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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

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

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

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

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

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

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

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

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

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

(a) Refuse to issue a license;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**--- END ---**