hearing, the department
40 shall exclude the person from acting as, and require the home care

1 organization *or home care aide domestic referral agency* to remove
 2 him or her from his or her position as, a member of the board of
 3 directors, an executive director, or an officer of a licensee of, ~~any~~
 4 ~~a home care organizations~~ *organization or home care aide domestic*
 5 *referral agency* licensed by the department pursuant to this chapter
 6 until one year has elapsed from the date of the notification of the
 7 denial and the right to petition for a hearing.

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

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

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

1 until one year has elapsed from the date of the notification of the
2 denial and the right to petition for a hearing.

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

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

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

18 1796.42. (a) A home care organization licensee *and a home*
19 *care domestic referral agency licensee* shall do all of the following:

20 (a)

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

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

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

34 (b)

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

37 (c)

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

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

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

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

16 (1) *Comply with the bond requirements included in Section*
 17 *1812.503 of the Civil Code.*

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

21
 22 *“(Name of the home care aide domestic referral agency) is not*
 23 *the employer of the domestic worker that it referred to you.*
 24 *Depending on your arrangement with the domestic worker, you*
 25 *may have employer responsibilities.”*

26
 27 (3) *Within three business days after the home care aide domestic*
 28 *referral agency refers a registered home care aide to the person*
 29 *seeking home care aide services, mail to the person seeking*
 30 *services the following statement printed in not less than 10-point*
 31 *type and in bold or italic:*

32
 33 *“(Name of the home care aide domestic referral agency) is not*
 34 *the employer of the domestic worker it referred to you. The*
 35 *domestic worker may be your employee or an independent*
 36 *contractor depending on the relationship you have with him or*
 37 *her. If you direct and control the manner and means by which the*
 38 *domestic worker performs his or her work, you may have employer*
 39 *responsibilities, including employment taxes and workers’*
 40 *compensation, under state and federal law. For additional*

1 *information contact your local Employment Development*
2 *Department office and the federal Internal Revenue Service. You*
3 *may contact the Employment Development Department at*
4 *800-300-5616 or www.edd.ca.gov. You may contact the federal*
5 *Internal Revenue Service at 1-800-829-3676 or www.irs.gov.*

6 *If an employment relationship is established between you and a*
7 *home care aide referred to you by (name of home care aide*
8 *domestic referral agency) you must register with the Employment*
9 *Development Department as a household employer within 15 days*
10 *after you have paid seven hundred fifty dollars (\$750) or more in*
11 *total cash wages in a calendar quarter to the home care aide. To*
12 *assist you, you may request, in writing, that (name of home care*
13 *aide domestic referral agency) provide you with a statement of*
14 *payments made on your behalf through the home care aide*
15 *domestic referral agency's designated trust account. (Name of*
16 *home care aide domestic referral agency) is a referral agency and*
17 *does not employ, control, or train any home care aide it refers."*
18

19 *(4) A home care aide domestic referral agency shall mail to a*
20 *client who has not terminated referral services within 14 business*
21 *days following mailing of the client disclosure pursuant to*
22 *paragraph (3) the following statement printed in not less than*
23 *10-point type and in bold or italic:*
24

25 *"(Name of the home care aide domestic referral agency) is not*
26 *the employer of the domestic worker it referred to you. (Name of*
27 *home care aide domestic referral agency) is a referral agency and*
28 *does not employ, control, or train any home care aide it refers.*
29 *The domestic worker may be your employee or an independent*
30 *contractor depending on the relationship you have with him or*
31 *her. If you direct and control the manner and means by which the*
32 *domestic worker performs his or her work, you may have employer*
33 *responsibilities, including employment taxes and workers'*
34 *compensation, under state and federal law. For additional*
35 *information contact your local Employment Development*
36 *Department office and the federal Internal Revenue Service. You*
37 *may contact the Employment Development Department at*
38 *800-300-5616 or www.edd.ca.gov. You may contact the federal*
39 *Internal Revenue Service at 1-800-829-3676 or www.irs.gov.*

1 *If an employment relationship is established between you and*
 2 *a home care aide referred to you by (name of home care aide*
 3 *domestic referral agency) you must register with the Employment*
 4 *Development Department as a household employer within 15 days*
 5 *after you have paid seven hundred fifty dollars (\$750) or more in*
 6 *total cash wages in a calendar quarter to the a home care aide.*
 7 *To assist you, you may request, in writing, that (name of home*
 8 *care aide domestic referral agency) provide you with a statement*
 9 *of payments made on your behalf through the home care aide*
 10 *domestic referral agency’s designated trust account.”*

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

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

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

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

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

36 (1) ~~Ensure any staff person, volunteer, or employee of a home~~
 37 ~~care organization who has contact with clients, prospective clients,~~
 38 ~~or confidential client information that may pose a risk to the clients’~~
 39 ~~health and safety has met the requirements of Sections 1796.23,~~
 40 ~~1796.24, 1796.25, 1796.26, and 1796.28 before there is contact~~

1 with clients or prospective clients or access to confidential client
2 information.

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

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

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

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

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

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

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

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

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

34 (1) Clients' rights and safety.

35 (2) How to provide for, and respond to, a client's daily living
36 needs.

