
SENATE BILL 5877

State of Washington 64th Legislature 2015 Regular Session

By Senators O'Ban, Angel, Padden, Pearson, Rivers, Warnick, and Darneille

Read first time 02/06/15. Referred to Committee on Health Care.

1 AN ACT Relating to adult family home due process; and amending
2 RCW 70.128.160.

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

4 **Sec. 1.** RCW 70.128.160 and 2013 c 300 s 4 are each amended to
5 read as follows:

6 (1) The department is authorized to take one or more of the
7 actions listed in subsection (2) of this section in any case in which
8 the department finds that an adult family home provider has:

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

11 (b) Operated an adult family home without a license or under a
12 revoked license;

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

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

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

21 (a) Refuse to issue a license;

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

4 (c) Impose civil penalties of at least one hundred dollars per
5 day per violation;

6 (d) Impose civil penalties of up to three thousand dollars for
7 each incident that violates adult family home licensing laws and
8 rules, including, but not limited to, chapters 70.128, 70.129, 74.34,
9 and 74.39A RCW and related rules. Each day upon which the same or
10 substantially similar action occurs is a separate violation subject
11 to the assessment of a separate penalty;

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

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

16 (g) Suspend admissions to the adult family home by imposing stop
17 placement.

18 (3) When the department orders stop placement, the facility shall
19 not admit any person until the stop placement order is terminated.
20 The department may approve readmission of a resident to the facility
21 from a hospital or nursing home during the stop placement. The
22 department shall terminate the stop placement only after: (a) The
23 violations necessitating the stop placement have been corrected; and
24 (b) the provider exhibits the capacity to maintain correction of the
25 violations previously found deficient. However, if upon the revisit
26 the department finds new violations that the department reasonably
27 believes will result in a new stop placement, the previous stop
28 placement shall remain in effect until the new stop placement is
29 imposed. In order to protect the home's existing residents from
30 potential ongoing neglect, when the provider has been cited for a
31 violation that is repeated, uncorrected, pervasive, or presents a
32 threat to the health, safety, or welfare of one or more residents,
33 and the department has imposed a stop placement, the department shall
34 also impose a condition on license or other remedy to facilitate or
35 spur prompter compliance if the violation has not been corrected, and
36 the provider has not exhibited the capacity to maintain correction,
37 within sixty days of the stop placement.

38 (4) Nothing in subsection (3) of this section is intended to
39 apply to stop placement imposed in conjunction with a license
40 revocation or summary suspension or to prevent the department from

1 imposing a condition on license or other remedy prior to sixty days
2 after a stop placement, if the department considers it necessary to
3 protect one or more residents' well-being. After a department finding
4 of a violation for which a stop placement has been imposed, the
5 department shall make an on-site revisit of the provider within
6 fifteen working days from the request for revisit, to ensure
7 correction of the violation. For violations that are serious or
8 recurring or uncorrected following a previous citation, and create
9 actual or threatened harm to one or more residents' well-being,
10 including violations of residents' rights, the department shall make
11 an on-site revisit as soon as appropriate to ensure correction of the
12 violation. Verification of correction of all other violations may be
13 made by either a department on-site revisit or by written or
14 photographic documentation found by the department to be credible.
15 This subsection does not prevent the department from enforcing
16 license suspensions or revocations. Nothing in this subsection shall
17 interfere with or diminish the department's authority and duty to
18 ensure that the provider adequately cares for residents, including to
19 make departmental on-site revisits as needed to ensure that the
20 provider protects residents, and to enforce compliance with this
21 chapter.

22 (5) Chapter 34.05 RCW applies to department actions under this
23 section, except that orders of the department imposing license
24 suspension, stop placement, or conditions for continuation of a
25 license are effective immediately upon notice and shall continue in
26 effect pending any hearing. The licensee has the right to apply for a
27 stay of any order issued under this section prior to a final
28 decision. The department shall repeal WAC 388-76-10995(1) and shall
29 adopt new rules consistent with this provision.

30 (6) A separate adult family home account is created in the
31 custody of the state treasurer. All receipts from civil penalties
32 imposed under this chapter must be deposited into the account. Only
33 the director or the director's designee may authorize expenditures
34 from the account. The account is subject to allotment procedures
35 under chapter 43.88 RCW, but an appropriation is not required for
36 expenditures. The department shall use the special account only for
37 promoting the quality of life and care of residents living in adult
38 family homes.

39 (7) The department shall by rule specify criteria as to when and
40 how the sanctions specified in this section must be applied. The

1 criteria must provide for the imposition of incrementally more severe
2 penalties for deficiencies that are repeated, uncorrected, pervasive,
3 or present a threat to the health, safety, or welfare of one or more
4 residents. The criteria shall be tiered such that those homes
5 consistently found to have deficiencies will be subjected to
6 increasingly severe penalties. The department shall implement prompt
7 and specific enforcement remedies without delay for providers found
8 to have delivered care or failed to deliver care resulting in
9 problems that are repeated, uncorrected, pervasive, or present a
10 threat to the health, safety, or welfare of one or more residents. In
11 the selection of remedies, the health, safety, and well-being of
12 residents must be of paramount importance.

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