

RCW 18.20.420 Temporary management. (1) If the department determines that the health, safety, or welfare of residents is immediately jeopardized by an assisted living facility's failure or refusal to comply with the requirements of this chapter or the rules adopted under this chapter, and the department summarily suspends the assisted living facility license, the department may appoint a temporary manager of the assisted living facility, or the licensee may, subject to the department's approval, voluntarily participate in the temporary management program.

The purposes of the temporary management program are as follows:

(a) To mitigate dislocation and transfer trauma of residents while the department and licensee may pursue dispute resolution or appeal of a summary suspension of license;

(b) To facilitate the continuity of safe and appropriate resident care and services;

(c) To protect the health, safety, and welfare of residents, by providing time for an orderly closure of the assisted living facility, or for the deficiencies that necessitated temporary management to be corrected; and

(d) To preserve a residential option that meets a specialized service need or is in a geographical area that has a lack of available providers.

(2) The department may recruit, approve, and appoint qualified individuals, partnerships, corporations, and other entities interested in serving as a temporary manager of an assisted living facility. These individuals and entities shall satisfy the criteria established under this chapter or by the department for approving licensees. The department shall not approve or appoint any person, including partnerships and other entities, if that person is affiliated with the assisted living facility subject to the temporary management, or has owned or operated an assisted living facility ordered into temporary management or receivership in any state. When approving or appointing a temporary manager, the department shall consider the temporary manager's past experience in long-term care, the quality of care provided, the temporary manager's availability, and the person's familiarity with applicable state and federal laws. Subject to the provisions of this section and RCW 18.20.430, the department's authority to approve or appoint a temporary manager is discretionary and not subject to the administrative procedure act, chapter 34.05 RCW.

(3) When the department appoints a temporary manager, the department shall enter into a contract with the temporary manager and shall order the licensee to cease operating the assisted living facility and immediately turn over to the temporary manager possession and control of the assisted living facility, including but not limited to all resident care records, financial records, and other records necessary for operation of the facility while temporary management is in effect. If the department has not appointed a temporary manager and the licensee elects to participate in the temporary management program, the licensee shall select the temporary manager, subject to the department's approval, and enter into a contract with the temporary manager, consistent with this section. The department has the discretion to approve or revoke any temporary management arrangements made by the licensee.

(4) When the department appoints a temporary manager, the costs associated with the temporary management may be paid for through the assisted living facility temporary management account established by

RCW 18.20.430, or from other departmental funds, or a combination thereof. All funds must be administered according to department procedures. The department may enter into an agreement with the licensee allowing the licensee to pay for some of the costs associated with a temporary manager appointed by the department. If the department has not appointed a temporary manager and the licensee elects to participate in the temporary management program, the licensee is responsible for all costs related to administering the temporary management program at the assisted living facility and contracting with the temporary manager.

(5) The temporary manager shall assume full responsibility for the daily operations of the assisted living facility and is responsible for correcting cited deficiencies and ensuring that all minimum licensing requirements are met. The temporary manager must comply with all state and federal laws and regulations applicable to assisted living facilities. The temporary manager shall protect the health, safety, and welfare of the residents for the duration of the temporary management and shall perform all acts reasonably necessary to ensure residents' needs are met. The temporary management contract shall address the responsibility of the temporary manager to pay past due debts. The temporary manager's specific responsibilities may include, but are not limited to:

(a) Receiving and expending in a prudent and business-like manner all current revenues of the assisted living facility, provided that priority is given to debts and expenditures directly related to providing care and meeting residents' needs;

(b) Hiring and managing all consultants and employees and firing them for good cause;

(c) Making necessary purchases, repairs, and replacements, provided that such expenditures in excess of five thousand dollars by a temporary manager appointed by the department must be approved by the department;

(d) Entering into contracts necessary for the operation of the assisted living facility;

(e) Preserving resident trust funds and resident records; and

(f) Preparing all department-required reports, including a detailed monthly accounting of all expenditures and liabilities, which shall be sent to the department and the licensee.

(6) The licensee and department shall provide written notification immediately to all residents, resident representatives, interested family members, and the state long-term care ombuds program of the temporary management and the reasons for it. This notification shall include notice that residents may move from the assisted living facility without notifying the licensee or temporary manager in advance, and without incurring any charges, fees, or costs otherwise available for insufficient advance notice, during the temporary management period. The notification shall also inform residents and their families or representatives that the temporary management team will provide residents help with relocation and appropriate discharge planning and coordination if desired. The department shall provide assistance with relocation to residents who are department clients and may provide such assistance to other residents. The temporary manager shall meet regularly with staff, residents, residents' representatives, and families to inform them of the plans for and progress achieved in the correction of deficiencies, and of the plans for facility closure or continued operation.

(7) The department shall terminate temporary management:

(a) After sixty days unless good cause is shown to continue the temporary management. Good cause for continuing the temporary management exists when returning the assisted living facility to its former licensee would subject residents to a threat to health, safety, or welfare;

(b) When all residents are transferred and the assisted living facility is closed;

(c) When deficiencies threatening residents' health, safety, or welfare are eliminated and the former licensee agrees to department-specified conditions regarding the continued facility operation; or

(d) When a new licensee assumes control of the assisted living facility.

Nothing in this section precludes the department from revoking its approval of the temporary management or exercising its licensing enforcement authority under this chapter. The department's decision whether to approve or to revoke a temporary management arrangement is not subject to the administrative procedure act, chapter 34.05 RCW.

(8) The department shall indemnify, defend, and hold harmless any temporary manager appointed or approved under this section against claims made against the temporary manager for any actions by the temporary manager or its agents that do not amount to intentional torts or criminal behavior.

(9) The department may adopt rules implementing this section. In the development of rules or policies implementing this section, the department shall consult with residents and their representatives, resident advocates, financial professionals, assisted living facility providers, and organizations representing assisted living facilities. [2013 c 23 § 12; 2012 c 10 § 31; 2007 c 162 § 1.]

Application—2012 c 10: See note following RCW 18.20.010.