H-3696.1

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**HOUSE BILL 2750**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Tharinger, Johnson, Cody, Stonier, Slatter, Robinson, Jinkins, Appleton, Muri, and Gregerson

AN ACT Relating to quality in assisted living facilities; amending RCW 18.20.190 and 18.20.430; adding new sections to chapter 18.20 RCW; creating a new section; prescribing penalties; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature finds that:

(1) Washington state is ranked number one in the nation in offering quality choices in its long-term services and supports system. Assisted living facilities are an important part of the state's long-term services and supports plan;

(2) Consumers should have access to current information about assisted living facilities to make informed choices;

(3) Washingtonians choose to live in assisted living facilities for many different reasons including safety, access to care, socialization, rehabilitation, and community;

(4) Deciding where to live and what kind of facility to live in are big decisions for potential residents and families. They deserve to have access to all information collected by the state to use in making their decisions. Providing transparency will allow for more informed consumer choices;

(5) State medicaid pays for approximately twenty-five percent of all residents in assisted living facilities, and the state should have more data on the quality of care offered to those residents;

(6) A work group has been developing recommendations regarding medicaid rates to inform the legislature as it considers a methodology for adequately funding assisted living facilities so they may deliver safe and quality care to residents;

(7) Consumers already have access to information on nursing homes and adult family homes. This act would bring assisted living facilities in line with other settings; and

(8) Assisted living facilities need to be held accountable for the residents in their care and the fine structure should be reflective of that responsibility.

NEW SECTION. **Sec.**  A new section is added to chapter 18.20 RCW to read as follows:

(1) The assisted living facility quality council is established. The council shall make recommendations on measuring quality, providing consumer information, and reporting value.

(2) The panel shall consist of seventeen members, as follows:

(a) One member from each of the two largest caucuses of the house of representatives, as appointed by the speaker of the house of representatives;

(b) One member from each of the two largest caucuses of the senate, as appointed by the president of the senate;

(c) The assistant secretary of the department of social and health services with jurisdiction over aging and long-term supports issues;

(d) One representative of the office of the state long-term care ombuds;

(e) One representative of the office of the developmental disabilities ombuds;

(f) One representative of the state protection and advocacy program established pursuant to RCW 71A.10.080;

(g) One representative of the Washington state developmental disabilities council; and

(h) The following members, as appointed by the governor:

(i) One representative of the governor;

(ii) Two representatives of organizations that represent assisted living facilities in Washington;

(iii) One person with expertise in serving persons with mental health needs in an institutional setting;

(iv) One person with expertise in serving persons with various forms of dementia;

(v) One licensed health care professional with experience caring for geriatric patients;

(vi) One representative of an organization that represents persons in Washington with Alzheimer's disease; and

(vii) One representative of an organization that provides consumer advocacy services related to senior and aging issues.

(3) The council shall be cochaired by the assistant secretary from the department of social and health services and one of the legislators from a majority caucus of the legislature.

(4) Staffing support for the council shall be provided by the assisted living facilities quality measurement program established in section 3 of this act.

(5) The council must create a uniform quality metric system for assisted living facilities by September 1, 2019. The quality metric system must address the safety, health, and well-being of residents of assisted living facilities.

(6)(a) The council must submit an interim report to the governor and the legislature by December 1, 2018, and a final report on the quality metric system by September 1, 2019.

(b) The final report to the governor and the legislature must include recommendations that:

(i) Identify quality measures for all assisted living facilities;

(ii) Propose a process for monitoring and tracking performance;

(iii) Propose a process for providing information to consumers;

(iv) Propose a process for using quality measures when establishing medicaid rates;

(v) Select data metrics to be reported by assisted living facilities to the department. The selected data should promote quality care and avoid reporting data that is unnecessarily burdensome to assisted living facilities;

(vi) Propose a process and frequency for reporting data; and

(vii) Evaluate the merits of including a quality incentive payment program.

(7) This section expires June 30, 2020.

NEW SECTION. **Sec.**  A new section is added to chapter 18.20 RCW to read as follows:

(1) The assisted living facilities quality measurement program is established within the department to provide consumers with information and data about assisted living facilities to allow them to make informed decisions about residential options.

(2) The program shall:

(a) Provide staffing support to the assisted living facility quality council; and

(b) Provide information to consumers about assisted living facilities. The information must be made available online and include information related to site visits, inspection and complaint investigation reports, licenses issued by the department, and citations issued by the department.

