

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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~~ A 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 *Section* 687.2 of the Unemployment Insurance Code
22 that offers, refers, provides, or attempts to provide work for an
23 independent home care aide who is providing home care services,
24 and shall be 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.

(m) “Home care aide registry” means a department-established and department-maintained Internet Web site of registered home care aides and home care aide applicants, that includes the individual’s name, registration number, registration status, registration expiration date, and, if applicable, one or both of the following:

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

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

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

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

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

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

(r) “Home care services” means nonmedical services and assistance provided by a registered home care aide to a client who, because of advanced age or physical or mental disability, cannot perform these services. These services enable the client to remain in his or her residence and include, but are not limited to, assistance with the following: bathing, dressing, feeding, exercising, personal hygiene and grooming, transferring, ambulating, positioning, toileting and incontinence care, assisting with medication that the

1 client self-administers, housekeeping, meal planning and
2 preparation, laundry, transportation, correspondence, making
3 telephone calls, shopping for personal care items or groceries, and
4 companionship. This subdivision shall not authorize a registered
5 home care aide to assist with medication that the client
6 self-administers that would otherwise require administration or
7 oversight by a licensed health care professional.

8 (s) "Independent home care aide" means an individual, 18 years
9 of age or older, who is not employed by a home care organization,
10 but who is listed on the home care aide registry and is providing
11 home care services through a direct agreement with a client.

12 (t) "Registered home care aide" means an affiliated home care
13 aide or independent home care aide who is 18 years of age or older
14 and is listed on the home care aide registry.

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

17 1796.14. (a) Individuals who are not employed by a home care
18 organization or referred by a home care aide domestic referral
19 agency but who provide home care services to a client may be
20 listed on the home care aide registry.

21 (b) An affiliated home care aide shall be listed on the home care
22 aide registry prior to providing home care services through a home
23 care organization. An independent home care aide shall be listed
24 on the home care aide registry prior to being referred by a home
25 care aide domestic referral agency to a client.

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

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

31 (B) Services authorized to be provided by a licensed hospice
32 pursuant to Chapter 8.5 (commencing with Section 1745).

33 (C) Services authorized to be provided by a licensed health
34 facility pursuant to Chapter 2 (commencing with Section 1250).

35 (D) In-home supportive services provided pursuant to Article
36 7 (commencing with Section 12300) of Chapter 3 of Part 3 of
37 Division 9 of, or Section 14132.95, 14132.952, or 14132.956 of,
38 the Welfare and Institutions Code.

39 (E) A community care facility licensed pursuant to Chapter 3
40 (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) An alcoholism or drug abuse recovery or treatment facility
29 as defined in Section 11834.02.

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

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

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

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

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

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

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

9 1796.17. (a) Each home care organization and each home care
10 aide domestic referral agency shall be separately licensed. This
11 chapter does not prevent a licensee from obtaining more than one
12 license or obtaining a license in addition to other licenses issued
13 by the department, or both.

14 (b) A home care organization or a home care aide domestic
15 referral agency does not include the following:

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

18 (2) A hospice licensed under Chapter 8.5 (commencing with
19 Section 1745).

20 (3) A health facility licensed under Chapter 2 (commencing
21 with Section 1250).

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

27 (5) A home medical device retail facility licensed under Section
28 111656.

29 (6) An organization vendored or contracted through a regional
30 center or the State Department of Developmental Services pursuant
31 to the Lanterman Developmental Disabilities Services Act
32 (Division 4.5 (commencing with Section 4500) of the Welfare and
33 Institutions Code) and the California Early Intervention Services
34 Act (Title 14 (commencing with Section 95000) of the Government
35 Code) to provide services and supports for persons with
36 developmental disabilities, as defined in Section 4512 of the
37 Welfare and Institutions Code, when funding for those services is
38 provided through the State Department of Developmental Services
39 and more than 50 percent of the recipients of the home care services

1 provided by the organization are persons with developmental
2 disabilities.

3 (7) An employment agency, as defined in Section 1812.5095
4 of the Civil Code and Section 687.2 of the Unemployment
5 Insurance Code, that procures, offers, refers, provides, or attempts
6 to provide a domestic worker, except an employment agency that
7 is a home care aide domestic referral agency as defined in
8 subdivision (i) of Section 1796.12.

