

SSB 5877 - H COMM AMD

By Committee on Health Care & Wellness

ADOPTED 4/14/2015

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

3 "Sec. 1. RCW 70.128.160 and 2013 c 300 s 4 are each amended to
4 read as follows:

5 (1) The department is authorized to take one or more of the
6 actions listed in subsection (2) of this section in any case in which
7 the department finds that an adult family home provider has:

8 (a) Failed or refused to comply with the requirements of this
9 chapter or the rules adopted under this chapter;

10 (b) Operated an adult family home without a license or under a
11 revoked license;

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

16 (d) Willfully prevented or interfered with any inspection or
17 investigation by the department.

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

20 (a) Refuse to issue a license;

21 (b) Impose reasonable conditions on a license, such as correction
22 within a specified time, training, and limits on the type of clients
23 the provider may admit or serve;

24 (c) Impose civil penalties of at least one hundred dollars per
25 day per violation;

26 (d) Impose civil penalties of up to three thousand dollars for
27 each incident that violates adult family home licensing laws and
28 rules, including, but not limited to, chapters 70.128, 70.129, 74.34,
29 and 74.39A RCW and related rules. Each day upon which the same or
30 substantially similar action occurs is a separate violation subject
31 to the assessment of a separate penalty;

1 (e) Impose civil penalties of up to ten thousand dollars for a
2 current or former licensed provider who is operating an unlicensed
3 home;

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

5 (g) Suspend admissions to the adult family home by imposing stop
6 placement.

7 (3) When the department orders stop placement, the facility shall
8 not admit any person until the stop placement order is terminated.
9 The department may approve readmission of a resident to the facility
10 from a hospital or nursing home during the stop placement. The
11 department shall terminate the stop placement only after: (a) The
12 violations necessitating the stop placement have been corrected; and
13 (b) the provider exhibits the capacity to maintain correction of the
14 violations previously found deficient. However, if upon the revisit
15 the department finds new violations that the department reasonably
16 believes will result in a new stop placement, the previous stop
17 placement shall remain in effect until the new stop placement is
18 imposed. In order to protect the home's existing residents from
19 potential ongoing neglect, when the provider has been cited for a
20 violation that is repeated, uncorrected, pervasive, or presents a
21 threat to the health, safety, or welfare of one or more residents,
22 and the department has imposed a stop placement, the department shall
23 also impose a condition on license or other remedy to facilitate or
24 spur prompter compliance if the violation has not been corrected, and
25 the provider has not exhibited the capacity to maintain correction,
26 within sixty days of the stop placement.

27 (4) Nothing in subsection (3) of this section is intended to
28 apply to stop placement imposed in conjunction with a license
29 revocation or summary suspension or to prevent the department from
30 imposing a condition on license or other remedy prior to sixty days
31 after a stop placement, if the department considers it necessary to
32 protect one or more residents' well-being. After a department finding
33 of a violation for which a stop placement has been imposed, the
34 department shall make an on-site revisit of the provider within
35 fifteen working days from the request for revisit, to ensure
36 correction of the violation. For violations that are serious or
37 recurring or uncorrected following a previous citation, and create
38 actual or threatened harm to one or more residents' well-being,
39 including violations of residents' rights, the department shall make
40 an on-site revisit as soon as appropriate to ensure correction of the

1 violation. Verification of correction of all other violations may be
2 made by either a department on-site revisit or by written or
3 photographic documentation found by the department to be credible.
4 This subsection does not prevent the department from enforcing
5 license suspensions or revocations. Nothing in this subsection shall
6 interfere with or diminish the department's authority and duty to
7 ensure that the provider adequately cares for residents, including to
8 make departmental on-site revisits as needed to ensure that the
9 provider protects residents, and to enforce compliance with this
10 chapter.

11 (5) Chapter 34.05 RCW applies to department actions under this
12 section, except that orders of the department imposing license
13 suspension, stop placement, or conditions for continuation of a
14 license are effective immediately upon notice and shall continue in
15 effect pending ~~((any))~~ a hearing, which must commence no later than
16 sixty days after receipt of a request for a hearing. The time for
17 commencement of a hearing may be extended by agreement of the parties
18 or by the presiding officer for good cause shown by either party, but
19 must commence no later than one hundred twenty days after receipt of
20 a request for a hearing.

21 (6) A separate adult family home account is created in the
22 custody of the state treasurer. All receipts from civil penalties
23 imposed under this chapter must be deposited into the account. Only
24 the director or the director's designee may authorize expenditures
25 from the account. The account is subject to allotment procedures
26 under chapter 43.88 RCW, but an appropriation is not required for
27 expenditures. The department shall use the special account only for
28 promoting the quality of life and care of residents living in adult
29 family homes.

30 (7) The department shall by rule specify criteria as to when and
31 how the sanctions specified in this section must be applied. The
32 criteria must provide for the imposition of incrementally more severe
33 penalties for deficiencies that are repeated, uncorrected, pervasive,
34 or present a threat to the health, safety, or welfare of one or more
35 residents. The criteria shall be tiered such that those homes
36 consistently found to have deficiencies will be subjected to
37 increasingly severe penalties. The department shall implement prompt
38 and specific enforcement remedies without delay for providers found
39 to have delivered care or failed to deliver care resulting in
40 problems that are repeated, uncorrected, pervasive, or present a

1 threat to the health, safety, or welfare of one or more residents. In
2 the selection of remedies, the health, safety, and well-being of
3 residents must be of paramount importance."

4 Correct the title.

EFFECT: Eliminates the requirement that a hearing be held within 30 days of certain orders against an adult family home. Requires that a hearing occur within 60 days of the receipt of a request for a hearing, unless extended by agreement of the parties or by the presiding officer. Establishes a maximum of 120 days for the hearing to occur following the receipt of a request for a hearing.

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