
HOUSE BILL 1427

State of Washington

57th Legislature

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By Representatives Edmonds, Skinner, Cody, Schual-Berke, Pflug, Boldt, Dunn, Kagi and Marine

Read first time 01/25/2001. Referred to Committee on Health Care.

1 AN ACT Relating to boarding homes; amending RCW 18.20.020,
2 18.20.110, 18.20.185, 18.20.190, and 74.39A.060; adding a new section
3 to chapter 18.20 RCW; repealing RCW 74.39A.080; and declaring an
4 emergency.

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

6 **Sec. 1.** RCW 18.20.020 and 2000 c 47 s 1 are each amended to read
7 as follows:

8 As used in this chapter:

9 (1) "Aged person" means a person of the age sixty-five years or
10 more, or a person of less than sixty-five years who by reason of
11 infirmity requires domiciliary care.

12 (2) "Boarding home" means any home or other institution, however
13 named, which is advertised, announced, or maintained for the express or
14 implied purpose of providing board and domiciliary care to seven or
15 more aged persons not related by blood or marriage to the operator.
16 However, a boarding home that is licensed to provide board and
17 domiciliary care to three to six persons on July 1, 2000, may maintain
18 its boarding home license as long as it is continually licensed as a
19 boarding home. "Boarding home" shall not include facilities certified

1 as group training homes pursuant to RCW 71A.22.040, nor any home,
2 institution or section thereof which is otherwise licensed and
3 regulated under the provisions of state law providing specifically for
4 the licensing and regulation of such home, institution or section
5 thereof. Nor shall it include any independent senior housing,
6 independent living units in continuing care retirement communities, or
7 other similar living situations including those subsidized by the
8 department of housing and urban development.

9 (3) "Person" means any individual, firm, partnership, corporation,
10 company, association, or joint stock association, and the legal
11 successor thereof.

12 (4) "Secretary" means the secretary of social and health services.

13 (5) "Department" means the state department of social and health
14 services.

15 (6) "Serious" means a violation of a licensing requirement
16 contained in or adopted under this chapter, or a contract requirement
17 contained in or adopted under chapter 74.39A RCW, as applicable, that:
18 (a) Causes actual harm to a resident and the level of harm is more than
19 minimal; or (b) indicates there are systemic factors underlying the
20 violation which, if uncorrected, will with reasonable certainty cause
21 significant harm to a resident or residents.

22 (7) "Recurring" means a violation of the same regulation on three
23 consecutive licensing inspections or complaint investigations, or any
24 combination thereof.

25 (8) "Imminent danger" means a violation of a licensing requirement
26 contained in or adopted under this chapter, or a contract requirement
27 contained in or adopted under chapter 74.39A RCW, as applicable, that
28 causes significant physical harm to or death of a resident, or creates
29 a significant and immediate threat to a resident's life, health, or
30 safety.

31 **Sec. 2.** RCW 18.20.110 and 2000 c 47 s 4 are each amended to read
32 as follows:

33 The department shall make or cause to be made at least a yearly
34 inspection and investigation of all boarding homes. Every inspection
35 shall focus primarily on actual or potential resident outcomes, and may
36 include an inspection of every part of the premises and an examination
37 of all records (other than financial records), methods of

1 administration, the general and special dietary, and the stores and
2 methods of supply.

3 (1) Inspections should be outcome based and responsive to resident
4 complaints and a clear set of health, quality of care, and safety
5 standards that are easily understandable and have been made available
6 to boarding homes. This includes that when conducting licensing
7 inspections, the department shall interview an appropriate percentage
8 of residents, family members, and advocates in addition to interviewing
9 appropriate staff.

10 (2) Prompt and specific enforcement remedies shall also be
11 implemented without delay, consistent with RCW 18.20.190, for boarding
12 homes found to have delivered care or failed to deliver care resulting
13 in problems that are serious, recurring, or uncorrected, or that create
14 imminent danger to one or more residents. These enforcement remedies
15 may also include, when appropriate, reasonable conditions on a license.
16 In the selection of remedies, the safety, health, and well-being of
17 residents shall be of paramount importance and consistent with RCW
18 18.20.190. Whenever appropriate, the department shall provide
19 technical assistance to the facility.

20 (3) To the extent funding is available, the licensee,
21 administrator, and their staff should be screened through background
22 checks in a uniform and timely manner to ensure that they do not have
23 a criminal history that would disqualify them from working with
24 vulnerable adults. Employees may be provisionally hired pending the
25 results of the background check if they have been given three positive
26 references.