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

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

24 (10) A person providing services authorized pursuant to Section
25 2731 of the Business and Professions Code.

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

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

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

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

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

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

1 (c) In the event of a conflict between this chapter and a provision
2 listed in subdivision (b), the provision in subdivision (b) shall
3 control.

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

6 1796.22. Any individual who has submitted a home care aide
7 application and who possesses any one of the following
8 identification cards may initiate a background examination to be
9 a registered home care aide:

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

11 (b) A valid identification card issued by the Department of
12 Motor Vehicles.

13 (c) A valid Alien Registration Receipt Card or valid Permanent
14 Resident Card.

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

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

20 1796.24. (a) (1) The department shall establish a home care
21 aide registry pursuant to this chapter and shall continuously update
22 the registry information. Upon submission of the home care aide
23 application and fingerprints or other identification documents
24 pursuant to Section 1796.22, the department shall enter into the
25 home care aide registry the person's name, identification number,
26 and an indicator that the person has submitted a home care aide
27 application and fingerprints or identification documentation. This
28 person shall be known as a "home care aide applicant."

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

33 (b) (1) Before approving an individual for registration, the
34 department shall check the individual's criminal history pursuant
35 to Section 1522. Upon completion of the searches of the state
36 summary criminal offender record information and the records of
37 the Federal Bureau of Investigation, the home care aide applicant
38 shall be issued a criminal record clearance or granted a criminal
39 record exemption if grounds do not exist for denial pursuant to
40 Section 1522. The department shall enter that finding in the

1 person's record in the home care aide registry and shall notify the
2 person of the action. This person shall be known as a "registered
3 home care aide." If the home care aide applicant meets all of the
4 conditions for registration, except receipt of the Federal Bureau
5 of Investigation's criminal offender record information search
6 response, the department may issue a clearance if the home care
7 aide applicant has signed and submitted a statement that he or she
8 has never been convicted of a crime in the United States, other
9 than a minor traffic violation. If, after approval, the department
10 determines that the registrant has a criminal record, registration
11 may be revoked pursuant to Section 1796.26.

12 (2) For purposes of compliance with this section, the department
13 may permit a home care organization applicant, a home care aide
14 domestic referral agency applicant, a home care organization
15 licensee, or a home care aide domestic referral agency licensee to
16 request the transfer of a home care aide's current criminal record
17 clearance or exemption for a licensed care facility issued by the
18 department. A signed criminal record clearance or exemption
19 transfer request shall be submitted to the department and shall
20 include a copy of the person's driver's license or valid
21 identification card issued by the Department of Motor Vehicles,
22 or a valid photo identification issued by another state or the United
23 States government if the person is not a California resident. Upon
24 request of the licensee or home care aide applicant, the department
25 shall verify whether the individual has a clearance or exemption
26 that can be transferred pursuant to the requirements of this chapter.

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

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

33 1796.29. The department shall do both of the following in the
34 administration of the home care aide registry:

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

38 (2) To expedite the ability of a consumer to search and locate
39 a registered home care aide or home care aide applicant, the
40 Internet Web site shall enable consumers to look up the registration

1 status by providing the registered home care aide's or home care
2 aide applicant's name, registration number, registration status,
3 registration expiration date, and, if applicable, the home care
4 organization with which the affiliated home care aide is associated
5 or the home care aide domestic referral agency with which the
6 independent home care aide is associated.

7 (3) The Internet Web site shall not provide any additional,
8 individually identifiable information about a registered home care
9 aide or home care aide applicant. The department may request and
10 may maintain additional information for registered home care aides
11 or home care aide applicants, as necessary for the administration
12 of this chapter, that shall not be publicly available on the home
13 care aide registry.

14 (4) The Internet Web site shall distinguish between an affiliated
15 and independent home care aide for purposes of informing potential
16 consumers and the public of the differences between the two
17 classifications.

18 (5) A home care aide may be registered simultaneously as an
19 affiliated and independent home care aide, and may be affiliated
20 with more than one home care organization simultaneously or
21 associated with more than one home care aide domestic referral
22 agency simultaneously. A registered home care aide may be
23 affiliated with home care organizations and associated with home
24 care aide domestic referral agencies simultaneously.

