

December 16, 2021

TO: Medi-Cal Personal Care Agencies

FROM: California Department of Social Services, California Department of Health Care Services

SUBJECT: Notice of Exemption from Home Care Organization Licensure Requirements for Medi-Cal Personal Care Agencies

PURPOSE: The purpose of this joint memo is to provide clarification that Medi-Cal Personal Care Agencies providing Waiver Personal Care Services under the Home and Community-Based Alternatives Waiver are exempt from Home Care Organization licensing requirements.

BACKGROUND: The Home Care Services Consumer Protection Act (HCSCPA) provided that, effective January 2016, Home Care Organizations (HCOs) must be licensed and regulated by the California Department of Social Services (CDSS) prior to providing home care services. The purpose of this legislation was to establish consistent regulatory standards for business (HCOs) arranging for the provision of home care services. The HCSPCA is enacted in Health and Safety Code, Division 2, Chapter 13, commencing with [section 1796.10](#).

The Department of Health Care Services (DHCS) administers the Home and Community-Based Alternatives (HCBA) Waiver. The HCBA Waiver provides care management services to persons at risk for nursing home or institutional placement. The Waiver Personal Care Services (WPCS) benefit under the HCBA Waiver is designed to assist participants in gaining independence in

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performing activities of daily living and to prevent social isolation. Personal Care Agencies (PCAs) are approved to provide WPCS under the HCBA Waiver. HCBA Waiver Agencies and PCAs have requested clarification related to HCO licensing requirements

**Exemption
From
HCO
Requirements:**

The HCSPCA excludes specified entities from the definition of HCO. Under Health and Safety Code section 1796.17, HCOs do *not* include organizations that are licensed by CDPH, such as: Home Health Agencies and Hospice.

DHCS has requested, and CDSS has agreed to provide, formal exemption of HCO licensing requirements for Medi-Cal PCAs. The exemption for PCAs is based on the following considerations:

- The HCBA Waiver language requires that PCAs maintain a business and maintain a bond, or deposit in lieu of bond, unless an approved bond exemption is filed, in accordance with Civil Code §1812.500 through 1812.544, with the Secretary of State's Office, unless specifically exempted under Title 2.91 of the Civil Code. HCBA Waiver Standards of Participation requirements specify that PCAs providing WPCS and Respite services comply with the In-Home Supportive Services (IHSS) program statutes and regulations.
- WPCS are equivalent to services provided under the IHSS program, which is exempt from HCO licensure requirements.
- Health and Safety Code section 1796.17(b) (14) provides that the CDSS Director may determine that certain services, such as PCAs providing Respite and WPCS, do not qualify as a HCO and therefore do not require licensure.

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For questions regarding the information in this notice, please contact:

DHCS HCBA Waiver questions	CDSS Home Care Services questions
HCBAalternatives@dhcs.ca.gov Phone: (833) 388-4551	HCSB@dss.ca.gov Phone: (877) 424-5778

Sincerely,

ORIGINAL SIGNED BY

Richard Nelson, Chief
Integrated Systems of Care Division
Department of Health Care Services

ORIGINAL SIGNED BY

Kevin Gaines, Deputy Director
Community Care Licensing Division
Department of Social Services