

SHB 1606 - S COMM AMD

By Committee on Health & Long-Term Care

ADOPTED 04/14/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 18.20.195 and 2004 c 140 s 5 are each amended to read
4 as follows:

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

13 (2) The informal dispute resolution process provided by the
14 department shall include, but is not necessarily limited to, an
15 opportunity for review by a department employee who did not participate
16 in, or oversee, the determination of the violation or enforcement
17 remedy under dispute. The department shall develop, or further
18 develop, an informal dispute resolution process consistent with this
19 section.

20 (3) A request for an informal dispute resolution shall be made to
21 the department within ten working days from the receipt of a written
22 finding of a violation or enforcement remedy. The request shall
23 identify the violation or violations and enforcement remedy or remedies
24 being disputed. The department shall convene a meeting, when possible,
25 within ten working days of receipt of the request for informal dispute
26 resolution, unless by mutual agreement a later date is agreed upon.

27 (4) If the department determines that a violation or enforcement
28 remedy should not be cited or imposed, the department shall delete the
29 violation or immediately rescind or modify the enforcement remedy. If
30 the department determines that a violation should have been cited (~~or~~

1 ~~an enforcement remedy imposed~~) under a different more appropriate
2 regulation, the department shall (~~add the citation or enforcement~~
3 ~~remedy~~) revise the report, statement of deficiencies, or enforcement
4 remedy accordingly. Upon request, the department shall issue a clean
5 copy of the revised report, statement of deficiencies, or notice of
6 enforcement action.

7 (5) The request for informal dispute resolution does not delay the
8 effective date of any enforcement remedy imposed by the department,
9 except that civil monetary fines are not payable until the exhaustion
10 of any formal hearing and appeal rights provided under this chapter.
11 The licensee shall submit to the department, within the time period
12 prescribed by the department, a plan of correction to address any
13 undisputed violations, and including any violations that still remain
14 following the informal dispute resolution.

15 NEW SECTION. Sec. 2. A new section is added to chapter 18.51 RCW
16 to read as follows:

17 (1) A nursing home provider shall have the right to an informal
18 review to present written evidence to refute the findings or
19 deficiencies cited during a licensing or certification survey or a
20 complaint investigation. The purpose of the informal dispute
21 resolution process is to provide an opportunity for an exchange of
22 information that may lead to the modification, deletion, or removal of
23 a deficiency, or parts of a deficiency, cited by the department.

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

30 (3) If the department determines that a deficiency should not be
31 cited, the department shall delete the deficiency. If the department
32 determines that a deficiency should have been cited under a different
33 more appropriate regulation, the department shall revise the statement
34 of deficiencies accordingly. If the provider is successful in
35 demonstrating that one or more deficiencies should not have been cited,
36 the deficiency or deficiencies are removed from the statement of
37 deficiencies and any enforcement action imposed solely as a result of

1 the cited deficiency or deficiencies are rescinded. Upon request, the
2 department shall issue a clean copy of the statement of deficiencies or
3 notice of enforcement action. The request for informal dispute
4 resolution does not delay the effective date of any enforcement remedy
5 imposed by the department, except that civil monetary fines are not
6 payable until the exhaustion of any formal hearing and appeal rights
7 provided under this chapter."

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8 On page 1, line 2 of the title, after "process;" strike the
9 remainder of the title and insert "amending RCW 18.20.195; and adding
10 a new section to chapter 18.51 RCW."

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