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SENATE BILL 5940

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Kline, Benton, Kohl-Welles, Roach, Keiser, Zarelli,  
Pridemore and Rasmussen

Read first time 02/07/2007.            Referred to Committee on Labor,  
Commerce, Research & Development.

1            AN ACT Relating to prohibiting the use of state funds provided for  
2 long-term care services from being used to assist, promote, or deter  
3 union organization; amending RCW 74.39A.007, 74.39A.080, 70.128.160,  
4 and 74.42.580; and adding a new section to chapter 74.39A RCW.

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

6            **Sec. 1.** RCW 74.39A.007 and 1993 c 508 s 2 are each amended to read  
7 as follows:

8            It is the legislature's intent that:

9            (1) Long-term care services administered by the department of  
10 social and health services include a balanced array of health, social,  
11 and supportive services that promote individual choice, dignity, and  
12 the highest practicable level of independence;

13            (2) Home and community-based services be developed, expanded, or  
14 maintained in order to meet the needs of consumers and to maximize  
15 effective use of limited resources;

16            (3) Long-term care services be responsive and appropriate to  
17 individual need and also cost-effective for the state;

18            (4) Nursing home care is provided in such a manner and in such an

1 environment as will promote maintenance or enhancement of the quality  
2 of life of each resident and timely discharge to a less restrictive  
3 care setting when appropriate; (~~and~~)

4 (5) State health planning for nursing home bed supply take into  
5 account increased availability of other home and community-based  
6 service options; and

7 (6) No employer, provider, or entity receiving state funds to  
8 provide long-term care services use these funds to assist, promote, or  
9 deter union organization.

10 NEW SECTION. Sec. 2. A new section is added to chapter 74.39A RCW  
11 to read as follows:

12 (1) Any employer, provider, or other entity that receives state  
13 funds to provide long-term care services shall not use those funds for  
14 the following purposes:

15 (a) To train managers, supervisors, or other administrative  
16 personnel regarding methods to encourage or discourage union  
17 organization or to encourage or discourage an employee from  
18 participating in a union organizing drive;

19 (b) To hire or otherwise compensate attorneys, consultants, or  
20 other contractors to encourage or discourage union organization or to  
21 encourage or discourage an employee from participating in a union  
22 organizing drive; or

23 (c) To hire employees or pay the salary or other compensation of  
24 employees whose principal job duties are to encourage or discourage  
25 union organization or to encourage or discourage an employee from  
26 participating in a union drive.

27 (2) Any employer, provider, or other entity receiving state funds  
28 to provide long-term care services that engages in activities listed in  
29 subsection (1) of this section shall maintain, for not less than three  
30 years from the date those activities occurred, financial records  
31 indicating that state funds were not used in violation of subsection  
32 (1) of this section. An employer, provider, or other entity shall make  
33 these financial records available to the department within twenty  
34 business days of receiving a request from the department for the  
35 documents.

1       **Sec. 3.** RCW 74.39A.080 and 2001 c 193 s 3 are each amended to read  
2 as follows:

3       (1) The department is authorized to take one or more of the actions  
4 listed in subsection (2) of this section in any case in which the  
5 department finds that a provider of assisted living services, adult  
6 residential care services, or enhanced adult residential care services  
7 has:

8       (a) Failed or refused to comply with the requirements of this  
9 chapter or the rules adopted under this chapter;

10       (b) Operated without a license or under a revoked license;

11       (c) Knowingly, or with reason to know, made a false statement of  
12 material fact on his or her application for license or any data  
13 attached thereto, or in any matter under investigation by the  
14 department; (~~or~~)

15       (d) Willfully prevented or interfered with any inspection or  
16 investigation by the department; or

17       (e) Violated any of the provisions of section 2(1) of this act.

18       (2) When authorized by subsection (1) of this section, the  
19 department may take one or more of the following actions:

20       (a) Refuse to issue a contract;

21       (b) Impose reasonable conditions on a contract, such as correction  
22 within a specified time, training, and limits on the type of clients  
23 the provider may admit or serve;

24       (c) Impose civil penalties of not more than one hundred dollars per  
25 day per violation;

26       (d) Suspend, revoke, or refuse to renew a contract; or

27       (e) Suspend admissions to the facility by imposing stop placement  
28 on contracted services.

29       (3) When the department orders stop placement, the facility shall  
30 not admit any person admitted by contract until the stop placement  
31 order is terminated. The department may approve readmission of a  
32 resident to the facility from a hospital or nursing home during the  
33 stop placement. The department shall terminate the stop placement  
34 when: (a) The violations necessitating the stop placement have been  
35 corrected; and (b) the provider exhibits the capacity to maintain  
36 correction of the violations previously found deficient. However, if  
37 upon the revisit the department finds new violations that the

1 department reasonably believes will result in a new stop placement, the  
2 previous stop placement shall remain in effect until the new stop  
3 placement is imposed.