27 (4) No licensee, administrator, or staff, or prospective licensee,
28 administrator, or staff, with a stipulated finding of fact, conclusion
29 of law, and agreed order, or finding of fact, conclusion of law, or
30 final order issued by a disciplining authority, a court of law, or
31 entered into the state registry finding him or her guilty of abuse,
32 neglect, exploitation, or abandonment of a minor or a vulnerable adult
33 as defined in chapter 74.34 RCW shall be employed in the care of and
34 have unsupervised access to vulnerable adults.

35 Following such an inspection or inspections, written notice of any
36 violation of this law or the rules adopted hereunder shall be given to
37 the applicant or licensee and the department. The department may
38 prescribe by rule that any licensee or applicant desiring to make
39 specified types of alterations or additions to its facilities or to

1 construct new facilities shall, before commencing such alteration,
2 addition, or new construction, submit plans and specifications therefor
3 to the agencies responsible for plan reviews for preliminary inspection
4 and approval or recommendations with respect to compliance with the
5 rules and standards herein authorized.

6 **Sec. 3.** RCW 18.20.185 and 1997 c 392 s 214 are each amended to
7 read as follows:

8 (1) The department shall establish and maintain a toll-free
9 telephone number for receiving complaints regarding a ((facility))
10 boarding home that the department licenses.

11 (2) All ((facilities)) boarding homes that are licensed under this
12 chapter shall post in a place and manner clearly visible to residents
13 and visitors the department's toll-free complaint telephone number and
14 the toll-free number and program description of the long-term care
15 ombudsman as provided by RCW 43.190.050.

16 (3) The department shall investigate complaints if the subject of
17 the complaint is within its authority unless the department determines
18 that: (a) The complaint is intended to willfully harass a licensee or
19 employee of the licensee; or (b) there is no reasonable basis for
20 investigation; or (c) corrective action has been taken as determined by
21 the ombudsman or the department.

22 (4) The department shall refer complaints to appropriate state
23 agencies, law enforcement agencies, the attorney general, the long-term
24 care ombudsman, or other entities if the department lacks authority to
25 investigate or if its investigation reveals that a follow-up referral
26 to one or more of these entities is appropriate.

27 (5) The department shall adopt rules that include the following
28 complaint investigation protocols:

29 (a) Upon receipt of a complaint, the department shall make a
30 preliminary review of the complaint, assess the severity of the
31 complaint, and assign an appropriate response time. Complaints
32 involving imminent danger to the health, safety, or well-being of a
33 resident must be responded to within two days. When appropriate, the
34 department shall make an on-site investigation within a reasonable time
35 after receipt of the complaint or otherwise ensure that complaints are
36 responded to.

37 (b) The complainant must be: Promptly contacted by the department,
38 unless anonymous or unavailable despite several attempts by the

1 department, and informed of the right to discuss alleged violations
2 with the inspector and to provide other information the complainant
3 believes will assist the inspector; informed of the department's course
4 of action; and informed of the right to receive a written copy of the
5 investigation report.

6 (c) In conducting the investigation, the department shall interview
7 the complainant, unless anonymous, and shall use its best efforts to
8 interview the resident or residents allegedly harmed by the violations,
9 and, in addition to ((facility)) boarding home staff, any available
10 independent sources of relevant information, including if appropriate
11 the family members of the resident.

12 (d) Substantiated complaints involving harm to a resident, if an
13 applicable law or regulation has been violated, shall be subject to one
14 or more of the actions provided in RCW 18.20.190. Whenever
15 appropriate, the department shall also give consultation and technical
16 assistance to the facility.

17 (e) (~~In the best practices of total quality management and~~
18 ~~continuous quality improvement,~~) After a department finding of a
19 violation that is serious or causes or creates imminent danger to one
20 or more residents, (recurring, or uncorrected following a previous
21 citation,) the department shall make an on-site revisit of the
22 ((facility)) boarding home, within five working days from the date of
23 the request for revisit, to ensure correction of the violation. For
24 other violations that are not serious or do not cause or create
25 imminent danger to one or more residents, the department may make an
26 on-site revisit to ensure correction of the violation, or accept the
27 licensee's written statement demonstrating correction of the violation
28 or violations if the department finds the written statement credible.
29 This subsection does not prevent the department from enforcing license
30 suspensions or revocations.