(3) The program must submit an implementation report to the governor and the legislature by November 1, 2020, and an update report by November 1, 2022.

**Sec.**  RCW 18.20.190 and 2012 c 10 s 13 are each amended to read as follows:

(1) The department of social and health services is authorized to take one or more of the actions listed in subsection (2) of this section in any case in which the department finds that an assisted living facility provider has:

(a) Failed or refused to comply with the requirements of this chapter or the rules adopted under this chapter;

(b) Operated an assisted living facility without a license or under a revoked license;

(c) Knowingly, or with reason to know, made a false statement of material fact on his or her application for license or any data attached thereto, or in any matter under investigation by the department; or

(d) Willfully prevented or interfered with any inspection or investigation by the department.

(2) When authorized by subsection (1) of this section, the department may take one or more of the following actions:

(a) Refuse to issue a license;

(b) Impose reasonable conditions on a license, such as correction within a specified time, training, and limits on the type of clients the provider may admit or serve;

(c) Impose civil penalties of ((~~not more than~~)) at least one hundred dollars per day per violation;

(d) Impose civil penalties of up to three thousand dollars for each incident that violates assisted living facility licensing statutes or rules, including this chapter and chapters 70.129, 74.34, and 74.39A RCW, and related rules. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty;

(e) Impose civil penalties of up to ten thousand dollars for a current or former licensed provider who is operating an unlicensed facility;

(f) Suspend, revoke, or refuse to renew a license;

((~~(e)~~)) (g) Suspend admissions to the assisted living facility by imposing stop placement; or

((~~(f)~~)) (h) Suspend admission of a specific category or categories of residents as related to the violation by imposing a limited stop placement.

(3) The department shall adopt a method for determining appropriate actions to respond to deficiencies identified in subsection (1) of this section according to the severity and scope of the deficiencies. The method shall include the use of a tiered sanction grid that considers the extent of harm from the deficiency and the regularity of the occurrence of the deficiency when imposing civil fines.

(4) When the department orders stop placement or a limited stop placement, the facility shall not admit any new resident until the stop placement or limited stop placement order is terminated. The department may approve readmission of a resident to the facility from a hospital or nursing home during the stop placement or limited stop placement. 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 deficient. However, if upon the revisit 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 shall remain in effect until the new stop placement or new limited stop placement is imposed.

((~~(4)~~)) (5) 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 request for revisit, to ensure correction of the violation. For violations that are serious or recurring or uncorrected following a previous citation, and create actual or threatened harm to one or more residents' well-being, including violations of residents' 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 license suspensions or revocations. Nothing in this subsection shall interfere with or diminish the department's authority and duty to ensure that the provider adequately cares for residents, including to make departmental on-site revisits as needed to ensure that the provider protects residents, and to enforce compliance with this chapter.

((~~(5)~~)) (6) RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification. Chapter 34.05 RCW applies to department actions under this section, except that orders of the department imposing license suspension, stop placement, limited stop placement, or conditions for continuation of a license are effective immediately upon notice and shall continue pending any hearing.

((~~(6)~~)) (7) All receipts from civil penalties imposed under this chapter must be deposited in the assisted living facility temporary management account created in RCW 18.20.430.

(8) For the purposes of this section, "limited stop placement" means the ability to suspend admission of a specific category or categories of residents.

**Sec.**  RCW 18.20.430 and 2016 sp.s. c 36 s 912 are each amended to read as follows:

The assisted living facility temporary management account is created in the custody of the state treasurer. All receipts from civil penalties imposed under this chapter 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. Expenditures from the account may be used only for the protection of the health, safety, welfare, or property of residents of assisted living facilities found to be deficient. Uses of the account include, but are not limited to:

(1) Payment for the costs of relocation of residents to other facilities;

(2) Payment to maintain operation of an assisted living facility pending correction of deficiencies or closure, including payment of costs associated with temporary management authorized under this chapter; ((~~and~~))

(3) Reimbursement of residents for personal funds or property lost or stolen when the resident's personal funds or property cannot be recovered from the assisted living facility or third-party insurer; and

(4) The protection of the health, safety, welfare, and property of residents of assisted living facilities found to be noncompliant with licensing standards.

((~~During the 2015-2017 fiscal biennium, the account may be expended for funding the costs associated with the assisted living program.~~))

**--- END ---**