
HOUSE BILL 2790

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By Representatives Dyer, L. Thomas, B. Thomas, Lisk, Sheahan, Foreman, Edmondson, Cooke, Talcott, Forner, Wood, Schoesler, Van Luven, Silver, Long, Sehlin and Mielke

Read first time 01/24/94. Referred to Committee on Health Care.

1 AN ACT Relating to regulation of nursing homes; amending RCW
2 18.51.060 and 18.51.065; and repealing 1989 c 372 s 9.

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

4 **Sec. 1.** RCW 18.51.060 and 1989 c 372 s 8 are each amended to read
5 as follows:

6 (1) In any case in which the department finds that a licensee, or
7 any partner, officer, director, owner of five percent or more of the
8 assets of the nursing home, or managing employee failed or refused to
9 comply with the requirements of this chapter or of chapter 74.42 RCW,
10 or the standards, rules and regulations established under them or, in
11 the case of a Medicaid contractor, failed or refused to comply with the
12 Medicaid requirements of Title XIX of the social security act, as
13 amended, and regulations promulgated thereunder, the department may
14 take any or all of the following actions:

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

16 (b) Order stop placement;

17 (c) Assess monetary penalties of a civil nature;

18 (d) Deny payment to a nursing home for any Medicaid resident
19 admitted after notice to deny payment. Residents who are Medicaid

1 recipients shall not be responsible for payment when the department
2 takes action under this subsection;

3 (e) Appoint temporary management as provided in subsection (7) of
4 this section.

5 (2) The department may suspend, revoke, or refuse to renew a
6 license, assess monetary penalties of a civil nature, or both, in any
7 case in which it finds that the licensee, or any partner, officer,
8 director, owner of five percent or more of the assets of the nursing
9 home, or managing employee:

10 (a) Operated a nursing home without a license or under a revoked or
11 suspended license; or

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

15 (c) Refused to allow representatives or agents of the department to
16 inspect all books, records, and files required to be maintained or any
17 portion of the premises of the nursing home; or

18 (d) Willfully prevented, interfered with, or attempted to impede in
19 any way the work of any duly authorized representative of the
20 department and the lawful enforcement of any provision of this chapter
21 or of chapter 74.42 RCW; or

22 (e) Willfully prevented or interfered with any representative of
23 the department in the preservation of evidence of any violation of any
24 of the provisions of this chapter or of chapter 74.42 RCW or the
25 standards, rules, and regulations adopted under them; or

26 (f) Failed to report patient abuse or neglect in violation of
27 chapter 70.124 RCW; or

28 (g) Fails to pay any civil monetary penalty assessed by the
29 department pursuant to this chapter within ten days after such
30 assessment becomes final.

31 (3) The department shall deny payment to a nursing home having a
32 Medicaid contract with respect to any Medicaid-eligible individual
33 admitted to the nursing home when:

34 (a) The department finds the nursing home not in compliance with
35 the requirements of Title XIX of the social security act, as amended,
36 and regulations promulgated thereunder, and the facility has not
37 complied with such requirements within three months; in such case, the
38 department shall deny payment until correction has been achieved; or

1 (b) The department finds on three consecutive standard surveys that
2 the nursing home provided substandard quality of care; in such case,
3 the department shall deny payment for new admissions until the facility
4 has demonstrated to the satisfaction of the department that it is in
5 compliance with Medicaid requirements and that it will remain in
6 compliance with such requirements.

7 (4)(a) Civil penalties collected under this section or under
8 chapter 74.42 RCW shall be deposited into a special fund administered
9 by the department to be applied to the protection of the health or
10 property of residents of nursing homes found to be deficient, including
11 payment for the costs of relocation of residents to other facilities,
12 maintenance of operation of a facility pending correction of
13 deficiencies or closure, and reimbursement of residents for personal
14 funds lost.

15 (b) Civil monetary penalties, if imposed, may be assessed and
16 collected, with interest, for each day a nursing home is or was out of
17 compliance. Civil monetary penalties shall not exceed three thousand
18 dollars per violation. Each day upon which the same or a substantially
19 similar action occurs is a separate violation subject to the assessment
20 of a separate penalty.

