

SENATE BILL REPORT

SB 5649

As Reported By Senate Committee On:
Health & Long-Term Care, February 28, 2005

Title: An act relating to fairness in the informal dispute resolution process.

Brief Description: Providing for fairness in the informal dispute resolution process.

Sponsors: Senators Keiser, Deccio, Thibaudeau, Parlette and Benson.

Brief History:

Committee Activity: Health & Long-Term Care: 2/9/05, 2/28/05 [DPS, w/oRec].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5649 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Thibaudeau, Vice Chair; Benson, Franklin, Kastama, Kline and Poulsen.

Minority Report: That it be referred without recommendation.

Signed by Senators Brandland, Johnson and Parlette.

Staff: Sharon Swanson (786-7447)

Background: A boarding home provider has the right to review and reconsideration of a Department of Social and Health Services (DSHS) finding of regulatory non-compliance through an Informal Dispute Resolution (IDR) process. The IDR process allows the provider an opportunity to share information with a department staff person who was not involved in the citation process itself. Currently, if DSHS determines that a violation should have been cited, the department adds the citation or enforcement remedy to an existing citation report, usually within 10 days of completing an inspection.

Currently, nursing home providers can utilize a federally mandated IDR process provided under Title 42 CFR 488.331. State's are not required to create any new or additional processes if their existing process meets the requirements set out in the State Operations Manual. The IDR established by the State is required to be in writing and available for review upon request.

Summary of Substitute Bill: If the Department of Social and Health Services determines that a deficiency should have been cited under a different more appropriate regulation, DSHS must revise the report, statement of deficiencies, or enforcement remedy accordingly.

Nursing home providers have the right to an informal review to present written evidence to refute the findings or deficiencies cited during a licensing or certification survey or a complaint investigation.

The request for informal dispute resolution will not delay the effective date of any enforcement remedy imposed by DSHS. Civil monetary fines are not payable until exhaustion of hearings and appeal rights.

When conducting an informal dispute resolution process with a nursing home provider or its designee, the department must provide an opportunity for input from residents or resident representatives.

Substitute Bill Compared to Original Bill: Technical changes are made to the language consistent with the federal/state operations manual. A provision is added to allow nursing home residents input in informal dispute resolution process.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: There has been an unintended consequence to the language change from last year. This bill would clarify that language and allow nursing homes to have informal dispute resolution available through state law.

Testimony Against: As written, only providers can seek relief from the Department of Social and Health Services. This bill should go farther to allow patients to be part of that process. There is already a process in place under federal law that allows informal dispute resolution. This bill creates another process that does not mirror the federal one. It may cause problems to enforce.

Who Testified: PRO: Lauri St. Ours, Northwest Assisted Living Federation Association; Deb Murphy, Washington Association of Housing & Services for the Aging; Jon Eames, Washington Health Care Association.

CON: David Rolf, Service Employees International Union; Kary Hyre, Long Term Care Ombudsman; Kathy Leitch, Department of Social and Health Services, Aging and Disabilities Services Administration.