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**SUBSTITUTE HOUSE BILL 2221**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Hunter, Sullivan, and Carlyle)

AN ACT Relating to improving responses to high priority violations at long-term care facilities; amending RCW 43.190.070 and 43.190.020; and adding a new section to chapter 43.190 RCW.

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

**Sec.**  RCW 43.190.070 and 2013 c 23 s 94 are each amended to read as follows:

(1)(a) The office of the state long-term care ombuds shall develop referral procedures for all long-term care ombuds programs to refer any complaint to any appropriate state or local government agency. The department of social and health services shall act as quickly as possible on any complaint referred to them by a long-term care ombuds.

(b) The referral procedures must identify high priority violations that require activation of the priority response unit established in section 2 of this act. In identifying high priority violations, the office shall consider the nature and severity of the violation, the vulnerability of the patient or patients affected by the violation, the anticipated response time of state or local government agencies, prior violations by the long-term care facility, and the likelihood of continued harm to residents without an immediate intervention. The office shall adopt procedures to identify which complaints relate to high priority violations by long-term care facilities. The office shall regularly revise the list of activities that are considered high priority violations. The list and all policies and procedures established under section 2 of this act must be made available on the office's web site.

(2) The department of social and health services shall respond to any complaint against a long-term care facility which was referred to it by a long-term care ombuds and shall forward to that ombuds a summary of the results of the investigation and action proposed or taken.

NEW SECTION. **Sec.**  A new section is added to chapter 43.190 RCW to read as follows:

(1) The office of the state long-term care ombuds shall establish the priority response unit. Upon receipt of a complaint from a long-term care ombuds that alleges that conduct by a long-term care facility constitutes a high priority violation, the office shall immediately evaluate the case to determine whether or not the conduct meets threshold standards for activating the priority response unit.

(2) Upon activation, the priority response unit shall notify the department of social and health services and, as warranted, local government agencies, such as law enforcement, prosecutorial officials, emergency medical services, and public health agencies, that it has identified a high priority violation. The fact that the priority response unit has been activated must not result in delayed responses by other agencies. If an agency decides to respond to a high priority violation simultaneously with the priority response unit, it shall notify the priority response unit and coordinate efforts and resources to the greatest extent possible.

(3) Upon activation, a member of the priority response unit shall immediately notify the management of the long-term care facility that a high priority violation has been alleged against the long-term care facility and the nature of the alleged violation. The priority response unit must be at the long-term care facility that is the subject of the complaint alleging a high priority violation within twenty-four hours of activation.

(4)(a) If, at any time during the investigation or upon conclusion of the investigation, a member of the priority response unit finds that there is sufficient evidence that conditions at the long-term care facility pose a significant likelihood of immediate harm to the health and safety of the residents, the priority response team shall notify local government agencies as it finds necessary to protect residents.

(b) If, upon conclusion of the investigation, a member of the priority response unit finds that a high priority violation has occurred, the priority response unit shall notify the department of social and health services of its conclusions. The priority response unit shall disclose its findings of fact and all investigation records.

(c) If, upon conclusion of the investigation, a member of the priority response unit finds that a high priority violation has not occurred, the priority response unit shall notify the department of social and health services of its conclusions. The priority response unit shall disclose its findings of fact and all investigation records and the department of social and health services may elect to conduct an independent investigation if it feels that it is warranted.

(5)(a) Members of the priority response unit shall have authority to inspect any location on the property of the long-term care facility and any records, whether electronic or not, including administrative records, staff credentials, and records related to residential care. Members of the priority response unit may issue subpoenas and administer oaths in connection with any investigation of a high priority violation. The office of the state long-term care ombuds must develop policies and procedures to assure the due process protections of the long-term care facility are met while maintaining the necessary access to information needed by the priority response unit during an investigation.

(b) Information obtained by the priority response unit in the course of conducting its investigation is subject to public disclosure, except that any information that may reasonably result in the identification of an individual resident must be redacted.

(6) The office of the state long-term care ombuds, the department of social and health services, the department of health, representatives of local law enforcement officials, and representatives of local public health agencies shall develop a work group that shall adopt communication and coordination procedures to assure the highest level of support for each organization's mission with respect to protecting residents of long-term care facilities.

(7) Upon the conclusion of each investigation of an alleged high priority violation, the priority response unit and each state or local government agency that responds to the case shall report a summary of its response, its findings, and any recommendations for improving coordination between the priority response unit and the agency to the office of the state long-term care ombuds. The office of the state long-term care ombuds shall report to the governor and the legislature by December 1, 2017, and each year thereafter until December 1, 2022, with the information about the work of the priority response unit, including the types of high priority violations that it has investigated, the results of those investigations, the results of any investigations by state or local agencies, and recommendations for improving the work of the priority response unit and its coordination with other entities.

**Sec.**  RCW 43.190.020 and 2010 c 94 s 13 are each amended to read as follows:

As used in this chapter, "long-term care facility" means any of the following:

(1) A facility which:

(a) Maintains and operates twenty-four hour skilled nursing services for the care and treatment of chronically ill or convalescent patients, including mental, emotional, or behavioral problems, intellectual disabilities, or alcoholism;

(b) Provides supportive, restorative, and preventive health services in conjunction with a socially oriented program to its residents, and which maintains and operates twenty-four hour services including board, room, personal care, and intermittent nursing care. "Long-term health care facility" includes nursing homes and nursing facilities, but does not include acute care hospital or other licensed facilities except for that distinct part of the hospital or facility which provides nursing facility services.

(2) Any family home, group care facility, or similar facility determined by the secretary, for twenty-four hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(3) Any swing bed in an acute care facility.

(4) All portions of any residential habilitation center and any state or private intermediate care facility for individuals with intellectual disabilities, regardless of whether any portion of a residential habilitation center or state or private intermediate care facility for individuals with developmental disabilities is also licensed or certified as a nursing facility, assisted living facility, adult family home, or other type of long-term care facility.

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