31 (f) Substantiated complaints of neglect, abuse, exploitation, or
32 abandonment of residents, or suspected criminal violations, shall also
33 be referred by the department to the appropriate law enforcement
34 agencies, the attorney general, and appropriate professional
35 disciplining authority.

36 (6) The department may provide the substance of the complaint to
37 the licensee before the completion of the investigation by the
38 department unless such disclosure would reveal the identity of a
39 complainant, witness, or resident who chooses to remain anonymous.

1 Neither the substance of the complaint provided to the licensee or
2 contractor nor any copy of the complaint or related report published,
3 released, or made otherwise available shall disclose, or reasonably
4 lead to the disclosure of, the name, title, or identity of any
5 complainant, or other person mentioned in the complaint, except that
6 the name of the provider and the name or names of any officer,
7 employee, or agent of the department conducting the investigation shall
8 be disclosed after the investigation has been closed and the complaint
9 has been substantiated. The department may disclose the identity of
10 the complainant if such disclosure is requested in writing by the
11 complainant. Nothing in this subsection shall be construed to
12 interfere with the obligation of the long-term care ombudsman program
13 to monitor the department's licensing, contract, and complaint
14 investigation files for long-term care facilities.

15 (7) The resident has the right to be free of interference,
16 coercion, discrimination, and reprisal from a ((facility)) boarding
17 home in exercising his or her rights, including the right to voice
18 grievances about treatment furnished or not furnished. A ((facility))
19 boarding home licensed under this chapter shall not discriminate or
20 retaliate in any manner against a resident, employee, or any other
21 person on the basis or for the reason that such resident or any other
22 person made a complaint to the department, the attorney general, law
23 enforcement agencies, or the long-term care ombudsman, provided
24 information, or otherwise cooperated with the investigation of such a
25 complaint. Any attempt to discharge a resident against the resident's
26 wishes, or any type of retaliatory treatment of a resident by whom or
27 upon whose behalf a complaint substantiated by the department has been
28 made to the department, the attorney general, law enforcement agencies,
29 or the long-term care ombudsman, within one year of the filing of the
30 complaint, raises a rebuttable presumption that such action was in
31 retaliation for the filing of the complaint. "Retaliatory treatment"
32 means, but is not limited to, monitoring a resident's phone, mail, or
33 visits; involuntary seclusion or isolation; transferring a resident to
34 a different room unless requested or based upon legitimate management
35 reasons; withholding or threatening to withhold food or treatment
36 unless authorized by a terminally ill resident or his or her
37 representative pursuant to law; or persistently delaying responses to
38 a resident's request for service or assistance. A ((facility))
39 boarding home licensed under this chapter shall not willfully interfere

1 with the performance of official duties by a long-term care ombudsman.
2 The department shall sanction and may impose a civil penalty of not
3 more than three thousand dollars for a violation of this subsection.

4 **Sec. 4.** RCW 18.20.190 and 2000 c 47 s 7 are each amended to read
5 as follows:

6 (1) The department of social and health services is authorized to
7 take one or more of the actions listed in subsection (2) of this
8 section in any case in which the department finds that a boarding home
9 provider has:

10 (a) Failed or refused to comply with the requirements of this
11 chapter or the rules adopted under this chapter or chapter 74.39A RCW,
12 as applicable, except for one or more violations that (i) are not
13 serious or do not cause or create imminent danger to one or more
14 residents, unless such violations are recurring, and (ii) are corrected
15 prior to the last day of the department's on-site visit;

16 (b) Operated a boarding home without a license or under a revoked
17 license;

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

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

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

26 (a) Refuse to issue a license under this chapter or a contract
27 under chapter 74.39A RCW;

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

31 (c) Impose civil penalties of not more than one hundred dollars per
32 day per violation;

33 (d) Suspend, revoke, or refuse to renew a license under this
34 chapter, or a contract under chapter 74.39A RCW, for one or more
35 violations that are serious and recurring or that cause or create
36 imminent danger to one or more residents, and the licensee either
37 refuses to correct the violation or violations or is unable to
38 demonstrate good faith progress to correct; or

1 (e) Suspend admissions to the boarding home by imposing stop
2 placement for one or more violations that are serious, whether or not
3 they are also recurring, or for a violation that causes or creates
4 imminent danger to one or more residents.

