

Existing law provides for the licensing and regulation of various community care facilities by the State Department of Social Services.

This bill would enact the Home Care Services Act of 2011, which would provide for the licensure and regulation of home care organizations, as defined, by the State Department of Public Health, and the certification of home care aides. The bill would exclude specified entities from the definition of a home care organization. The bill would impose various licensure requirements on a home care organization, including requiring a licensed home care organization to be accredited by an appropriate accrediting organization, as specified. The bill would also impose a civil penalty on an individual or entity that operates a home care organization without a license. The bill would require a home care organization to provide a client with specified information before arranging for the provision of home care services, as defined, to that client, including, but not limited to, the types and hours of available home care services, and the extent to which payment may be expected from specified sources. In addition, this bill would require a home care organization, among other things, to distribute to the client its advance directive policy and provide a written notice to the client of certain rights. The bill would also prohibit a home care organization from hiring an individual as a home care aide unless that individual meets certain requirements, including, but not limited to, demonstrating that he or she has specified language skills and completing a minimum of 5 hours of training as specified.

This bill would require background clearances for home care aides, as prescribed, and would set forth specific duties of the home care organization, the department, and the Department of Justice in this regard. The bill would require home care aides to demonstrate they are free of active tuberculosis. The bill would also require a home care organization to conduct regular evaluations of its home care aides, as specified, and to ensure that home care aides demonstrate basic competency in certain areas. The bill would require the department to impose various fees to be deposited in the State Department of Public Health Licensing and Certification Program Fund. This bill, in addition, would prescribe enforcement procedures, fines, and penalties for violations of the act, and would authorize the department to implement the bill through all-facility letters or similar instructions, pending the adoption of regulations.

AB 889:

Seniors and other frail Californians depend on private home care services to keep them safe and healthy in their home and to avoid institutionalization. Their specific and unique needs require flexibility in how a home care company can best provide care, and this has long been accomplished through certain exemptions in labor laws which keep the cost of care affordable and allow for continuity of care. In this economic downturn it can be especially challenging for seniors to continue to pay for the care, particularly if they require 24 hour live-in assistance.

AB 889 proposes to drastically increase the cost of care for seniors and people with disabilities by overturning these longstanding exemptions and adding additional liabilities and costly burdens such as:

- Paid vacation days

- Presumption of employer negligence for worker's compensation
- Elimination of the overtime exemption allowed in Wage Order 15
- Significant increase in opportunities for litigation and penalties against seniors, people with disabilities, and other home care providers.

Already there is a robust underground economy in home care where neither the consumer nor the worker has any protections against financial, physical, or emotional abuse. The underground economy has no oversight, taxes are not paid, liability is not covered, and it often leads to one side taking advantage of the other. If the cost of home care is drastically increased, as proposed in AB 889, then the price difference between legitimate home care companies and the underground option will widen and the underground economy will dramatically grow, at a detriment to all stakeholders involved.

If AB 889 is passed then significant regulatory burdens will be placed on the home care industry, causing the job growth in this sector, which California has benefited from, to come to a halt. Now more than ever it is critical that we protect jobs.

CAHSAH's three steps to advocacy:

1. Meet with your local Assembly member and Senator. (Please see attached list of contacts.)
2. Fax or mail your letter of opposition to the appropriate offices in the State Capitol.
3. Come to Sacramento to let your voice be heard during the committee hearings on both bills: SB 411: 6/28/11 at 1:30 pm at the State Capitol; AB 889: 6/22/11 at 9:30 am at the State Capitol.

July's meeting will be on Wednesday, July 20th, doors open at 8:30 with networking meeting starting promptly at 9:00 am.

Respectfully submitted,

Debbie Cerri
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