

**ASSEMBLY BILL**

**No. 2158**

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**Introduced by Assembly Member Wagner**

February 17, 2016

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An act to amend Sections 1796.14 and 1796.44 of the Health and Safety Code, relating to home care services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2158, as introduced, Wagner. Home care services: in-home supportive services: registration and training.

Existing law establishes the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization.

Existing law, the Home Care Services Consumer Protection Act, beginning January 1, 2016, provides for the licensure and regulation of home care organizations, as defined, by the State Department of Social Services, and the registration of home care aides. The act excludes specified persons and entities from the definition of a home care aide for purposes of registration, including individuals providing home care services under the IHSS program. Existing law requires affiliated home care aides, as defined, to complete specified training, including a minimum of 5 hours of entry-level training prior to presence with a client. Willful or repeated violation of these provisions is a crime.

This bill would additionally require an independent IHSS provider to be listed on the home care aide registry prior to providing home care services to a client, and would require an independent IHSS provider to complete the specified training required for an affiliated home care aide. The bill would define “independent IHSS provider” to mean an

IHSS program provider who is not employed by a private, 3rd-party agency to provide home care services under the IHSS program. By expanding the definition of a crime, this bill would impose a state-mandated local program.

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

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

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

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

1     SECTION 1. Section 1796.14 of the Health and Safety Code  
2     is amended to read:  
3     1796.14. (a) Individuals who are not employed by a home care  
4     ~~organization~~ *organization*, but who provide home care services to  
5     a client may be listed on the home care aide registry.  
6     (b) An affiliated home care aide shall be listed on the home care  
7     aide registry prior to providing home care services to a client.  
8     (c) (1) Home care aides shall not include individuals who are  
9     providing home care services as part of their job duties through  
10    one of the following entities:  
11    (A) Services authorized to be provided by a licensed home  
12    health agency under Chapter 8 (commencing with Section 1725).  
13    (B) Services authorized to be provided by a licensed hospice  
14    pursuant to Chapter 8.5 (commencing with Section 1745).  
15    (C) Services authorized to be provided by a licensed health  
16    facility pursuant to Chapter 2 (commencing with Section 1250).  
17    (D) In-home supportive services provided pursuant to Article  
18    7 (commencing with Section 12300) of Chapter 3 of Part 3 of  
19    Division 9 of, or Section 14132.95, 14132.952, or 14132.956 of,  
20    the Welfare and Institutions ~~Code~~. *Code, except as provided in*  
21    *subdivision (e).*  
22    (E) A community care facility licensed pursuant to Chapter 3  
23    (commencing with Section 1500), a residential care facility for  
24    persons with chronic life-threatening illness licensed pursuant to  
25    Chapter 3.01 (commencing with Section 1568.01), a residential  
26    care facility for the elderly licensed pursuant to Chapter 3.2

(commencing with Section 1569), or a facility licensed pursuant to the California Child Day Care Facilities Act, (Chapter 3.4 (commencing with Section 1596.70)), which includes day care centers, as described in Chapter 3.5 (commencing with Section 1596.90), family day care homes, as described in Chapter 3.6 (commencing with Section 1597.30), and employer-sponsored child care centers, as described in Chapter 3.65 (commencing with Section 1597.70).

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

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

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

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

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

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

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

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

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

1     (e) *An independent IHSS provider, as defined in Section 1796.44,*  
2     *shall be listed on the home care aide registry prior to providing*  
3     *home care services to a client.*

4     ~~(e)~~

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

8     SEC. 2. Section 1796.44 of the Health and Safety Code is  
9     amended to read:

10    1796.44. (a) A licensee shall ensure that prior to providing  
11    home care services, an affiliated home care aide shall complete  
12    the training requirements specified in this section.

13    (b) An affiliated home care aide *and an independent IHSS*  
14    *provider* shall complete a minimum of five hours of entry-level  
15    training prior to presence with a client, as follows:

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

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

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

26    (1) Clients' rights and safety.

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

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

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

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

34    (d) The entry-level training and annual training described in  
35    subdivisions (b) and (c) may be completed through an online  
36    training program.

37    (e) *For purposes of this section, "independent IHSS provider"*  
38    *means an In-Home Supportive Services program provider who is*  
39    *not employed by a private, third-party agency to provide home*  
40    *care services pursuant to Article 7 (commencing with Section*

1 12300) of Chapter 3 of Part 3 of Division 9 of, or Section 14132.95,  
2 14132.952, or 14132.956 of, the Welfare and Institution Code.

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

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