5 (3) When the department orders stop placement, the facility shall
6 not admit any new resident until the stop placement order is
7 terminated. The department may approve readmission of a resident to
8 the facility from a hospital or nursing home during the stop placement.
9 The department shall terminate the stop placement when: (a) The
10 violations necessitating the stop placement have been corrected; and
11 (b) the provider exhibits the capacity to maintain ((adequate care and
12 service)) compliance with the particular law or regulation which
13 necessitated the stop placement.

14 (4) After a department finding of a violation that is serious or
15 causes or creates imminent danger to one or more residents, the
16 department shall make an on-site revisit of the boarding home, within
17 five working days from the date of the request for revisit, to ensure
18 correction of the violation. For other violations that are not serious
19 or do not cause or create imminent danger to one or more residents, the
20 department may make an on-site revisit to ensure correction of the
21 violation, or accept the licensee's written statement demonstrating
22 correction of the violation or violations, if the department finds the
23 written statement is credible.

24 (5) RCW 43.20A.205 governs notice of a license denial, revocation,
25 suspension, or modification. Chapter 34.05 RCW ((applies)) and section
26 5 of this act apply to department actions under this section, except
27 that orders of the department imposing license suspension, stop
28 placement, or conditions for continuation of a license are effective
29 immediately upon notice and shall continue pending any hearing.

30 (6) In addition to the rights granted under subsection (5) of this
31 section, the licensee shall have the right to contest any department
32 finding of noncompliance with any laws and regulations that govern
33 boarding homes, using the informal dispute resolution process described
34 in section 5 of this act.

35 NEW SECTION. Sec. 5. A new section is added to chapter 18.20 RCW
36 to read as follows:

37 (1) The department shall develop, to the extent necessary, and make
38 available to a boarding home licensee or its designee at least two

1 optional processes from which the licensee or designee may choose to
2 dispute any violation found or enforcement remedy imposed by the
3 department during a licensing inspection or complaint investigation.
4 The purpose of each of the informal dispute resolution processes is to
5 give the licensee, or its designee, an opportunity to present
6 information that may lead to the modification, deletion, or removal of
7 a violation, or parts of a violation, or enforcement remedy imposed.

8 (2) The two processes from which the licensee, or its designee, may
9 choose to informally dispute any violation found during, or enforcement
10 remedy imposed as a result of, a complaint or licensing inspection
11 must, at a minimum, include the following options:

12 (a) Review by a field manager or regional administrator, or however
13 they may later be designated, to determine the validity or
14 appropriateness, in whole or in part, of the violation or violations,
15 or enforcement remedy or remedies. The field manager or regional
16 manager who reviews the validity or appropriateness of any disputed
17 violation cited or enforcement remedy imposed must be selected by the
18 licensee, or its designee.

19 (b) Review by a person who acts as a mediator to assist in
20 determining the validity or appropriateness, in whole or in part, of
21 the violation or violations or enforcement remedy or remedies. The
22 mediator must be chosen through mutual agreement by the boarding home
23 licensee, or its designee, and the department. The licensee shall bear
24 the cost, if any, of obtaining the services of the mediator.

25 (3) The licensee's field manager shall review and send to the
26 licensee, within ten working days, commencing from the completion date
27 of the licensing inspection or complaint investigation, a written
28 description of the violations found and a written notice of any
29 enforcement remedy or remedies that may be imposed under RCW 18.20.190.
30 At the same time, the department shall, in writing, inform the licensee
31 of the informal dispute resolution processes that are available to it,
32 under subsection (2) of this section, to contest any violation cited or
33 enforcement remedy imposed.

34 (4) The licensee, or its designee, shall, within ten working days
35 of the date on which the statement of violations and any enforcement
36 notice is mailed, send its written request for informal dispute
37 resolution. In the written request for informal dispute resolution,
38 the licensee, or its designee, shall identify the process chosen and
39 identify the violation or violations or enforcement remedy or remedies

1 that are being disputed. The written request for informal dispute
2 resolution must be sent to the department. Within this same time
3 period, the licensee, or its designee, shall submit to the department
4 a plan of correction to address the undisputed violations.

5 (5) If the licensee, or its designee, requests the informal dispute
6 resolution process described under subsection (2)(a) of this section,
7 the department shall convene the meeting within ten working days of the
8 receipt of the request for informal dispute resolution, unless a later
9 date is agreed upon by both the licensee, or its designee, and the
10 department.

11 (6) If the licensee, or its designee, requests the informal dispute
12 resolution process described under subsection (2)(b) of this section,
13 the department and the licensee, or its designee, shall, within five
14 working days of the receipt of the request for informal dispute
15 resolution, mutually agree upon a person to serve as a mediator. The
16 meeting must be scheduled as soon as possible and at a time that is
17 mutually agreed to by the department, the mediator, and the licensee,
18 or its designee.