21 (c) Any civil penalty assessed under this section or chapter 74.46
22 RCW shall be a nonreimbursable item under chapter 74.46 RCW.

23 (5)(a) The department shall order stop placement on a nursing home,
24 effective upon oral or written notice, when the department determines:

25 (i) The nursing home no longer substantially meets the requirements
26 of chapter 18.51 or 74.42 RCW, or in the case of Medicaid contractors,
27 the requirements of Title XIX of the social security act, as amended,
28 and any regulations promulgated under such statutes; and

29 (ii) The deficiency or deficiencies in the nursing home:

30 (A) Jeopardize the health and safety of the residents, or

31 (B) Seriously limit the nursing home's capacity to provide adequate
32 care.

33 (b) When the department has ordered a stop placement, the
34 department may approve a readmission to the nursing home from a
35 hospital when the department determines the readmission would be in the
36 best interest of the individual seeking readmission.

37 (c) The department shall terminate the stop placement when:

38 (i) The provider states in writing that the deficiencies
39 necessitating the stop placement action have been corrected; and

1 (ii) The department staff confirms in a timely fashion not to
2 exceed fifteen working days that:

3 (A) The deficiencies necessitating stop placement action have been
4 corrected, and

5 (B) The provider exhibits the capacity to maintain adequate care
6 and service.

7 (d) A nursing home provider shall have the right to an informal
8 review to present written evidence to refute the deficiencies cited as
9 the basis for the stop placement. A request for an informal review
10 must be made in writing within ten days of the effective date of the
11 stop placement.

12 (e) A stop placement shall not be delayed or suspended because the
13 nursing home requests a hearing pursuant to chapter 34.05 RCW or an
14 informal review. The stop placement shall remain in effect until:

15 (i) The department terminates the stop placement; or

16 (ii) The stop placement is terminated by a final agency order,
17 after a hearing, pursuant to chapter 34.05 RCW; or

18 (iii) Fifteen calendar days elapse from the date a provider files
19 a request for a hearing without a final agency order having been
20 entered upholding the stop placement.

21 (6) If the department determines that an emergency exists as a
22 result of a nursing home's failure or refusal to comply with
23 requirements of this chapter or, in the case of a Medicaid contractor,
24 its failure or refusal to comply with Medicaid requirements of Title
25 XIX of the social security act, as amended, and rules adopted
26 thereunder, the department may suspend the nursing home's license and
27 order the immediate closure of the nursing home, the immediate transfer
28 of residents, or both.

29 (7) If the department determines that the health or safety of
30 residents is immediately jeopardized as a result of a nursing home's
31 failure or refusal to comply with requirements of this chapter or, in
32 the case of a Medicaid contractor, its failure or refusal to comply
33 with Medicaid requirements of Title XIX of the social security act, as
34 amended, and rules adopted thereunder, the department may appoint
35 temporary management to:

36 (a) Oversee the operation of the facility; and

37 (b) Ensure the health and safety of the facilities residents while:

38 (i) Orderly closure of the facility occurs; or

1 (ii) The deficiencies necessitating temporary management are
2 corrected.

3 (8) The department shall by rule specify criteria as to when and
4 how the sanctions specified in this section shall be applied. Such
5 criteria shall provide for the imposition of incrementally more severe
6 penalties for deficiencies that are repeated, uncorrected, pervasive,
7 or present a threat to the health, safety, or welfare of the residents.

8 **Sec. 2.** RCW 18.51.065 and 1989 c 175 s 64 are each amended to read
9 as follows:

10 RCW 43.20A.205 governs notice of a license denial, revocation,
11 suspension, or modification and orders imposing stop placement,
12 temporary management, emergency closure, emergency transfer, or
13 receivership and provides the right to an adjudicative proceeding. RCW
14 43.20A.215 governs notice of a civil fine and provides the right to an
15 adjudicative proceeding.

16 In any case in which the original sanction is not upheld at the
17 termination of review, the department shall pay the actual costs and
18 attorneys' fees incurred by the facility in the appeal.

19 NEW SECTION. **Sec. 3.** 1989 c 372 s 9 is repealed.

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