
SUBSTITUTE SENATE BILL 5649

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Deccio, Thibaudeau, Parlette and Benson)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to fairness in the informal dispute resolution
2 process; amending RCW 18.20.195; and adding a new section to chapter
3 18.51 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 18.20.195 and 2004 c 140 s 5 are each amended to read
6 as follows:

7 (1) The licensee or its designee has the right to an informal
8 dispute resolution process to dispute any violation found or
9 enforcement remedy imposed by the department during a licensing
10 inspection or complaint investigation. The purpose of the informal
11 dispute resolution process is to provide an opportunity for an exchange
12 of information that may lead to the modification, deletion, or removal
13 of a violation, or parts of a violation, or enforcement remedy imposed
14 by the department.

15 (2) The informal dispute resolution process provided by the
16 department shall include, but is not necessarily limited to, an
17 opportunity for review by a department employee who did not participate
18 in, or oversee, the determination of the violation or enforcement

1 remedy under dispute. The department shall develop, or further
2 develop, an informal dispute resolution process consistent with this
3 section.

4 (3) A request for an informal dispute resolution shall be made to
5 the department within ten working days from the receipt of a written
6 finding of a violation or enforcement remedy. The request shall
7 identify the violation or violations and enforcement remedy or remedies
8 being disputed. The department shall convene a meeting, when possible,
9 within ten working days of receipt of the request for informal dispute
10 resolution, unless by mutual agreement a later date is agreed upon.

11 (4) If the department determines that a violation or enforcement
12 remedy should not be cited or imposed, the department shall delete the
13 violation or immediately rescind or modify the enforcement remedy. If
14 the department determines that a violation should have been cited (~~or~~
15 ~~an enforcement remedy imposed~~) under a different more appropriate
16 regulation, the department shall (~~add the citation or enforcement~~
17 ~~remedy~~) revise the report, statement of deficiencies, or enforcement
18 remedy accordingly. Upon request, the department shall issue a clean
19 copy of the revised report, statement of deficiencies, or notice of
20 enforcement action.

21 (5) The request for informal dispute resolution does not delay the
22 effective date of any enforcement remedy imposed by the department,
23 except that civil monetary fines are not payable until the exhaustion
24 of any formal hearing and appeal rights provided under this chapter.
25 The licensee shall submit to the department, within the time period
26 prescribed by the department, a plan of correction to address any
27 undisputed violations, and including any violations that still remain
28 following the informal dispute resolution.

29 NEW SECTION. Sec. 2. A new section is added to chapter 18.51 RCW
30 to read as follows:

31 (1) A nursing home provider shall have the right to an informal
32 review to present written evidence to refute the findings or
33 deficiencies cited during a licensing or certification survey or a
34 complaint investigation. The purpose of the informal dispute
35 resolution process is to provide an opportunity for an exchange of
36 information that may lead to the modification, deletion, or removal of
37 a deficiency, or parts of a deficiency, cited by the department.

1 (2) The informal dispute resolution process provided by the
2 department shall, at a minimum, be consistent with 42 C.F.R. 488.331
3 and the federal state operations manual and shall require the
4 department, when conducting an informal dispute resolution process with
5 a nursing home provider or its designee, to provide an opportunity for
6 input from residents or resident representatives.

7 (3) If the department determines that a deficiency should not be
8 cited, the department shall delete the deficiency. If the department
9 determines that a deficiency should have been cited under a different
10 more appropriate regulation, the department shall revise the statement
11 of deficiencies accordingly. If the provider is successful in
12 demonstrating that one or more deficiencies should not have been cited,
13 the deficiency or deficiencies are removed from the statement of
14 deficiencies and any enforcement action imposed solely as a result of
15 the cited deficiency or deficiencies are rescinded. Upon request, the
16 department shall issue a clean copy of the statement of deficiencies or
17 notice of enforcement action. The request for informal dispute
18 resolution does not delay the effective date of any enforcement remedy
19 imposed by the department, except that civil monetary fines are not
20 payable until the exhaustion of any formal hearing and appeal rights
21 provided under this chapter.

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