

WAC 388-78A-3170 Circumstances that may result in enforcement remedies. (1) The department is authorized to impose enforcement remedies described in WAC 388-78A-3160 if any person described in subsection (2) of this section is found by the department to have:

(a) A history of significant noncompliance with federal or state laws or regulations in providing care or services to frail elders, vulnerable adults or children, whether as a licensee, contractor, managerial employee or otherwise. Evidence of significant noncompliance may include, without limitation:

(i) Citations for violation of laws or regulations imposed by regulating entities;

(ii) Sanctions for violation of laws or regulations imposed by regulating entities;

(iii) Involuntary termination, cancellation, suspension, or non-renewal of a medicaid contract or medicare provider agreement, or any other agreement with a public agency for the care or treatment of children, frail elders or vulnerable adults;

(iv) Been denied a license or contract relating to the care of frail elders, vulnerable adults or children; or

(v) Relinquished or failed to renew a license or contract relating to care of frail elders, vulnerable adults or children following written notification of the licensing agency's initiation of denial, suspension, cancellation or revocation of a license.

(b) Failed to provide appropriate care to frail elders, vulnerable adults or children under a contract, or having such contract terminated or not renewed by the contracting agency due to such failure;

(c) Failed or refused to comply with the requirements of chapter 18.20 RCW, applicable provisions of chapter 70.129 RCW or this chapter;

(d) Retaliated against a staff person, resident or other individual for:

(i) Reporting suspected abuse, neglect, financial exploitation, or other alleged improprieties;

(ii) Providing information to the department during the course of an inspection of the assisted living facility; or

(iii) Providing information to the department during the course of a complaint investigation in the assisted living facility.

(e) Operated a facility for the care of children or vulnerable adults without a current, valid license or under a defunct or revoked license;

(f) Attempted to obtain a contract or license from the department by fraudulent means or by misrepresentation;

(g) A conviction or pending charge for a crime that is not automatically disqualifying under chapter 388-113 WAC, but that:

(i) Was committed on an assisted living facility premises; or knowingly permitted, aided or abetted an illegal act on an assisted living facility premises;

(ii) Involved the illegal use of drugs or the excessive use of alcohol; or

(iii) Is reasonably related to the competency of the person to operate an assisted living facility.

(h) Abused, neglected or exploited a vulnerable adult;

(i) Had a sanction or corrective or remedial action taken by federal, state, county or municipal officials or safety officials related to the care or treatment of children or vulnerable adults;

(j) Failed to report alleged abuse, neglect or exploitation of a vulnerable adult in violation of chapter 74.34 RCW;

(k) Failed to exercise fiscal accountability and responsibility involving a resident, the department, public agencies, or the business community; or to have insufficient financial resources or unencumbered income to sustain the operation of the assisted living facility;

(l) Knowingly or with reason to know, made false statements of material fact in the application for the license or the renewal of the license or any data attached thereto, or in any matter under investigation by the department;

(m) Willfully prevented or interfered with or attempted to impede in any way any inspection or investigation by the department, or the work of any authorized representative of the department or the lawful enforcement of any provision of this chapter;

(n) Refused to allow department representatives or agents to examine any part of the licensed premises including the books, records and files required under this chapter;

(o) Moved all residents out of the assisted living facility without the department's approval and appears to be no longer operating as an assisted living facility; or

(p) Demonstrated any other factors that give evidence the applicant lacks the appropriate character, suitability and competence to provide care or services to vulnerable adults.

(2) This section applies to any assisted living facility:

(a) Applicant;

(b) Partner, officer or director;

(c) Manager or managerial employee; or

(d) Majority owner of the applicant or licensee:

(i) Who is involved in the management or operation of the assisted living facility;

(ii) Who may have direct access to assisted living facility residents;

(iii) Who controls or supervises the provision of care or services to assisted living facility residents; or

(iv) Who exercises control over daily operations of the assisted living facility.

(3) For other circumstances resulting in discretionary enforcement remedies, see WAC 388-78A-3200.

[Statutory Authority: RCW 74.39A.056, chapter 18.20 RCW. WSR 14-14-031, § 388-78A-3170, filed 6/24/14, effective 7/25/14. Statutory Authority: Chapter 18.20 RCW. WSR 13-13-063, § 388-78A-3170, filed 6/18/13, effective 7/19/13. Statutory Authority: RCW 18.20.090 (2004 c 142 § 19) and chapter 18.20 RCW. WSR 04-16-065, § 388-78A-3170, filed 7/30/04, effective 9/1/04.]