
HOUSE BILL 2750

State of Washington

65th Legislature

2018 Regular Session

By Representatives Tharinger, Johnson, Cody, Stonier, Slatter, Robinson, Jinkins, Appleton, Muri, and Gregerson

Read first time 01/15/18. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to quality in assisted living facilities;
2 amending RCW 18.20.190 and 18.20.430; adding new sections to chapter
3 18.20 RCW; creating a new section; prescribing penalties; and
4 providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) Washington state is ranked number one in the nation in
8 offering quality choices in its long-term services and supports
9 system. Assisted living facilities are an important part of the
10 state's long-term services and supports plan;

11 (2) Consumers should have access to current information about
12 assisted living facilities to make informed choices;

13 (3) Washingtonians choose to live in assisted living facilities
14 for many different reasons including safety, access to care,
15 socialization, rehabilitation, and community;

16 (4) Deciding where to live and what kind of facility to live in
17 are big decisions for potential residents and families. They deserve
18 to have access to all information collected by the state to use in
19 making their decisions. Providing transparency will allow for more
20 informed consumer choices;

1 (5) State medicaid pays for approximately twenty-five percent of
2 all residents in assisted living facilities, and the state should
3 have more data on the quality of care offered to those residents;

4 (6) A work group has been developing recommendations regarding
5 medicaid rates to inform the legislature as it considers a
6 methodology for adequately funding assisted living facilities so they
7 may deliver safe and quality care to residents;

8 (7) Consumers already have access to information on nursing homes
9 and adult family homes. This act would bring assisted living
10 facilities in line with other settings; and

11 (8) Assisted living facilities need to be held accountable for
12 the residents in their care and the fine structure should be
13 reflective of that responsibility.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.20
15 RCW to read as follows:

16 (1) The assisted living facility quality council is established.
17 The council shall make recommendations on measuring quality,
18 providing consumer information, and reporting value.

19 (2) The panel shall consist of seventeen members, as follows:

20 (a) One member from each of the two largest caucuses of the house
21 of representatives, as appointed by the speaker of the house of
22 representatives;

23 (b) One member from each of the two largest caucuses of the
24 senate, as appointed by the president of the senate;

25 (c) The assistant secretary of the department of social and
26 health services with jurisdiction over aging and long-term supports
27 issues;

28 (d) One representative of the office of the state long-term care
29 ombuds;

30 (e) One representative of the office of the developmental
31 disabilities ombuds;

32 (f) One representative of the state protection and advocacy
33 program established pursuant to RCW 71A.10.080;

34 (g) One representative of the Washington state developmental
35 disabilities council; and

36 (h) The following members, as appointed by the governor:

37 (i) One representative of the governor;

38 (ii) Two representatives of organizations that represent assisted
39 living facilities in Washington;

1 (iii) One person with expertise in serving persons with mental
2 health needs in an institutional setting;

3 (iv) One person with expertise in serving persons with various
4 forms of dementia;

5 (v) One licensed health care professional with experience caring
6 for geriatric patients;

7 (vi) One representative of an organization that represents
8 persons in Washington with Alzheimer's disease; and

9 (vii) One representative of an organization that provides
10 consumer advocacy services related to senior and aging issues.

11 (3) The council shall be cochaired by the assistant secretary
12 from the department of social and health services and one of the
13 legislators from a majority caucus of the legislature.

14 (4) Staffing support for the council shall be provided by the
15 assisted living facilities quality measurement program established in
16 section 3 of this act.

17 (5) The council must create a uniform quality metric system for
18 assisted living facilities by September 1, 2019. The quality metric
19 system must address the safety, health, and well-being of residents
20 of assisted living facilities.

21 (6)(a) The council must submit an interim report to the governor
22 and the legislature by December 1, 2018, and a final report on the
23 quality metric system by September 1, 2019.

24 (b) The final report to the governor and the legislature must
25 include recommendations that:

26 (i) Identify quality measures for all assisted living facilities;
27 (ii) Propose a process for monitoring and tracking performance;
28 (iii) Propose a process for providing information to consumers;
29 (iv) Propose a process for using quality measures when
30 establishing medicaid rates;

31 (v) Select data metrics to be reported by assisted living
32 facilities to the department. The selected data should promote
33 quality care and avoid reporting data that is unnecessarily
34 burdensome to assisted living facilities;

35 (vi) Propose a process and frequency for reporting data; and
36 (vii) Evaluate the merits of including a quality incentive
37 payment program.

38 (7) This section expires June 30, 2020.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.20
2 RCW to read as follows:

3 (1) The assisted living facilities quality measurement program is
4 established within the department to provide consumers with
5 information and data about assisted living facilities to allow them
6 to make informed decisions about residential options.

7 (2) The program shall:

8 (a) Provide staffing support to the assisted living facility
9 quality council; and

10 (b) Provide information to consumers about assisted living
11 facilities. The information must be made available online and include
12 information related to site visits, inspection and complaint
13 investigation reports, licenses issued by the department, and
14 citations issued by the department.

15 (3) The program must submit an implementation report to the
16 governor and the legislature by November 1, 2020, and an update
17 report by November 1, 2022.

