

RCW 71A.12.300 Enforcement standards—Certified residential services and support providers—Department authority—Dispute resolution process—Account. (1) The enforcement standards in this section apply to all certified residential services and support providers.

(2) The department is authorized to take one or more of the enforcement actions listed in subsection (3) of this section when the department finds that a provider of residential services and support with whom the department entered into an agreement under this chapter has:

(a) Failed or refused to comply with the health and safety related requirements of this chapter, chapter 74.34 RCW, or the rules adopted under these chapters;

(b) Failed or refused to cooperate with the certification process;

(c) Prevented or interfered with a certification, inspection, or investigation by the department;

(d) Failed to comply with any applicable requirements regarding vulnerable adults under chapter 74.34 RCW; or

(e) Knowingly, or with reason to know, made a false statement of material fact related to certification or contracting with the department, or in any matter under investigation by the department.

(3) The department may:

(a) Refuse to certify the provider;

(b) Decertify or refuse to renew the certification of a provider;

(c) Impose reasonable conditions on a provider's certification status such as correction within a time specified in the statement of deficiency, training, and limits on the type of client the provider may serve;

(d) Suspend department referrals to the provider;

(e) Suspend the provider from accepting clients with specified needs by imposing a limited stop placement; or

(f) Require a provider to implement a plan of correction approved by the department and to cooperate with subsequent monitoring of the provider's progress.

(4) In the event a provider fails to implement the plan or plans of correction or fails to make a correction imposed under subsection (3)(c) of this section or fails to cooperate with subsequent monitoring, the department may impose civil penalties of up to one hundred dollars per day per violation and up to three thousand dollars per violation from the compliance date identified in the approved plan of correction or the statement of deficiencies. If a provider fails to submit a plan of correction for approval by the department, the department may impose civil penalties as described in this subsection starting ten days after the provider received the statement of deficiency.

(5) When determining the appropriate enforcement action or actions under subsection (3) of this section, the department must select actions commensurate with the seriousness of the harm or threat of harm to the persons being served by the provider. Further, the department may take enforcement actions that are more severe for violations that are uncorrected, repeated, pervasive, or which present a serious threat of harm to the health, safety, or welfare of persons served by the provider. By January 1, 2016, the department shall by rule develop criteria for the selection and implementation of enforcement actions authorized in subsection (3) of this section.

(6) If the department orders a stop placement, the provider may not accept any new clients until the stop placement order is terminated. If the department orders a limited stop placement, the provider may not accept clients with specific needs or at a specific site until the limited stop placement order is terminated. 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. However, if upon revisiting the provider, 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 remains in effect until the new stop placement or new limited stop placement is imposed.

(7) 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 date the provider notifies the department of the correction to ensure correction of the violation. For violations that are serious, recurring, or uncorrected following a previous citation and that create actual or threatened harm to one or more clients' well-being, including violations of clients' 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 certification suspensions or revocations. Nothing in this subsection interferes with or diminishes the department's authority and duty to ensure that a provider adequately cares for clients, including making departmental on-site revisits as needed to ensure that the provider protects clients and enforcing compliance with this chapter.

(8) The provisions of chapter 34.05 RCW apply to enforcement actions under this section. The certified provider or its designee has the right to an informal dispute resolution process to dispute any violation found or enforcement remedy imposed by the department during a certification inspection or complaint investigation. The purpose of the informal dispute resolution process is to provide an opportunity for an exchange of information that may lead to the modification, deletion, or removal of a violation, parts of a violation, or an enforcement remedy imposed by the department. Except for the imposition of civil penalties, the effective date of enforcement actions may not be delayed or suspended pending any hearing or informal dispute resolution process.

(9) The enforcement actions and penalties authorized in this section are not exclusive or exhaustive and nothing in this section prohibits the department from taking any other action authorized in statute, rule, or under the terms of a contract with the provider.

(10) A separate residential services and support account is created in the custody of the state treasurer. All receipts from civil penalties imposed under this section 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. The department shall use the special account only for promoting the quality of life and care of clients receiving care and services from the certified providers. [2015 c 39 § 2; 2006 c 303 § 8. Formerly RCW 71A.12.270.]

Intent—2015 c 39: "(1) The legislature recognizes that certified residential services and support providers delivering services to individuals who live in their own homes have a distinct role that differs in some respects from the role of providers delivering services in facilities.

(2) The legislature intends for the department of social and health services to undertake enforcement actions in a manner consistent with the individual rights and choices of residential services and support clients and the principles identified in the residential care standards. These standards, codified in regulation, include the following core principles:

- (a) Health and safety;
- (b) Personal power and choice;
- (c) Personal value and positive recognition by self and others;
- (d) A range of experiences which help people participate in the physical and social life of their communities;
- (e) Good relationships with friends and relatives; and
- (f) Competence to manage daily activities and pursue personal goals." [2015 c 39 § 1.]