

ALR:joy  
Elder and Dependent Adult Protection  
5/19/14



**ORDINANCE NO. 5008**

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES ORDAIN AS FOLLOWS:**

The Board of Supervisors of the County of El Dorado, State of California, hereby adds Chapter 5.30 to Title 5: Business, Taxes, Licenses, and Regulations, of the El Dorado County Code relating to registration with the California State Home Care Aide Registry.

WHEREAS, the County of El Dorado joins the State in declaring that elders and dependent adults deserve special protection (see Penal Code Section 368(a)); and

WHEREAS, elders and dependent adults may have mental or physical impairments that make them less able to protect themselves, to detect, understand, or report criminal conduct, or to testify in court proceedings on their own behalf; and

WHEREAS, crimes against elders and dependent adults are particularly destructive given the mental and physical impairments they face, particularly because their ability to recover from the harm is significantly diminished; and

WHEREAS, the types of abuses committed against elders and dependent adults include financial abuse, physical abuse, neglect, isolation, false imprisonment, and mental abuse; and

WHEREAS, perpetrators of crimes against elders and dependent adults specifically target elders and dependent adults because of their vulnerability; and

WHEREAS, perpetrators commonly purport to befriend the elder and dependent adult to deceive that person; and

WHEREAS, perpetrators of crimes against elders and dependent adults are frequently persons the elder or dependent adult knows and trusts, including persons who are employed to perform home services or in-home services; and

WHEREAS, perpetrators of crimes against elders and dependent adults often have criminal records, which if made known, would signal that they are more likely to abuse elder and dependent adults; and

WHEREAS, the regulation of persons who provide home services or in-home services to elders and dependent adults would help protect elders and dependent adults from such predators; and

WHEREAS, the Board of Supervisors of the County of El Dorado finds and declares that the purpose of this Ordinance is:

- (1) to protect the health and welfare of elders and dependent adults;
- (2) to ensure that persons who serve in a position of trust by providing home services or in-home services to elders and dependent adults have not committed crimes which signal the potential for abuse; and
- (3) to give elders and dependent adults the knowledge that the person whom they employ has, at a minimum, been subject to a background check; and

WHEREAS, California Assembly Bill 1217 (Chapter 790, Statutes of 2013), Chapter 13 to Division 2 of Health and Safety Code commencing with Section 1796.10 [hereinafter “Home Care Services Consumer Protection Act”] provides that an affiliated home care aide shall be listed on the home care aide registry through the State of California and comply with all conditions and requirements of such registry; and

WHEREAS, the State Home Care Services Consumer Protection Act provides that an individual not employed by a home care organization but who provides home care services to a client may be listed on the home care aide registry through the State of California and comply with all conditions and requirements of such registry;

WHEREAS, this Elder and Dependent Adult Protection Ordinance provides that an individual not employed by a home care organization but who provides home care services to a client shall be listed on the home care aide registry through the State of California and comply with all conditions and requirements of such registry; and

WHEREAS, the fines imposed by this Ordinance shall not be enforced until beginning January 1, 2015 in order to provide caregivers and the public time to become acquainted with the new program and its mandates.

The Board of Supervisors of the County of El Dorado, State of California, ordains as follows:

**SECTION 1.** A new Chapter 5.30 is hereby added to the El Dorado County Code to read in full as follows:

## TITLE 5

### ELDER AND DEPENDENT ADULT PROTECTION ORDINANCE

#### Chapter 5.30 GENERAL PROVISIONS

##### **5.30.010 Definitions.**

The following words and phrases, when used in this title, shall be construed as follows:

- A. “Caregiver” and “Home Care Aide” means any person that provides personal and/or home care services and in-home services for profit, compensation or any form of consideration for an elder and/or dependent adult.

- B. "Dependent adult" has the same meaning as used in Penal Code Section 368 (any person between the ages of eighteen and sixty-four, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. "Dependent Adult" includes any person between the ages of eighteen and sixty-four who is admitted as an inpatient to a twenty-four hour health facility).
- C. "Elder" has the same meaning as used in Penal Code Section 368 (any person who is sixty-five years of age or older).
- D. "For profit" means any type of compensation or consideration, whether in the form of current or future benefit, provided by the elder and dependent adults to the caregiver for the caregiver's services.
- E. "Home care services" or "in-home services" means nonmedical services and assistance provided by a home care aid 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 client self-administers, housekeeping, meal planning and preparation, laundry, transportation, correspondence, making telephone calls, shopping for personal care items or groceries, and companionship.
- F. "Independent home care aide" means an individual, 18 years of age or older, who is not employed by a home care organization [as defined in Home Care Services Consumer Protection Act], but who is listed on the home care aide registry and is providing home care services through a direct agreement with a client.
- G. "Client" means an individual who receives home care services from a registered home care aid.
- H. "Home care aide registry" means a State department-established and department-maintained Internet Web site of registered home care aides and home care aide applicants.
- I. "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 association, or other entity that arranges for home care services by an affiliated home care aide to a client and is licensed pursuant to the Health and Safety Code.
- J. "Affiliated home care aide" means an individual, 18 years of age or older, who is employed by a home care organization to provide home care services to a client.