18 **Sec. 4.** RCW 18.20.190 and 2012 c 10 s 13 are each amended to
19 read as follows:

20 (1) The department of social and health services is authorized to
21 take one or more of the actions listed in subsection (2) of this
22 section in any case in which the department finds that an assisted
23 living facility provider has:

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

26 (b) Operated an assisted living facility without a license or
27 under a revoked license;

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

32 (d) Willfully prevented or interfered with any inspection or
33 investigation by the department.

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

36 (a) Refuse to issue a license;

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

1 (c) Impose civil penalties of (~~not more than~~) at least one
2 hundred dollars per day per violation;

3 (d) Impose civil penalties of up to three thousand dollars for
4 each incident that violates assisted living facility licensing
5 statutes or rules, including this chapter and chapters 70.129, 74.34,
6 and 74.39A RCW, and related rules. Each day upon which the same or
7 substantially similar action occurs is a separate violation subject
8 to the assessment of a separate penalty;

9 (e) Impose civil penalties of up to ten thousand dollars for a
10 current or former licensed provider who is operating an unlicensed
11 facility;

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

13 (~~(e)~~) (g) Suspend admissions to the assisted living facility by
14 imposing stop placement; or

15 (~~(f)~~) (h) Suspend admission of a specific category or
16 categories of residents as related to the violation by imposing a
17 limited stop placement.

18 (3) The department shall adopt a method for determining
19 appropriate actions to respond to deficiencies identified in
20 subsection (1) of this section according to the severity and scope of
21 the deficiencies. The method shall include the use of a tiered
22 sanction grid that considers the extent of harm from the deficiency
23 and the regularity of the occurrence of the deficiency when imposing
24 civil fines.

25 (4) When the department orders stop placement or a limited stop
26 placement, the facility shall not admit any new resident until the
27 stop placement or limited stop placement order is terminated. The
28 department may approve readmission of a resident to the facility from
29 a hospital or nursing home during the stop placement or limited stop
30 placement. The department shall terminate the stop placement or
31 limited stop placement when: (a) The violations necessitating the
32 stop placement or limited stop placement have been corrected; and (b)
33 the provider exhibits the capacity to maintain correction of the
34 violations previously found deficient. However, if upon the revisit
35 the department finds new violations that the department reasonably
36 believes will result in a new stop placement or new limited stop
37 placement, the previous stop placement or limited stop placement
38 shall remain in effect until the new stop placement or new limited
39 stop placement is imposed.

1 ~~((4))~~ (5) After a department finding of a violation for which a
2 stop placement or limited stop placement has been imposed, the
3 department shall make an on-site revisit of the provider within
4 fifteen working days from the request for revisit, to ensure
5 correction of the violation. For violations that are serious or
6 recurring or uncorrected following a previous citation, and create
7 actual or threatened harm to one or more residents' well-being,
8 including violations of residents' rights, the department shall make
9 an on-site revisit as soon as appropriate to ensure correction of the
10 violation. Verification of correction of all other violations may be
11 made by either a department on-site revisit or by written or
12 photographic documentation found by the department to be credible.
13 This subsection does not prevent the department from enforcing
14 license suspensions or revocations. Nothing in this subsection shall
15 interfere with or diminish the department's authority and duty to
16 ensure that the provider adequately cares for residents, including to
17 make departmental on-site revisits as needed to ensure that the
18 provider protects residents, and to enforce compliance with this
19 chapter.

20 ~~((5))~~ (6) RCW 43.20A.205 governs notice of a license denial,
21 revocation, suspension, or modification. Chapter 34.05 RCW applies to
22 department actions under this section, except that orders of the
23 department imposing license suspension, stop placement, limited stop
24 placement, or conditions for continuation of a license are effective
25 immediately upon notice and shall continue pending any hearing.

26 ~~((6))~~ (7) All receipts from civil penalties imposed under this
27 chapter must be deposited in the assisted living facility temporary
28 management account created in RCW 18.20.430.

29 (8) For the purposes of this section, "limited stop placement"
30 means the ability to suspend admission of a specific category or
31 categories of residents.

32 **Sec. 5.** RCW 18.20.430 and 2016 sp.s. c 36 s 912 are each amended
33 to read as follows:

34 The assisted living facility temporary management account is
35 created in the custody of the state treasurer. All receipts from
36 civil penalties imposed under this chapter must be deposited into the
37 account. Only the director or the director's designee may authorize
38 expenditures from the account. The account is subject to allotment
39 procedures under chapter 43.88 RCW, but an appropriation is not

1 required for expenditures. Expenditures from the account may be used
2 only for the protection of the health, safety, welfare, or property
3 of residents of assisted living facilities found to be deficient.
4 Uses of the account include, but are not limited to:

5 (1) Payment for the costs of relocation of residents to other
6 facilities;

7 (2) Payment to maintain operation of an assisted living facility
8 pending correction of deficiencies or closure, including payment of
9 costs associated with temporary management authorized under this
10 chapter; ~~((and))~~

11 (3) Reimbursement of residents for personal funds or property
12 lost or stolen when the resident's personal funds or property cannot
13 be recovered from the assisted living facility or third-party
14 insurer; and

15 (4) The protection of the health, safety, welfare, and property
16 of residents of assisted living facilities found to be noncompliant
17 with licensing standards.

18 ~~((During the 2015-2017 fiscal biennium, the account may be~~
19 ~~expended for funding the costs associated with the assisted living~~
20 ~~program.))~~

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