25 (b) Update the home care registry upon receiving notification
26 from a home care organization or a home care aide domestic
27 referral agency that the home care aide is no longer employed by
28 the home care organization or associated with the home care
29 domestic referral agency.

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

32 1796.32. An individual who has submitted an application and
33 who possesses any one of the following identification cards may
34 initiate a background examination to be a licensed home care
35 organization or a licensed home care aide domestic referral agency:

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

37 (b) A valid identification card issued by the Department of
38 Motor Vehicles.

39 (c) A valid Alien Registration Receipt Card or a valid Permanent
40 Resident Card.

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

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

1796.33. (a) To obtain a home care organization license or a home care aide domestic referral agency license, the following individual or individuals shall consent to the background examination described in Section 1796.23:

(1) The owner of the applicant, if the owner is an individual.

(2) If the owner of the applicant is a corporation, limited liability company, joint venture, association, or other entity, an individual having a 10-percent or greater ownership in that entity and the chief executive officer or other person serving in a similar capacity. The department shall not issue a provisional license or license to any corporate home care organization applicant that has a member of the board of directors, executive director, or officer who is not eligible for licensure pursuant to Sections 1796.40 and 1796.41.

(b) 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 may transfer his or her current criminal record clearance or exemption for purposes of licensure pursuant to this chapter pursuant to subdivision (h) of Section 1522. The person shall, instead, submit to the department, along with the person's application, a copy of his or her identification card, as required pursuant to Section 1522, and a declaration verifying the person's identity that is signed under penalty of perjury.

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

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

1 (1) Own, manage, or represent himself, herself, or itself to be
2 a home care organization by name, advertising, solicitation, or any
3 other presentments 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 employee
6 bonding in relation to those services.

7 (2) Use the terms “home care organization,” “home care,”
8 “in-home care,” or any combination of those terms, within its
9 name.

10 (b) A person or a private or public organization, except a county
11 providing in-home supportive services pursuant to Article 7
12 (commencing with Section 12300) of Chapter 3 of Part 3 of
13 Division 9 of the Welfare and Institutions Code, and the exceptions
14 provided for in subdivision (c), shall not do either of the following,
15 unless it is a licensed home care aide domestic referral agency:

16 (1) Represent himself, herself, or itself to be a home care aide
17 domestic referral agency by name, advertising, soliciting, or any
18 other presentment to the public or, in the context of services within
19 the scope of this chapter, imply that he, she, or it is licensed to
20 provide those services or to make any reference to *an* employment
21 agency or bonding in relation to those services.

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

25 (c) (1) This section does not apply to a person who performs
26 in-home supportive services through the In-Home Supportive
27 Services program pursuant to Article 7 (commencing with Section
28 12300) of Chapter 3 of Part 3 of Division 9 of, or Section 14132.95,
29 14132.952, or 14132.956 of, the Welfare and Institutions Code.

30 (2) Subdivision (a) does not apply to a home care aide domestic
31 referral agency organization.

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

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

35 1796.36. (a) A home care organization or a home care aide
36 domestic referral agency that has its principal place of business in
37 another state, in addition to the other requirements of this chapter,
38 before arranging for home care services provided by a registered
39 home care aide to a client in the state, shall comply with all of the
40 following:

1 (1) Have an office in California.

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

5 (b) If the home care organization or home care aide domestic
6 referral agency is a foreign corporation, foreign limited liability
7 company, foreign limited partnership, foreign association, or a
8 foreign limited liability partnership, as defined in Sections 170,
9 171, 171.03, 171.05, and 16101 of the Corporations Code, before
10 arranging for home care services provided by a registered home
11 care aide to a client in the state, the home care organization or
12 home care aide domestic referral agency shall have an office in
13 California and shall comply with both of the following:

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

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

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

21 1796.37. (a) The department shall issue a home care
22 organization license to a home care organization applicant that
23 satisfies the requirements set forth in this chapter, including all of
24 the following:

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

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

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

34 (4) Submits proof of an employee dishonesty bond, including
35 third-party coverage, with a minimum limit of ten thousand dollars
36 (\$10,000). This proof shall be submitted at each subsequent
37 renewal.

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

1 (6) Passes a background examination, as required pursuant to
2 Section 1796.33.

3 (7) Completes a department orientation.