4 After a department finding of a violation for which a stop  
5 placement has been imposed, the department shall make an on-site  
6 revisit of the provider within fifteen working days from the request  
7 for revisit, to ensure correction of the violation. For violations  
8 that are serious or recurring or uncorrected following a previous  
9 citation, and create actual or threatened harm to one or more  
10 residents' well-being, including violations of residents' rights, the  
11 department shall make an on-site revisit as soon as appropriate to  
12 ensure correction of the violation. Verification of correction of all  
13 other violations may be made by either a department on-site revisit or  
14 by written or photographic documentation found by the department to be  
15 credible. This subsection does not prevent the department from  
16 enforcing license suspensions or revocations. Nothing in this  
17 subsection shall interfere with or diminish the department's authority  
18 and duty to ensure that the provider adequately cares for residents,  
19 including to make departmental on-site revisits as needed to ensure  
20 that the provider protects residents, and to enforce compliance with  
21 this chapter.

22 (4) Chapter 34.05 RCW applies to department actions under this  
23 section, except that orders of the department imposing contracts  
24 suspension, stop placement, or conditions for continuation of a  
25 contract are effective immediately upon notice and shall continue  
26 pending any hearing.

27 **Sec. 4.** RCW 70.128.160 and 2001 c 193 s 5 are each amended to read  
28 as follows:

29 (1) The department is authorized to take one or more of the actions  
30 listed in subsection (2) of this section in any case in which the  
31 department finds that an adult family home provider has:

32 (a) Failed or refused to comply with the requirements of this  
33 chapter or the rules adopted under this chapter;

34 (b) Operated an adult family home without a license or under a  
35 revoked license;

36 (c) Knowingly or with reason to know made a false statement of

1 material fact on his or her application for license or any data  
2 attached thereto, or in any matter under investigation by the  
3 department; ((or))

4 (d) Willfully prevented or interfered with any inspection or  
5 investigation by the department; or

6 (e) Violated any of the provisions of section 2(1) of this act.

7 (2) When authorized by subsection (1) of this section, the  
8 department may take one or more of the following actions:

9 (a) Refuse to issue a license;

10 (b) Impose reasonable conditions on a license, such as correction  
11 within a specified time, training, and limits on the type of clients  
12 the provider may admit or serve;

13 (c) Impose civil penalties of not more than one hundred dollars per  
14 day per violation;

15 (d) Suspend, revoke, or refuse to renew a license; or

16 (e) Suspend admissions to the adult family home by imposing stop  
17 placement.

18 (3) When the department orders stop placement, the facility shall  
19 not admit any person until the stop placement order is terminated. The  
20 department may approve readmission of a resident to the facility from  
21 a hospital or nursing home during the stop placement. The department  
22 shall terminate the stop placement when: (a) The violations  
23 necessitating the stop placement have been corrected; and (b) the  
24 provider exhibits the capacity to maintain correction of the violations  
25 previously found deficient. However, if upon the revisit the  
26 department finds new violations that the department reasonably believes  
27 will result in a new stop placement, the previous stop placement shall  
28 remain in effect until the new stop placement is imposed.

29 (4) After a department finding of a violation for which a stop  
30 placement has been imposed, the department shall make an on-site  
31 revisit of the provider within fifteen working days from the request  
32 for revisit, to ensure correction of the violation. For violations  
33 that are serious or recurring or uncorrected following a previous  
34 citation, and create actual or threatened harm to one or more  
35 residents' well-being, including violations of residents' rights, the  
36 department shall make an on-site revisit as soon as appropriate to  
37 ensure correction of the violation. Verification of correction of all  
38 other violations may be made by either a department on-site revisit or

1 by written or photographic documentation found by the department to be  
2 credible. This subsection does not prevent the department from  
3 enforcing license suspensions or revocations. Nothing in this  
4 subsection shall interfere with or diminish the department's authority  
5 and duty to ensure that the provider adequately cares for residents,  
6 including to make departmental on-site revisits as needed to ensure  
7 that the provider protects residents, and to enforce compliance with  
8 this chapter.

9 (5) Chapter 34.05 RCW applies to department actions under this  
10 section, except that orders of the department imposing license  
11 suspension, stop placement, or conditions for continuation of a license  
12 are effective immediately upon notice and shall continue in effect  
13 pending any hearing.

14 **Sec. 5.** RCW 74.42.580 and 1989 c 372 s 13 are each amended to read  
15 as follows:

16 The department may deny, suspend, revoke, or refuse to renew a  
17 license or provisional license, assess monetary penalties of a civil  
18 nature, deny payment, seek receivership, order stop placement, appoint  
19 temporary management, order emergency closure, or order emergency  
20 transfer as provided in RCW 18.51.054 and 18.51.060 for violations of  
21 requirements of this chapter, violations of section 2(1) of this act,  
22 or, in the case of medicaid contractors, the requirements of Title XIX  
23 of the social security act, as amended, or rules adopted thereunder.  
24 Chapter 34.05 RCW shall apply to any such actions, except for  
25 receivership, and except that stop placement, appointment of temporary  
26 management, emergency closure, emergency transfer, and summary license  
27 suspension shall be effective pending any hearing, and except that  
28 denial of payment shall be effective pending any hearing when the  
29 department determines deficiencies jeopardize the health and safety of  
30 the residents or seriously limit the nursing home's capacity to provide  
31 adequate care.

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