

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1606

Chapter 506, Laws of 2005

(partial veto)

59th Legislature
2005 Regular Session

INFORMAL DISPUTE RESOLUTION PROCESS

EFFECTIVE DATE: 7/24/05

Passed by the House April 23, 2005
Yeas 92 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 14, 2005
Yeas 45 Nays 0

BRAD OWEN

President of the Senate

Approved May 17, 2005, with the
exception of Section 2, which is vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1606** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 17, 2005 - 2:13 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1606

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Green, Skinner, Cody, Bailey, Clibborn, Williams, Morrell and Schual-Berke)

READ FIRST TIME 03/04/05.

1 AN ACT Relating to fairness in the informal dispute resolution
2 process; amending RCW 18.20.195; and adding a new section to chapter
3 18.51 RCW.

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

5 **Sec. 1.** RCW 18.20.195 and 2004 c 140 s 5 are each amended to read
6 as follows:

7 (1) The licensee or its designee has the right to an informal
8 dispute resolution process to dispute any violation found or
9 enforcement remedy imposed by the department during a licensing
10 inspection or complaint investigation. The purpose of the informal
11 dispute resolution process is to provide an opportunity for an exchange
12 of information that may lead to the modification, deletion, or removal
13 of a violation, or parts of a violation, or enforcement remedy imposed
14 by the department.

15 (2) The informal dispute resolution process provided by the
16 department shall include, but is not necessarily limited to, an
17 opportunity for review by a department employee who did not participate
18 in, or oversee, the determination of the violation or enforcement

1 remedy under dispute. The department shall develop, or further
2 develop, an informal dispute resolution process consistent with this
3 section.

4 (3) A request for an informal dispute resolution shall be made to
5 the department within ten working days from the receipt of a written
6 finding of a violation or enforcement remedy. The request shall
7 identify the violation or violations and enforcement remedy or remedies
8 being disputed. The department shall convene a meeting, when possible,
9 within ten working days of receipt of the request for informal dispute
10 resolution, unless by mutual agreement a later date is agreed upon.

11 (4) If the department determines that a violation or enforcement
12 remedy should not be cited or imposed, the department shall delete the
13 violation or immediately rescind or modify the enforcement remedy. If
14 the department determines that a violation should have been cited (~~or~~
15 ~~an enforcement remedy imposed~~) under a different more appropriate
16 regulation, the department shall (~~add the citation or enforcement~~
17 ~~remedy~~) revise the report, statement of deficiencies, or enforcement
18 remedy accordingly. Upon request, the department shall issue a clean
19 copy of the revised report, statement of deficiencies, or notice of
20 enforcement action.

21 (5) The request for informal dispute resolution does not delay the
22 effective date of any enforcement remedy imposed by the department,
23 except that civil monetary fines are not payable until the exhaustion
24 of any formal hearing and appeal rights provided under this chapter.
25 The licensee shall submit to the department, within the time period
26 prescribed by the department, a plan of correction to address any
27 undisputed violations, and including any violations that still remain
28 following the informal dispute resolution.

29 ****NEW SECTION. Sec. 2. A new section is added to chapter 18.51 RCW***
30 ***to read as follows:***

31 ***(1) A nursing home provider shall have the right to an informal***
32 ***review to present written evidence to refute the findings or***
33 ***deficiencies cited during a licensing or certification survey or a***
34 ***complaint investigation. The purpose of the informal dispute***
35 ***resolution process is to provide an opportunity for an exchange of***
36 ***information that may lead to the modification, deletion, or removal of***
37 ***a deficiency, or parts of a deficiency, cited by the department.***

1 (2) *The informal dispute resolution process provided by the*
2 *department shall, at a minimum, be consistent with 42 C.F.R. 488.331*
3 *and the federal state operations manual and shall require the*
4 *department when conducting an informal dispute resolution process with*
5 *a nursing home provider or its designee to provide an opportunity for*
6 *input from residents or resident representatives.*

7 (3) *If the department determines that a deficiency should not be*
8 *cited, the department shall delete the deficiency. If the department*
9 *determines that a deficiency should have been cited under a different*
10 *more appropriate regulation, the department shall revise the statement*
11 *of deficiencies accordingly. If the provider is successful in*
12 *demonstrating that one or more deficiencies should not have been cited,*
13 *the deficiency or deficiencies are removed from the statement of*
14 *deficiencies and any enforcement action imposed solely as a result of*
15 *the cited deficiency or deficiencies are rescinded. Upon request, the*
16 *department shall issue a clean copy of the statement of deficiencies or*
17 *notice of enforcement action. The request for informal dispute*
18 *resolution does not delay the effective date of any enforcement remedy*
19 *imposed by the department, except that civil monetary fines are not*
20 *payable until the exhaustion of any formal hearing and appeal rights*
21 *provided under this chapter.*

**Sec. 2 was vetoed. See message at end of chapter.*

Passed by the House April 23, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 17, 2005, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 17, 2005.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 2, Substitute
House Bill No. 1606 entitled:

"AN ACT Relating to fairness in the informal dispute resolution
process."

Section 2 of this bill would create new statutory language regarding
the state's nursing home informal dispute resolution process. The
Department of Social and Health Services currently offers an informal
dispute resolution process for all licensed nursing homes that is in
compliance with federal regulations for Medicaid and Medicare-
certified nursing homes. Section 2 of the bill would require
modification of the current informal dispute resolution process to
allow nursing home residents or their representatives to provide
input. Nursing home residents currently have extensive input during
the complaint investigations and licensing and certification surveys.
The presence of residents or their representatives during informal
dispute resolution sessions might have a chilling effect upon candid
discussions regarding resident care issues and might limit the
effectiveness of this tool for addressing resident care concerns
quickly and less contentiously. The enacted 2005-2007 state

operating budget does not include additional funding or staff to implement this program.

For these reasons, I have vetoed Section 2 of Substitute House Bill No. 1606.

With the exception of Section 2, Substitute House Bill No. 1606 is approved."