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

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

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

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

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

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

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

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

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

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

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

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

30 (12) Provides any other information as may be required by the
31 department for the proper administration and enforcement of this
32 chapter.

33 (13) Cooperates with the department in the completion of the
34 home care organization license application process. Failure of the
35 home care organization licensee to cooperate may result in the
36 withdrawal of the home care organization license application.
37 "Failure to cooperate" means that the information described in this
38 chapter and in any rules and regulations promulgated pursuant to
39 this chapter has not been provided, or not been provided in the
40 form requested by the department, or both.

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

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

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

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

16 (4) Submits proof of an employee dishonesty bond, including
17 third-party coverage, with a minimum limit of ten thousand dollars
18 (\$10,000).

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

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

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

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

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

38 (d) The department shall issue a home care aide domestic referral
39 agency license to a home care aide domestic referral agency

1 applicant that satisfies the requirements set forth in this chapter,
2 including, but not limited to, all of the following:

3 (1) Files a complete home care aide domestic referral agency
4 application, including payment of the fees required pursuant to
5 subdivision (b) of Section 1796.49.

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

9 (3) Submits evidence of compliance with the bond requirements
10 in accordance with Section 1812.503 of the Civil Code.

11 (4) Provides, if requested by the department, a list of
12 independent home care aides receiving referrals from the home
13 care aide domestic referral agency and proof that each of them
14 satisfies the requirements of Sections 1796.43, 1796.44, and
15 1796.45.

16 (5) The owner or owners of the home care aide domestic referral
17 agency pass a background examination pursuant to Section
18 1796.33.

19 (6) Is current in full payment of all fees or civil penalties that
20 the applicant owed the department.

21 (7) Completes an orientation provided by the department.

22 (8) Discloses prior or present service as an administrator, general
23 partner, corporate officer, or director of, or discloses that he or she
24 has held or holds a beneficial ownership of 10 percent or more in,
25 any of the following:

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

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

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

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

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

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

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

37 (H) A home care aide domestic referral agency licensed pursuant
38 to this chapter.

1 (9) Discloses any revocation or other disciplinary action taken,
2 or in the process of being taken, against a license held or previously
3 held by an entity specified in paragraph (8).

4 (10) Provides evidence that every member of the board of
5 directors, if applicable, understands his or her legal duties and
6 obligations as a member of the board of directors and that the home
7 care aide domestic referral agency's operation is governed by laws
8 and regulations that are enforced by the department.

9 (11) Provides any other information required by the department
10 for the proper administration and enforcement of this chapter.

11 (12) (A) Cooperates with the department in the completion of
12 the home care aide domestic referral agency license application
13 process.

14 (B) The department may withdraw a home care aide domestic
15 referral agency license application if the applicant fails to cooperate
16 with the department in the application process. "Fails to cooperate"
17 means that the information described in this chapter and in any
18 rules and regulations adopted pursuant to this chapter has not been
19 provided, or not provided in the form requested by the department,
20 or both.

21 (e) A home care aide domestic referral agency licensee shall
22 renew the home care aide domestic referral agency license every
23 two years. The department may renew a home care aide domestic
24 referral agency license if the licensee satisfies the requirements
25 set forth in this chapter, including, but not limited to, all of the
26 following:

27 (1) Files a complete home care aide domestic referral agency
28 license renewal application, including payment of the
29 nonrefundable fees required pursuant to subdivision (b) of Section
30 1796.49, both of which shall be postmarked on or before the license
31 expiration date.

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

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

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

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

1 (6) (A) Cooperates with the department in the completion of
2 the home care aide domestic referral agency license renewal
3 process.

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

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

14 (2) Written notification pursuant to this subdivision shall be
15 mailed to the registered home care aide domestic referral agency’s
16 mailing address of record at least 60 days before the registration
17 expiration date.

18 (g) Each home care aide domestic referral agency shall be
19 separately licensed.

20 (h) This chapter does not prevent a licensee from obtaining more
21 than one home care aide domestic referral agency license or
22 obtaining a home care aide domestic referral agency license in
23 addition to another license issued by the department, or both.

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

26 1796.38. The department may deny an application for licensure
27 or suspend or revoke any license issued pursuant to this chapter,
28 pursuant to Sections 1550.5 and 1551 and in the manner provided
29 in this chapter on any of the following grounds:

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

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

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

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

1 (e) Engaging in acts of financial malfeasance concerning the
2 operation of a home care organization or a home care aide domestic
3 referral agency.