19 (7) The licensee, or its designee, shall submit to the department
20 or the mediator documents or other material that the licensee, or its
21 designee, believes will support its contention that the violation or
22 violations or enforcement remedy or remedies should not have been cited
23 or imposed. The documents or other material that the licensee chooses
24 to submit must be submitted in advance of the scheduled meeting date
25 and must be considered by the department or the mediator prior to a
26 determination being rendered.

27 (8) When the informal dispute resolution under subsection (2) of
28 this section has been requested by the licensee, or its designee, the
29 field manager or the regional administrator, whoever participated in
30 the informal dispute resolution meeting, shall submit a written
31 decision to the licensee, or its designee, within ten working days
32 following the conclusion of the informal dispute resolution meeting.

33 (9) If the field manager or the regional administrator determines
34 that a violation or enforcement remedy should not be cited or imposed,
35 the field manager or regional administrator shall mark the violation
36 deleted, make the necessary change, or immediately rescind or modify
37 the enforcement remedy imposed. The document must be signed and dated
38 by the field manager or the regional administrator.

1 (a) If the violation or enforcement remedy is modified, deleted, or
2 rescinded, the licensee, or its designee, may request from the
3 department a clean copy of the revised report or notice of enforcement
4 action.

5 (b) If the licensee, or its designee, requests a clean copy of the
6 report, the licensee, or its designee, shall complete a plan of
7 correction, if required by the department, based on the clean or
8 revised report and submit it to the department within five days of
9 receipt of the revised or clean report. The plan of correction, if
10 required by the department, must address all violations that still
11 remain following informal dispute resolution even though the licensee,
12 or its designee, may wish to seek redress under chapter 34.05 RCW.

13 (10) If, after the informal dispute meeting, the licensee, or its
14 designee, still disagrees with the violation cited or enforcement
15 remedy imposed, the licensee, or its designee, may request a formal
16 hearing pursuant to chapter 34.05 RCW, within twenty-eight calendar
17 days following receipt of the notice of the written decision under
18 subsection (8) of this section.

19 (11) The request for informal dispute resolution under this
20 chapter, or the request for a formal hearing under chapter 34.05 RCW,
21 does not delay the effective date of any enforcement remedy imposed
22 against the licensee, except that civil monetary fines are not payable
23 until the licensee exhausts his or her appeal rights provided under
24 this chapter.

25 **Sec. 6.** RCW 74.39A.060 and 1999 c 176 s 34 are each amended to
26 read as follows:

27 (1) The aging and adult services administration of the department
28 shall establish and maintain a toll-free telephone number for receiving
29 complaints regarding a facility that the administration licenses or
30 with which it contracts for long-term care services.

31 (2) All facilities that are licensed by, or that contract with the
32 aging and adult services administration to provide chronic long-term
33 care services shall post in a place and manner clearly visible to
34 residents and visitors the department's toll-free complaint telephone
35 number and the toll-free number and program description of the long-
36 term care ombudsman as provided by RCW 43.190.050.

37 (3) The aging and adult services administration shall investigate
38 complaints if the subject of the complaint is within its authority

1 unless the department determines that: (a) The complaint is intended
2 to willfully harass a licensee or employee of the licensee; or (b)
3 there is no reasonable basis for investigation; or (c) corrective
4 action has been taken as determined by the ombudsman or the department.

5 (4) The aging and adult services administration shall refer
6 complaints to appropriate state agencies, law enforcement agencies, the
7 attorney general, the long-term care ombudsman, or other entities if
8 the department lacks authority to investigate or if its investigation
9 reveals that a follow-up referral to one or more of these entities is
10 appropriate.

11 (5) The department shall adopt rules that include the following
12 complaint investigation protocols:

13 (a) Upon receipt of a complaint, the department shall make a
14 preliminary review of the complaint, assess the severity of the
15 complaint, and assign an appropriate response time. Complaints
16 involving imminent danger to the health, safety, or well-being of a
17 resident must be responded to within two days. When appropriate, the
18 department shall make an on-site investigation within a reasonable time
19 after receipt of the complaint or otherwise ensure that complaints are
20 responded to.