**5.30.020 Home Care Aide Registry -- Required.**

- A. It is unlawful for any person, including individuals who are not employed by a home care organization but who provide home care services to a client, unless expressly exempted by Home Care Services Consumer Protection Act, Article 2, Section 1796.14 (c), to act as a caregiver and/or home care aid for profit or compensation unless such individual is listed on the home care aide registry pursuant to the Home Care Services Consumer Protection Act.

- B. Violation of this ordinance is a misdemeanor, punishable by a fine, imprisonment in the county jail up to one year, or a combination of both.

**5.30.030 Registration -- Application.**

Each applicant, including individuals who are not employed by a home care organization but who provide home care services to a client in El Dorado County, California, unless expressly exempted by Home Care Services Consumer Protection Act, Article 2, Section 1796.14 (c) shall comply with the conditions and requirements of Home Care Services Consumer Protection Act, Article 3, Chapter 1796.19, and Article 4, Sections 1796.19, 1796.21, 1796.22, 1796.23 and 1796.24.

**5.30.040 Registration - Denial and Revocation.**

An application for registrations may be denied, and registration may be revoked pursuant to Home Care Services Consumer Protection Act, Article 4, Sections 1796.25 and 1796.26.

**5.30.050 Registration -- Update and Renewal.**

To remain on the home care aide registry, each registered home care aide, including individuals who are not employed by a home care organization but who provide home care services to a client, unless expressly exempted by Home Care Services Consumer Protection Act, Article 2, Section 1796.14 (c), shall renew his or her registration every two years, pursuant to Home Care Services Consumer Protection Act, Article 5, Section 1796.31.

**SECTION 2.** If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors of the County of El Dorado hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

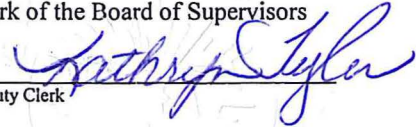
**SECTION 3.** This Ordinance shall be effective January 1, 2015.

**SECTION 4.** A summary of this Ordinance shall be published at least once five (5) days before adoption and at least once before the expiration of fifteen (15) days after its passage in the Mountain Democrat, or other newspaper of general circulation published in the County of El Dorado, together with the names of members voting for and against the same.

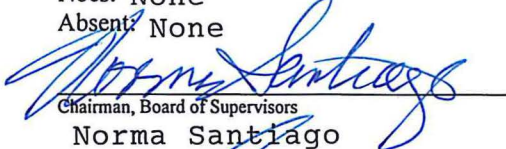
The foregoing Ordinance was introduced and read at a regular meeting of the Board of Supervisors of the County of El Dorado, State of California, held on the 17 day of June, 2014, and passed at a regular meeting of the Board of Supervisors of the County of El Dorado, State of California, held on the 24 day of June, 2014, by the following vote:

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 24 day of June, 2014, by the following vote of said Board:

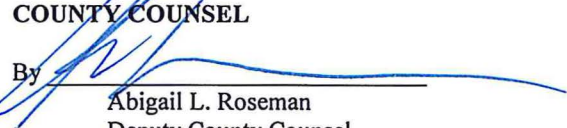
**ATTEST**  
**JAMES S. MITRISIN**  
Clerk of the Board of Supervisors

By   
Deputy Clerk

Ayes: Mikulaco, Briggs, Veerkamp, Santiago  
Noes: None  
Absent: None

  
Chairman, Board of Supervisors

Norma Santiago  
**APPROVED AS TO FORM**  
**EDWARD L. KNAPP**  
**COUNTY COUNSEL**

By   
Abigail L. Roseman  
Deputy County Counsel

**I CERTIFY THAT:** the foregoing instrument is a correct copy  
of the original on file in this office

**Dated:** \_\_\_\_\_

**ATTEST:** JAMES S. MITRISIN, Clerk of the Board of Supervisors  
of the County of El Dorado, State of California.

By \_\_\_\_\_  
Deputy Clerk