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**SUBSTITUTE HOUSE BILL 2221**

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**State of Washington                      64th Legislature                      2015 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Hunter, Sullivan, and Carlyle)

READ FIRST TIME 04/07/15.

1            AN ACT Relating to improving responses to high priority  
2 violations at long-term care facilities; amending RCW 43.190.070 and  
3 43.190.020; and adding a new section to chapter 43.190 RCW.

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

5            **Sec. 1.** RCW 43.190.070 and 2013 c 23 s 94 are each amended to  
6 read as follows:

7            (1)(a) The office of the state long-term care ombuds shall  
8 develop referral procedures for all long-term care ombuds programs to  
9 refer any complaint to any appropriate state or local government  
10 agency. The department of social and health services shall act as  
11 quickly as possible on any complaint referred to them by a long-term  
12 care ombuds.

13            (b) The referral procedures must identify high priority  
14 violations that require activation of the priority response unit  
15 established in section 2 of this act. In identifying high priority  
16 violations, the office shall consider the nature and severity of the  
17 violation, the vulnerability of the patient or patients affected by  
18 the violation, the anticipated response time of state or local  
19 government agencies, prior violations by the long-term care facility,  
20 and the likelihood of continued harm to residents without an  
21 immediate intervention. The office shall adopt procedures to identify

1 which complaints relate to high priority violations by long-term care  
2 facilities. The office shall regularly revise the list of activities  
3 that are considered high priority violations. The list and all  
4 policies and procedures established under section 2 of this act must  
5 be made available on the office's web site.

6 (2) The department of social and health services shall respond to  
7 any complaint against a long-term care facility which was referred to  
8 it by a long-term care ombuds and shall forward to that ombuds a  
9 summary of the results of the investigation and action proposed or  
10 taken.

11 NEW SECTION. Sec. 2. A new section is added to chapter 43.190  
12 RCW to read as follows:

13 (1) The office of the state long-term care ombuds shall establish  
14 the priority response unit. Upon receipt of a complaint from a long-  
15 term care ombuds that alleges that conduct by a long-term care  
16 facility constitutes a high priority violation, the office shall  
17 immediately evaluate the case to determine whether or not the conduct  
18 meets threshold standards for activating the priority response unit.

19 (2) Upon activation, the priority response unit shall notify the  
20 department of social and health services and, as warranted, local  
21 government agencies, such as law enforcement, prosecutorial  
22 officials, emergency medical services, and public health agencies,  
23 that it has identified a high priority violation. The fact that the  
24 priority response unit has been activated must not result in delayed  
25 responses by other agencies. If an agency decides to respond to a  
26 high priority violation simultaneously with the priority response  
27 unit, it shall notify the priority response unit and coordinate  
28 efforts and resources to the greatest extent possible.

29 (3) Upon activation, a member of the priority response unit shall  
30 immediately notify the management of the long-term care facility that  
31 a high priority violation has been alleged against the long-term care  
32 facility and the nature of the alleged violation. The priority  
33 response unit must be at the long-term care facility that is the  
34 subject of the complaint alleging a high priority violation within  
35 twenty-four hours of activation.

36 (4)(a) If, at any time during the investigation or upon  
37 conclusion of the investigation, a member of the priority response  
38 unit finds that there is sufficient evidence that conditions at the  
39 long-term care facility pose a significant likelihood of immediate

1 harm to the health and safety of the residents, the priority response  
2 team shall notify local government agencies as it finds necessary to  
3 protect residents.

4 (b) If, upon conclusion of the investigation, a member of the  
5 priority response unit finds that a high priority violation has  
6 occurred, the priority response unit shall notify the department of  
7 social and health services of its conclusions. The priority response  
8 unit shall disclose its findings of fact and all investigation  
9 records.

10 (c) If, upon conclusion of the investigation, a member of the  
11 priority response unit finds that a high priority violation has not  
12 occurred, the priority response unit shall notify the department of  
13 social and health services of its conclusions. The priority response  
14 unit shall disclose its findings of fact and all investigation  
15 records and the department of social and health services may elect to  
16 conduct an independent investigation if it feels that it is  
17 warranted.

18 (5)(a) Members of the priority response unit shall have authority  
19 to inspect any location on the property of the long-term care  
20 facility and any records, whether electronic or not, including  
21 administrative records, staff credentials, and records related to  
22 residential care. Members of the priority response unit may issue  
23 subpoenas and administer oaths in connection with any investigation  
24 of a high priority violation. The office of the state long-term care  
25 ombuds must develop policies and procedures to assure the due process  
26 protections of the long-term care facility are met while maintaining  
27 the necessary access to information needed by the priority response  
28 unit during an investigation.

29 (b) Information obtained by the priority response unit in the  
30 course of conducting its investigation is subject to public  
31 disclosure, except that any information that may reasonably result in  
32 the identification of an individual resident must be redacted.

33 (6) The office of the state long-term care ombuds, the department  
34 of social and health services, the department of health,  
35 representatives of local law enforcement officials, and  
36 representatives of local public health agencies shall develop a work  
37 group that shall adopt communication and coordination procedures to  
38 assure the highest level of support for each organization's mission  
39 with respect to protecting residents of long-term care facilities.

1 (7) Upon the conclusion of each investigation of an alleged high  
2 priority violation, the priority response unit and each state or  
3 local government agency that responds to the case shall report a  
4 summary of its response, its findings, and any recommendations for  
5 improving coordination between the priority response unit and the  
6 agency to the office of the state long-term care ombuds. The office  
7 of the state long-term care ombuds shall report to the governor and  
8 the legislature by December 1, 2017, and each year thereafter until  
9 December 1, 2022, with the information about the work of the priority  
10 response unit, including the types of high priority violations that  
11 it has investigated, the results of those investigations, the results  
12 of any investigations by state or local agencies, and recommendations  
13 for improving the work of the priority response unit and its  
14 coordination with other entities.

15 **Sec. 3.** RCW 43.190.020 and 2010 c 94 s 13 are each amended to  
16 read as follows:

17 As used in this chapter, "long-term care facility" means any of  
18 the following:

19 (1) A facility which:

20 (a) Maintains and operates twenty-four hour skilled nursing  
21 services for the care and treatment of chronically ill or  
22 convalescent patients, including mental, emotional, or behavioral  
23 problems, intellectual disabilities, or alcoholism;

24 (b) Provides supportive, restorative, and preventive health  
25 services in conjunction with a socially oriented program to its  
26 residents, and which maintains and operates twenty-four hour services  
27 including board, room, personal care, and intermittent nursing care.  
28 "Long-term health care facility" includes nursing homes and nursing  
29 facilities, but does not include acute care hospital or other  
30 licensed facilities except for that distinct part of the hospital or  
31 facility which provides nursing facility services.

32 (2) Any family home, group care facility, or similar facility  
33 determined by the secretary, for twenty-four hour nonmedical care of  
34 persons in need of personal services, supervision, or assistance  
35 essential for sustaining the activities of daily living or for the  
36 protection of the individual.

37 (3) Any swing bed in an acute care facility.

38 (4) All portions of any residential habilitation center and any  
39 state or private intermediate care facility for individuals with

1 intellectual disabilities, regardless of whether any portion of a  
2 residential habilitation center or state or private intermediate care  
3 facility for individuals with developmental disabilities is also  
4 licensed or certified as a nursing facility, assisted living  
5 facility, adult family home, or other type of long-term care  
6 facility.

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