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

6 1796.40. (a) (1) If an application for a license under this
7 chapter indicates, or the department determines during the
8 application review process, that the home care organization
9 applicant or the home care aide domestic referral agency applicant
10 was previously issued a license under this chapter or under Chapter
11 1 (commencing with Section 1200), Chapter 2 (commencing with
12 Section 1250), Chapter 3 (commencing with Section 1500), Chapter
13 3.01 (commencing with Section 1568.01), Chapter 3.2
14 (commencing with Section 1569), Chapter 3.4 (commencing with
15 Section 1596.70), Chapter 3.5 (commencing with Section 1596.90),
16 Chapter 3.6 (commencing with Section 1597.30), or Chapter 3.65
17 (commencing with Section 1597.70), and the prior license was
18 revoked within the preceding two years, the department shall cease
19 any further review of the application until two years have elapsed
20 from the date of the revocation. A home care organization or a
21 home care aide domestic referral agency is exempt from the health
22 planning requirements contained in Part 2 (commencing with
23 Section 127125) of Division 107.

24 (2) If an application for a license indicates, or the department
25 determines during the application review process, that the applicant
26 previously was issued a certificate of approval by a foster family
27 agency that was revoked by the department pursuant to subdivision
28 (b) of Section 1534 within the preceding two years, the department
29 shall cease any further review of the application until two years
30 have elapsed from the date of the revocation.

31 (3) If an application for a license indicates, or the department
32 determines during the application review process, that the applicant
33 was excluded from a facility licensed by the department pursuant
34 to Section 1558, 1568.092, 1569.58, or 1596.8897, the department
35 shall cease any further review of the application unless the excluded
36 individual has been reinstated pursuant to Section 11522 of the
37 Government Code by the department.

38 (b) If an application for a license indicates, or the department
39 determines during the application review process, that the applicant
40 had previously applied for a license pursuant to any of the chapters

1 listed in paragraph (1) of subdivision (a) and the application was
2 denied within the last year, the department shall cease further
3 review of the application until one year has elapsed from the date
4 of the denial letter. In those circumstances in which denials are
5 appealed and upheld at an administrative hearing, review of the
6 application shall cease for one year from the date of the decision
7 and order of the department.

8 (c) If an application for a license indicates, or the department
9 determines during the application review process, that the applicant
10 had previously applied for a certificate of approval with a foster
11 family agency and the department ordered the foster family agency
12 to deny the application pursuant to subdivision (b) of Section 1534,
13 the department shall cease further review of the application as
14 follows:

15 (1) In cases where the applicant petitioned for a hearing, the
16 department shall cease further review of the application until one
17 year has elapsed from the effective date of the decision and order
18 of the department upholding the denial.

19 (2) In cases where the department informed the applicant of his
20 or her right to petition for a hearing and the applicant did not
21 petition for a hearing, the department shall cease further review
22 of the application until one year has elapsed from the date of the
23 notification of the denial and the right to petition for a hearing.

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

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

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

32 1796.41. (a) (1) If the department determines that a person
33 was issued a license pursuant to this chapter or Chapter 1
34 (commencing with Section 1200), Chapter 2 (commencing with
35 Section 1250), Chapter 3 (commencing with Section 1500), Chapter
36 3.01 (commencing with Section 1568.01), Chapter 3.2
37 (commencing with Section 1569), Chapter 3.4 (commencing with
38 Section 1596.70), Chapter 3.5 (commencing with Section 1596.90),
39 Chapter 3.6 (commencing with Section 1597.30), or Chapter 3.65
40 (commencing with Section 1597.70), and the prior license was

1 revoked within the preceding two years, the department shall
2 exclude the person from acting as, and require the home care
3 organization or home care aide domestic referral agency to remove
4 him or her from his or her position as, a member of the board of
5 directors, an executive director, or an officer of a licensee of a
6 home care organization or a home care aide domestic referral
7 agency licensed by the department pursuant to this chapter.

