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HOUSE BILL 1492

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Tharinger, Harris, Cody, Macri, and Appleton

Read first time 01/20/17. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to equalizing civil monetary penalties for  
2 assisted living facilities with other long-term care providers; and  
3 amending RCW 18.20.190 and 18.20.430.

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

5 **Sec. 1.** RCW 18.20.190 and 2012 c 10 s 13 are each amended to  
6 read as follows:

7 (1) The department of social and health services is authorized to  
8 take one or more of the actions listed in subsection (2) of this  
9 section in any case in which the department finds that an assisted  
10 living facility provider has:

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

13 (b) Operated an assisted living facility without a license or  
14 under a revoked license;

15 (c) Knowingly, or with reason to know, made a false statement of  
16 material fact on his or her application for license or any data  
17 attached thereto, or in any matter under investigation by the  
18 department; or

19 (d) Willfully prevented or interfered with any inspection or  
20 investigation by the department.

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

3 (a) Refuse to issue a license;

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

7 (c) Impose civil penalties of (~~not more than~~) at least one  
8 hundred dollars per day per violation;

9 (d) Upon the adoption of rules under subsection (8) of this  
10 section, impose civil penalties of up to three thousand dollars for  
11 each incident that violates assisted living facility licensing  
12 statutes or rules, including this chapter and chapters 70.129, 74.34,  
13 and 74.39A RCW, and related rules. Each day upon which the same or  
14 substantially similar action occurs is a separate violation subject  
15 to the assessment of a separate penalty;

16 (e) Upon the adoption of rules under subsection (8) of this  
17 section, impose civil penalties of up to ten thousand dollars for a  
18 current or former licensed provider who is operating an unlicensed  
19 facility;

20 (f) Suspend, revoke, or refuse to renew a license;

21 ~~((e))~~ (g) Suspend admissions to the assisted living facility by  
22 imposing stop placement; or

23 ~~((f))~~ (h) Suspend admission of a specific category or  
24 categories of residents as related to the violation by imposing a  
25 limited stop placement.

26 (3) When the department orders stop placement or a limited stop  
27 placement, the facility shall not admit any new resident until the  
28 stop placement or limited stop placement order is terminated. The  
29 department may approve readmission of a resident to the facility from  
30 a hospital or nursing home during the stop placement or limited stop  
31 placement. The department shall terminate the stop placement or  
32 limited stop placement when: (a) The violations necessitating the  
33 stop placement or limited stop placement have been corrected; and (b)  
34 the provider exhibits the capacity to maintain correction of the  
35 violations previously found deficient. However, if upon the revisit  
36 the department finds new violations that the department reasonably  
37 believes will result in a new stop placement or new limited stop  
38 placement, the previous stop placement or limited stop placement  
39 shall remain in effect until the new stop placement or new limited  
40 stop placement is imposed.

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

19 (5) RCW 43.20A.205 governs notice of a license denial,  
20 revocation, suspension, or modification. Chapter 34.05 RCW applies to  
21 department actions under this section, except that orders of the  
22 department imposing license suspension, stop placement, limited stop  
23 placement, or conditions for continuation of a license are effective  
24 immediately upon notice and shall continue pending any hearing.

25 (6) For the purposes of this section, "limited stop placement"  
26 means the ability to suspend admission of a specific category or  
27 categories of residents.

28 (7) All receipts from civil penalties imposed under this chapter  
29 must be deposited in the assisted living facility temporary  
30 management account created in RCW 18.20.430.

31 (8) The department shall adopt rules to specify the criteria for  
32 determining the timing and method of applying civil penalties under  
33 this section. The criteria must provide for the imposition of  
34 incrementally more severe penalties for deficiencies that are  
35 serious, recurring, uncorrected, pervasive, or present a threat to  
36 the health, safety, or welfare of one or more residents. The rules  
37 must be effective by January 1, 2018.

38 **Sec. 2.** RCW 18.20.430 and 2016 sp.s. c 36 s 912 are each amended  
39 to read as follows:

1       The assisted living facility temporary management account is  
2 created in the custody of the state treasurer. All receipts from  
3 civil penalties imposed under this chapter must be deposited into the  
4 account. Only the director or the director's designee may authorize  
5 expenditures from the account. The account is subject to allotment  
6 procedures under chapter 43.88 RCW, but an appropriation is not  
7 required for expenditures. Expenditures from the account may be used  
8 only for the protection of the health, safety, welfare, or property  
9 of residents of assisted living facilities found to be deficient.  
10 Uses of the account include, but are not limited to:

11       (1) Payment for the costs of relocation of residents to other  
12 facilities;

13       (2) Payment to maintain operation of an assisted living facility  
14 pending correction of deficiencies or closure, including payment of  
15 costs associated with temporary management authorized under this  
16 chapter; ~~((and))~~

17       (3) Reimbursement of residents for personal funds or property  
18 lost or stolen when the resident's personal funds or property cannot  
19 be recovered from the assisted living facility or third-party  
20 insurer;

21       (4) The protection of the health, safety, welfare, and property  
22 of residents of assisted living facilities found to be noncompliant  
23 with licensing standards.

24       ~~((During the 2015-2017 fiscal biennium, the account may be~~  
25 ~~expended for funding the costs associated with the assisted living~~  
26 ~~program.))~~

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