21 (b) The complainant must be: Promptly contacted by the department,
22 unless anonymous or unavailable despite several attempts by the
23 department, and informed of the right to discuss the alleged violations
24 with the inspector and to provide other information the complainant
25 believes will assist the inspector; informed of the department's course
26 of action; and informed of the right to receive a written copy of the
27 investigation report.

28 (c) In conducting the investigation, the department shall interview
29 the complainant, unless anonymous, and shall use its best efforts to
30 interview the vulnerable adult or adults allegedly harmed, and,
31 consistent with the protection of the vulnerable adult shall interview
32 facility staff, any available independent sources of relevant
33 information, including if appropriate the family members of the
34 vulnerable adult.

35 (d) Substantiated complaints involving harm to a resident, if an
36 applicable law or rule has been violated, shall be subject to one or
37 more of the actions provided in RCW ((~~74.39A.080~~ or)) 70.128.160.
38 Whenever appropriate, the department shall also give consultation and
39 technical assistance to the provider.

1 (e) In the best practices of total quality management and
2 continuous quality improvement, after a department finding of a
3 violation that is serious, recurring, or uncorrected following a
4 previous citation, the department shall make an on-site revisit of the
5 facility to ensure correction of the violation, except for license or
6 contract suspensions or revocations.

7 (f) Substantiated complaints of neglect, abuse, exploitation, or
8 abandonment of residents, or suspected criminal violations, shall also
9 be referred by the department to the appropriate law enforcement
10 agencies, the attorney general, and appropriate professional
11 disciplining authority.

12 (6) The department may provide the substance of the complaint to
13 the licensee or contractor before the completion of the investigation
14 by the department unless such disclosure would reveal the identity of
15 a complainant, witness, or resident who chooses to remain anonymous.
16 Neither the substance of the complaint provided to the licensee or
17 contractor nor any copy of the complaint or related report published,
18 released, or made otherwise available shall disclose, or reasonably
19 lead to the disclosure of, the name, title, or identity of any
20 complainant, or other person mentioned in the complaint, except that
21 the name of the provider and the name or names of any officer,
22 employee, or agent of the department conducting the investigation shall
23 be disclosed after the investigation has been closed and the complaint
24 has been substantiated. The department may disclose the identity of
25 the complainant if such disclosure is requested in writing by the
26 complainant. Nothing in this subsection shall be construed to
27 interfere with the obligation of the long-term care ombudsman program
28 or department staff to monitor the department's licensing, contract,
29 and complaint investigation files for long-term care facilities.

30 (7) The resident has the right to be free of interference,
31 coercion, discrimination, and reprisal from a facility in exercising
32 his or her rights, including the right to voice grievances about
33 treatment furnished or not furnished. A facility that provides long-
34 term care services shall not discriminate or retaliate in any manner
35 against a resident, employee, or any other person on the basis or for
36 the reason that such resident or any other person made a complaint to
37 the department, the attorney general, law enforcement agencies, or the
38 long-term care ombudsman, provided information, or otherwise cooperated
39 with the investigation of such a complaint. Any attempt to discharge

1 a resident against the resident's wishes, or any type of retaliatory
2 treatment of a resident by whom or upon whose behalf a complaint
3 substantiated by the department has been made to the department, the
4 attorney general, law enforcement agencies, or the long-term care
5 ombudsman, within one year of the filing of the complaint, raises a
6 rebuttable presumption that such action was in retaliation for the
7 filing of the complaint. "Retaliatory treatment" means, but is not
8 limited to, monitoring a resident's phone, mail, or visits; involuntary
9 seclusion or isolation; transferring a resident to a different room
10 unless requested or based upon legitimate management reasons;
11 withholding or threatening to withhold food or treatment unless
12 authorized by a terminally ill resident or his or her representative
13 pursuant to law; or persistently delaying responses to a resident's
14 request for service or assistance. A facility that provides long-term
15 care services shall not willfully interfere with the performance of
16 official duties by a long-term care ombudsman. The department shall
17 sanction and may impose a civil penalty of not more than three thousand
18 dollars for a violation of this subsection.

19 (8) This section does not apply to boarding homes. Complaints
20 against boarding homes must be investigated pursuant to the procedures
21 and protocols specified in chapter 18.20 RCW.

22 NEW SECTION. Sec. 7. RCW 74.39A.080 (Department authority to take
23 actions in response to noncompliance or violations) and 1996 c 193 s 1
24 & 1995 1st sp.s. c 18 s 17 are each repealed.

25 NEW SECTION. Sec. 8. This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and takes effect
28 immediately.

--- END ---