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

18 (b) If the department determines that the person had previously
19 applied for a license under any of the chapters listed in paragraph
20 (1) of subdivision (a) and the application was denied within the
21 last year, 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 a home care organization or home care aide
26 domestic referral agency licensed by the department pursuant to
27 this chapter as follows:

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

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

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

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

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

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

1 licensed by the department pursuant to this chapter until one year
2 has elapsed from the date of the notification of the denial and the
3 right to petition for a hearing.

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

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

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

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

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 registered home care aides.

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

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

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

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

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

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

8 (c) In addition to the requirements of subdivision (a), a home
9 care aide domestic referral agency licensee shall do all of the
10 following:

11 (1) Comply with the bond requirements included in Section
12 1812.503 of the Civil Code.

13 (2) Orally communicate to the person seeking home care aide
14 services the disclosure set forth in this paragraph prior to the
15 referral of the home care aide:

16
17 “(Name of the home care aide domestic referral agency) is not
18 the employer of the domestic worker that it referred to you.
19 Depending on your arrangement with the domestic worker, you
20 may have employer responsibilities.”

21
22 (3) Within three business days after the home care aide domestic
23 referral agency refers a registered home care aide to the person
24 seeking home care aide services, mail to the person seeking services
25 ~~the following~~ *both of the following*:

26 (A) *Employment Development Department Information Sheet*
27 *DE 231L on “Household Employment.”*

28 (B) A statement printed in not less than 10-point type and in
29 bold or italic:

30
31 “(Name of the home care aide domestic referral agency) is not
32 the employer of the domestic worker it referred to you. The
33 domestic worker may be your employee or an independent
34 contractor depending on the relationship you have with him or her.
35 If you direct and control the manner and means by which the
36 domestic worker performs his or her work, you may have employer
37 responsibilities, including employment taxes and workers’
38 compensation, under state and federal law. For additional
39 information contact your local Employment Development
40 Department office and the federal Internal Revenue Service. You

1 may contact the Employment Development Department at
2 800-300-5616 or www.edd.ca.gov. You may contact the federal
3 Internal Revenue Service at 1-800-829-3676 or www.irs.gov.

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

16
17 (4) A home care aide domestic referral agency shall mail to a
18 client who has not terminated referral services within 14 business
19 days following mailing of the client disclosure pursuant to
20 paragraph (3) ~~the following~~ *both of the following*:

21 (A) *Employment Development Department Information Sheet*
22 *DE 231L on "Household Employment."*

23 (B) A statement printed in not less than 10-point type and in
24 bold or italic:

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

17
18 “(Name of the home care aide domestic referral agency) is a
19 referral ~~agency.”~~ agency. *Depending on the employment*
20 *arrangement, an individual hiring a home care aide through a*
21 *referral agency may take on employer responsibilities. For*
22 *additional information, contact your local Employment*
23 *Development Department office and the federal Internal Revenue*
24 *Service.”*

25
26 (6) *On the home care aide domestic referral agency's Internet*
27 *Web site promoting the home care aide domestic referral agency's*
28 *services, insert the following statement, in no less than 10-point*
29 *type and in a color that contrasts with the background so it is*
30 *easily legible:*

31
32 “(Name of the home care aide domestic referral agency) is a
33 referral agency. *Depending on the employment arrangement, an*
34 *individual hiring a home care aide through a referral agency may*
35 *take on employer responsibilities. For additional information,*
36 *contact your local Employment Development Department office*
37 *and the federal Internal Revenue Service. You may contact the*
38 *Employment Development Department at 800-300-5616 or*
39 *www.edd.ca.gov. You may contact the federal Internal Revenue*
40 *Service at 1-800-829-3676 or www.irs.gov.”*

1 ~~(6)~~

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

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

9 1796.43. (a) A home care organization that employs an
10 affiliated home care aide or a home care aide domestic referral
11 agency that refers a home care aide shall ensure the home care
12 aide is cleared on the home care aide registry before placing the
13 individual in direct contact with a client. In addition, the home
14 care organization or home care aide domestic referral agency shall
15 do all of the following:

16 (1) Ensure any staff person, volunteer, or employee who has
17 contact with clients, prospective clients, or confidential client
18 information that may pose a risk to the clients' health and safety
19 has met the requirements of Sections 1796.23, 1796.24, 1796.25,
20 1796.26, and 1796.28 before there is contact with clients or
21 prospective clients or access to confidential client information.

