
SUBSTITUTE HOUSE BILL 2634

State of Washington

63rd Legislature

2014 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Kagi, Tharinger, and Freeman; by request of Department of Social and Health Services)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to enforcement standards for residential services
2 and support providers; amending RCW 71A.12.270; adding a new section to
3 chapter 71A.12 RCW; creating a new section; and recodifying RCW
4 71A.12.270.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that
7 certified residential service and support providers delivering services
8 to individuals who live in their own homes have a distinct role that
9 differs in some respects from the role of providers delivering services
10 in facilities.

11 (2) The legislature intends for the department of social and health
12 services to undertake enforcement actions in a manner consistent with
13 the individual rights and choices of residential service and support
14 clients, and consistent with the principles identified in the
15 residential care standards. These standards, codified in regulation,
16 include the following core principles:

17 (a) Health and safety;

18 (b) Personal power and choice;

19 (c) Personal value and positive recognition by self and others;

1 (d) A range of experiences which help people participate in the
2 physical and social life of their communities;

3 (e) Good relationships with friends and relatives; and

4 (f) Competence to manage daily activities and pursue personal
5 goals.

6 **Sec. 2.** RCW 71A.12.270 and 2006 c 303 s 8 are each amended to read
7 as follows:

8 (1) The enforcement standards in this section apply to all
9 residential services and support providers.

10 (2) The department is authorized to take one or more of the
11 enforcement actions listed in subsection ~~((+2))~~ (3) of this section
12 when the department finds that a provider of residential services and
13 support with whom the department entered into an agreement under this
14 chapter has:

15 (a) Failed or refused to comply with the health and safety-related
16 requirements of this chapter or chapter 74.34 RCW or the rules adopted
17 under ~~((+t))~~ these chapters;

18 (b) Failed or refused to cooperate with the certification process;

19 (c) Prevented or interfered with a certification, inspection, or
20 investigation by the department;

21 (d) Failed to comply with any applicable requirements regarding
22 vulnerable adults under chapter 74.34 RCW; or

23 (e) Knowingly, or with reason to know, made a false statement of
24 material fact related to certification or contracting with the
25 department, or in any matter under investigation by the department.

26 ~~((+2))~~ (3) The department may:

27 (a) Refuse to certify the provider;

28 (b) Decertify or refuse to renew the certification of a provider;

29 ~~((+b))~~ (c) Impose conditions on a provider's certification status
30 such as a plan of correction within a specified time, training, and
31 limits on the type of client the provider may serve;

32 ~~((+e))~~ (d) Suspend department referrals to the provider; ~~((or~~

33 ~~(+d))~~ (e) Suspend the provider from accepting clients with
34 specified needs by imposing a limited stop placement; or

35 (f) Require a provider to implement a plan of correction developed
36 by the department and to cooperate with subsequent monitoring of the
37 provider's progress. In the event a provider fails to implement the

1 plan of correction or fails to cooperate with subsequent monitoring or
2 a matter of serious concern, the department may impose civil penalties
3 of ~~((not more than))~~ up to one hundred ((fifty)) dollars per day per
4 violation(~~(. Each day during which the same or similar action or~~
5 ~~inaction occurs constitutes a separate violation))~~ from the date of the
6 citation and up to a maximum of three thousand dollars per violation.

7 ~~((+3))~~ (4) When determining the appropriate enforcement action or
8 actions under subsection ~~((+2))~~ (3) of this section, the department
9 must select actions commensurate with the seriousness of the harm or
10 threat of harm to the persons being served by the provider. Further,
11 the department may take enforcement actions that are more severe for
12 violations that are uncorrected, repeated, pervasive, or which present
13 a serious threat of harm to the health, safety, or welfare of persons
14 served by the provider. The department shall by rule develop criteria
15 for the selection and implementation of enforcement actions authorized
16 in subsection ~~((+2))~~ (3) of this section. Rules adopted under this
17 section shall include a process for an informal review upon request by
18 a provider.

19 ~~((+4))~~ (5) When the department orders stop placement or a limited
20 stop placement, the provider shall not accept any new clients until the
21 stop placement or limited stop placement order is terminated. A
22 limited stop placement may apply to clients with specific needs or a
23 specific site or sites where supported living services are administered
24 by the provider. The department shall terminate the stop placement or
25 limited stop placement when: (a) The violations necessitating the stop
26 placement or limited stop placement have been corrected; and (b) the
27 provider exhibits the capacity to maintain correction of the violations
28 previously found. However, if, upon revisiting the provider, the
29 department finds new violations that the department reasonably believes
30 will result in a new stop placement or new limited stop placement, the
31 previous stop placement or limited stop placement shall remain in
32 effect until the new stop placement or new limited stop placement is
33 imposed.

34 (6) After a department finding of a violation for which a stop
35 placement or limited stop placement has been imposed, the department
36 shall make an on-site revisit of the provider within fifteen working
37 days from the date the provider notifies the department of the
38 correction, to ensure correction of the violation. For violations that

1 are serious or recurring or uncorrected following a previous citation
2 and create actual or threatened harm to one or more clients' well-
3 being, including violations of clients' rights, the department shall
4 make an on-site revisit as soon as appropriate to ensure correction of
5 the violation. Verification of correction of all other violations may
6 be made by either a department on-site revisit or by written or
7 photographic documentation found by the department to be credible.
8 This subsection does not prevent the department from enforcing
9 certification suspensions or revocations. Nothing in this subsection
10 interferes with or diminishes the department's authority and duty to
11 ensure that a provider adequately cares for clients, including making
12 departmental on-site revisits as needed to ensure that the provider
13 protects clients, and to enforce compliance with this chapter.

14 (7) The provisions of chapter 34.05 RCW apply to enforcement
15 actions under this section. The certified provider or its designee has
16 the right to an informal dispute resolution process to dispute any
17 violation found or enforcement remedy imposed by the department during
18 a certification inspection or complaint investigation. The purpose of
19 the informal dispute resolution process is to provide an opportunity
20 for an exchange of information that may lead to the modification,
21 deletion, or removal of a violation, or parts of a violation, or
22 enforcement remedy imposed by the department. Except for the
23 imposition of civil penalties, the effective date of enforcement
24 actions shall not be delayed or suspended pending any hearing or
25 informal review.

26 ((+5)) (8) The enforcement actions and penalties authorized in
27 this section are not exclusive or exhaustive and nothing in this
28 section prohibits the department from taking any other action
29 authorized in statute or rule or under the terms of a contract with the
30 provider.

31 (9) A separate residential services and support account is created
32 in the custody of the state treasurer. All receipts from civil
33 penalties imposed under this section must be deposited into the
34 account. Only the director or the director's designee may authorize
35 expenditures from the account. The account is subject to allotment
36 procedures under chapter 43.88 RCW, but an appropriation is not
37 required for expenditures. The department shall use the special

1 account only for promoting the quality of life and care of clients
2 receiving care and services from the certified providers.

3 NEW SECTION. **Sec. 3.** RCW 71A.12.270 is recodified as a section in
4 chapter 71A.12 RCW, to be codified after RCW 71A.12.290.

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