

RCW 71.12.710 Psychiatric hospitals—Noncompliance—Penalties.

(1) In any case in which the department finds that a licensed psychiatric hospital has failed or refused to comply with applicable state statutes or regulations, the department may take one or more of the actions identified in this section, except as otherwise limited in this section.

(a) When the department determines the psychiatric hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the psychiatric hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the hospital cannot demonstrate to the department that it has access to sufficient internal expertise.

(b) (i) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to ten thousand dollars per violation, not to exceed a total fine of one million dollars, on a hospital licensed under this chapter when the department determines the psychiatric hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the psychiatric hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(ii) Proceeds from these fines may only be used by the department to provide training or technical assistance to psychiatric hospitals and to offset costs associated with licensing psychiatric hospitals.

(iii) The department shall adopt in rules under this chapter specific fine amounts in relation to the severity of the noncompliance.

(iv) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(c) In accordance with RCW 43.70.095, the department may impose civil fines of up to ten thousand dollars for each day a person operates a psychiatric hospital without a valid license. Proceeds from these fines may only be used by the department to provide training or technical assistance to psychiatric hospitals and to offset costs associated with licensing psychiatric hospitals.

(d) The department may suspend admissions of a specific category or categories of patients as related to the violation by imposing a limited stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop placement, the department shall provide a psychiatric hospital written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and the psychiatric hospital shall have twenty-four hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practice or conditions that constitute immediate jeopardy are not verified by the

department as having been corrected within the same twenty-four hour period, the department may issue the limited stop placement.

(ii) When the department imposes a limited stop placement, the psychiatric hospital may not admit any new patients in the category or categories subject to the limited stop placement until the limited stop placement order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the psychiatric hospital if more than five business days is needed to verify the violation necessitating the limited stop placement has been corrected.

(iv) The limited stop placement shall be terminated when:

(A) The department verifies the violation necessitating the limited stop placement has been corrected or the department determines that the psychiatric hospital has taken intermediate action to address the immediate jeopardy; and

(B) The psychiatric hospital establishes the ability to maintain correction of the violation previously found deficient.

(e) The department may suspend new admissions to the psychiatric hospital by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of patients or a specific area of the psychiatric hospital.

(i) Prior to imposing a stop placement, the department shall provide a psychiatric hospital written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and the psychiatric hospital shall have twenty-four hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practice or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same twenty-four hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the psychiatric hospital may not admit any new patients until the stop placement order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the psychiatric hospital if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement order shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the psychiatric hospital has taken intermediate action to address the immediate jeopardy; and

(B) The psychiatric hospital establishes the ability to maintain correction of the violation previously found deficient.

(f) The department may suspend, revoke, or refuse to renew a license.

(2) (a) Except as otherwise provided, RCW 43.70.115 governs notice of the imposition of conditions on a license, a limited stop placement, stop placement, or the suspension, revocation, or refusal to renew a license and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing,

state the basis for contesting the adverse action, including a copy of the department's notice, be served on and received by the department within twenty-eight days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(b) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop placement, stop placement, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(i) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within fourteen days of making the request. The licensee must request the show cause hearing within twenty-eight days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(ii) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and must provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department must provide the licensee with all documentation that supports the department's immediate suspension.

(iii) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(iv) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(v) If the secretary sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within ninety days of the licensee's request. [2020 c 115 § 3.]

Findings—Intent—Effective date—2020 c 115: See notes following RCW 71.12.700.