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

24 (3) Immediately notify the department when the home care
25 organization no longer employs an individual as an affiliated home
26 care aide, or a home care aide domestic referral agency removes
27 an independent home care aide from its referral list.

28 (b) This section shall not prevent a licensee from requiring a
29 criminal record clearance of any individual exempt from the
30 requirements of this section.

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

33 1796.44. (a) A licensee shall ensure that prior to providing
34 home care services, an affiliated home care aide shall complete
35 the training requirements specified in subdivisions (b) and (c). A
36 home care aide domestic referral agency shall ensure, prior to that
37 person being referred to a client, that a registered home care aide
38 demonstrate proficiency as provided in subdivision (d).

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

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

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

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

(1) Clients' rights and safety.

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

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

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

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

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

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

(i) Client rights and safety.

(ii) Providing and responding to daily living needs.

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

(iv) Assisting with personal hygiene.

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

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

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

(3) The proficiency exam provided shall include home care services related topics described in this subdivision and may be

1 provided through an online proficiency examination or a written
2 proficiency examination.

3 (e) The entry-level training and annual training described in
4 subdivisions (b) and (c) may be completed through an online
5 training program.

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

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

12 1796.45. (a) Affiliated home care aides hired on or after
13 January 1, 2016, or a registered home care aide entering into an
14 agreement with a home care aide domestic referral agency after
15 January 1, 2017, shall submit to an examination 90 days prior to
16 employment or the effective date of the agreement, or within seven
17 days after employment or the effective date of the agreement, to
18 determine that the individual is free of active tuberculosis disease.

19 (b) For purposes of this section, “examination” means a test for
20 tuberculosis infection that is recommended by the federal Centers
21 for Disease Control and Prevention (CDC) and licensed by the
22 federal Food and Drug Administration (FDA) and, if that test is
23 positive, an X-ray of the lungs. The aide shall not work as a
24 registered home care aide unless the licensee obtains documentation
25 from a licensed medical professional that there is no risk of
26 spreading the disease.

27 (c) After submitting to an examination, a home care aide whose
28 test for tuberculosis infection is negative shall be required to
29 undergo an examination at least once every two years. Once a
30 home care aide has a documented positive test for tuberculosis
31 infection that has been followed by an X-ray, the examination is
32 no longer required.

33 (d) After each examination, a home care aide shall submit, and
34 the home care organization or home care aide domestic referral
35 agency shall keep on file, a certificate from the examining
36 practitioner showing that the home care aide was examined and
37 found free from active tuberculosis disease.

38 (e) The examination is a condition of initial and continuing
39 employment with the home care organization. The examination is
40 also a condition of a registered home care aide’s initial and

1 continuing agreement with a home care aide domestic referral
2 agency.

3 (f) A home care aide who transfers employment from one home
4 care organization to another or a registered home care aide entering
5 into an agreement with a home care aide domestic referral agency
6 shall be deemed to meet the requirements of subdivision (a) or (c)
7 if the home care aide can produce a certificate showing that he or
8 she submitted to the examination within the past two years and
9 was found to be free of active tuberculosis disease, or if it is
10 verified by the home care organization previously employing him
11 or her or by the home care aide domestic referral agency that
12 previously had an agreement with him or her that the home care
13 organization or home care aide domestic referral agency has a
14 certificate on file that contains that showing and a copy of the
15 certificate is provided to the new home care organization or to the
16 home care aide domestic referral agency prior to the affiliated
17 home care aide beginning employment or prior to a referral of the
18 independent home care aide by the home care aide domestic referral
19 agency.

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

22 1796.47. (a) (1) Administration of this program shall be fully
23 supported by fees and not civil penalties. Initial costs to implement
24 this chapter may be provided through a General Fund loan that is
25 to be repaid in accordance with a schedule provided by the
26 Department of Finance. The department shall assess fees for home
27 care organization and home care aide domestic referral agency
28 licensure, and home care aide registration related to activities
29 authorized by this chapter. The department may adjust fees as
30 necessary to fully support the administration of this chapter. Except
31 for General Fund moneys that are otherwise transferred or
32 appropriated for the initial costs of administering this chapter, or
33 penalties collected pursuant to this chapter that are appropriated
34 by the Legislature for the purposes of this chapter, no General
35 Fund moneys shall be used for any purpose under this chapter.