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

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

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

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

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

8 (i) *Client rights and safety.*

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

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

11 (iv) *Assisting with personal hygiene.*

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

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

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

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

24 ~~(d)~~

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

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

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

34 1796.45. (a) *Affiliated home care aides hired on or after*
35 *January 1, 2016, or a registered home care aide entering into an*
36 *agreement with a home care aide domestic referral agency after*
37 *January 1, 2017, shall submit to an examination 90 days prior to*
38 ~~employment~~, *employment or the effective date of the agreement,*
39 ~~or within seven days after employment~~, *employment or the effective*

1 *date of the agreement*, to determine that the individual is free of
2 active tuberculosis disease.

3 (b) For purposes of this section, “examination” means a test for
4 tuberculosis infection that is recommended by the federal Centers
5 for Disease Control and Prevention (CDC) and licensed by the
6 federal Food and Drug Administration (FDA) and, if that test is
7 positive, an X-ray of the lungs. The aide shall not work as ~~an~~
8 ~~affiliated a registered~~ home care aide unless the licensee obtains
9 documentation from a licensed medical professional that there is
10 no risk of spreading the disease.

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

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

22 (e) The examination is a condition of initial and continuing
23 employment with the home care organization. *The examination is*
24 *also a condition of a registered home care aide’s initial and*
25 *continuing agreement with a home care aide domestic referral*
26 *agency.*

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

1 prior to the affiliated home care aide beginning ~~employment.~~
2 *employment or prior to a referral of the independent home care*
3 *aide by the home care aide domestic referral agency.*

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

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

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

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

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

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

1 1796.49. (a) A *home care organization* licensee shall pay the
2 following fees:

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

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

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

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

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

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

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

26 (b)

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

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

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

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

1 1796.52. (a) The department may review and, if it determines
 2 necessary, investigate ~~complaints~~ *a complaint* filed against *a home*
 3 ~~care organizations~~ *organization or home care aide domestic*
 4 *referral agency* regarding violations of this chapter or any rules
 5 or regulations promulgated pursuant to this chapter.
 6 (b) The department shall verify through random, unannounced
 7 inspections that a home care organization *or home care aide*
 8 *domestic referral agency* meets the requirements of this chapter
 9 and the rules and regulations promulgated pursuant to this chapter.
 10 (c) An investigation or inspection conducted by the department
 11 pursuant to this chapter may include, but is not limited to,
 12 inspection of the books, records, or premises of a home care
 13 ~~organization.~~ *A organization or home care aide domestic referral*
 14 *agency. An organization's or agency's* refusal to make records,
 15 books, or premises available shall constitute cause for the
 16 revocation of the ~~home care organization's~~ *organization's or*
 17 *agency's* license.
 18 (d) Other than maintaining the home care registry, the
 19 department shall have no oversight responsibility regarding
 20 registered home care aides.
 21 (e) Upon receipt of a report of suspected or known abuse, as set
 22 forth in subdivision (e) of Section 1796.42, the department shall
 23 cross-report the suspected or known abuse to local law enforcement
 24 and Adult Protective Services if the alleged victim is 18 years of
 25 age or older, or local law enforcement and Child Protective
 26 Services if the alleged victim is under 18 years of age. Other than
 27 the cross-reporting required by this subdivision, the department
 28 shall not be required to investigate suspected or known abuse or
 29 have other responsibilities related to the suspected or known abuse.
 30 This subdivision shall not supersede the existing duty of home
 31 health aides and home health agencies as mandated reporters to
 32 report directly to local law enforcement or county adult protective
 33 services pursuant to Section 15630.
 34 SEC. 23. Section 1796.55 of the Health and Safety Code is
 35 amended to read:
 36 1796.55. (a) A home care organization *or home care aide*
 37 *domestic referral agency* that operates in violation of any
 38 requirement or obligation imposed by this chapter or any rule or
 39 regulation promulgated pursuant to this chapter may be subject to

1 the fines levied or licensure action taken by the department as
2 specified in this chapter.

3 (b) When the department determines that a home care
4 organization *or home care aide domestic referral agency* is in
5 violation of this chapter or any rules or regulations promulgated
6 pursuant to this chapter, a notice of violation shall be served upon
7 the licensee. Each notice of violation shall be prepared in writing
8 and shall specify the nature of the violation and the statutory
9 provision, rule, or regulation alleged to have been violated. The
10 notice shall inform the licensee of any action the department may
11 take pursuant to this chapter, including the requirement of a plan
12 of correction, assessment of a penalty, or action to suspend, revoke,
13 or deny renewal of the license. The director or his or her designee
14 shall also inform the licensee of rights to a hearing pursuant to this
15 chapter.

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

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

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

24 1796.61. (a) This chapter shall be implemented on January
25 1, 2016.

26 (b) Home care organization applicants and home care aide
27 applicants who submit applications prior to January 1, 2016, shall
28 be authorized to provide home care services without meeting the
29 requirements of Section 1796.45, provided the requirements of
30 that section are met no later than July 1, 2016.

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

34 (d) *A home care aide domestic referral agency applicant who*
35 *submits an application prior to January 1, 2017, shall be*
36 *authorized to provide home care services without meeting the*
37 *requirement of Section 1796.45, provided the requirements of that*
38 *section are met no later than July 1, 2017.*

1 (e) *An applicant described in subdivision (d) shall meet all the*
2 *requirements of this chapter no later than July 1, 2017, in order*
3 *to continue to provide home care services.*

4 SEC. 25. No reimbursement is required by this act pursuant
5 to Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.