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

39 (b) The Home Care Fund is hereby created within the State
40 Treasury for the purpose of this chapter. All licensure and

1 registration fees authorized by this chapter shall be deposited into
2 the Home Care Fund, except the fingerprint fees collected pursuant
3 to Section 1796.23, which shall be deposited into the Fingerprint
4 Fees Account. Moneys in this fund shall, upon appropriation by
5 the Legislature, be made available to the department for purposes
6 of administering this chapter.

7 (c) Any fines and penalties collected pursuant to this chapter
8 shall be deposited into the Home Care Technical Assistance Fund,
9 which is hereby created as a subaccount within the Home Care
10 Fund. Moneys in the Home Care Technical Assistance Fund shall,
11 upon appropriation by the Legislature, be available to the
12 department for the purposes of providing technical assistance,
13 training, and education pursuant to this chapter.

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

16 1796.49. (a) A home care organization licensee shall pay the
17 following fees:

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

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

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

27 (b) A home care aide domestic referral agency licensee shall
28 pay the following fees to the department:

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

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

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

1 (c) The fees collected shall be deposited into the Home Care
2 Fund pursuant to subdivision (b) of Section 1796.47, except the
3 fingerprint fees collected pursuant to Section 1796.23, which shall
4 be deposited into the Fingerprint Fees Account.

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

7 1796.51. To carry out the provisions of this chapter, the
8 department may establish procedures for the receipt, investigation,
9 and resolution of a complaint against a home care organization or
10 home care aide domestic referral agency.

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

13 1796.52. (a) The department may review and, if it determines
14 necessary, investigate a complaint filed against a home care
15 organization or home care aide domestic referral agency regarding
16 violations of this chapter or any rules or regulations promulgated
17 pursuant to this chapter.

18 (b) The department shall verify through random, unannounced
19 inspections that a home care organization or home care aide
20 domestic referral agency meets the requirements of this chapter
21 and the rules and regulations promulgated pursuant to this chapter.

22 (c) An investigation or inspection conducted by the department
23 pursuant to this chapter may include, but is not limited to,
24 inspection of the books, records, or premises of a home care
25 organization or home care aide domestic referral agency. An
26 organization's or agency's refusal to make records, books, or
27 premises available shall constitute cause for the revocation of the
28 organization's or agency's license.

29 (d) Other than maintaining the home care registry, the
30 department shall have no oversight responsibility regarding
31 registered home care aides.

32 (e) Upon receipt of a report of suspected or known abuse, as set
33 forth in subdivision (e) of Section 1796.42, the department shall
34 cross-report the suspected or known abuse to local law enforcement
35 and Adult Protective Services if the alleged victim is 18 years of
36 age or older, or local law enforcement and Child Protective
37 Services if the alleged victim is under 18 years of age. Other than
38 the cross-reporting required by this subdivision, the department
39 shall not be required to investigate suspected or known abuse or
40 have other responsibilities related to the suspected or known abuse.

1 This subdivision shall not supersede the existing duty of home
2 health aides and home health agencies as mandated reporters to
3 report directly to local law enforcement or county adult protective
4 services pursuant to Section 15630.

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

7 1796.55. (a) A home care organization or home care aide
8 domestic referral agency that operates in violation of any
9 requirement or obligation imposed by this chapter or any rule or
10 regulation promulgated pursuant to this chapter may be subject to
11 the fines levied or licensure action taken by the department as
12 specified in this chapter.

13 (b) When the department determines that a home care
14 organization or home care aide domestic referral agency is in
15 violation of this chapter or any rules or regulations promulgated
16 pursuant to this chapter, a notice of violation shall be served upon
17 the licensee. Each notice of violation shall be prepared in writing
18 and shall specify the nature of the violation and the statutory
19 provision, rule, or regulation alleged to have been violated. The
20 notice shall inform the licensee of any action the department may
21 take pursuant to this chapter, including the requirement of a plan
22 of correction, assessment of a penalty, or action to suspend, revoke,
23 or deny renewal of the license. The director or his or her designee
24 shall also inform the licensee of rights to a hearing pursuant to this
25 chapter.

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

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

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

34 1796.61. (a) This chapter shall be implemented on January
35 1, 2016.

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

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

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

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

12 SEC. 25. No reimbursement is required by this act pursuant
13 to Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.