
SENATE BILL 5674

State of Washington

64th Legislature

2015 Regular Session

By Senators Cleveland and Keiser; by request of Department of Social and Health Services

Read first time 01/28/15. Referred to Committee on Health Care.

1 AN ACT Relating to enforcement standards for residential services
2 and support providers; amending RCW 71A.12.270; adding a new section
3 to chapter 71A.12 RCW; creating a new section; recodifying RCW
4 71A.12.270; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that
7 certified residential services and support providers delivering
8 services to individuals who live in their own homes have a distinct
9 role that differs in some respects from the role of providers
10 delivering services in facilities.

11 (2) The legislature intends for the department of social and
12 health services to undertake enforcement actions in a manner
13 consistent with the individual rights and choices of residential
14 services and support clients and the principles identified in the
15 residential care standards. These standards, codified in regulation,
16 include the following core principles:

17 (a) Health and safety;

18 (b) Personal power and choice;

19 (c) Personal value and positive recognition by self and others;

20 (d) A range of experiences which help people participate in the
21 physical and social life of their communities;

- 1 (e) Good relationships with friends and relatives; and
2 (f) Competence to manage daily activities and pursue personal
3 goals.

4 **Sec. 2.** RCW 71A.12.270 and 2006 c 303 s 8 are each amended to
5 read as follows:

6 (1) The enforcement standards in this section apply to all
7 certified residential services and support providers.

8 (2) The department is authorized to take one or more of the
9 enforcement actions listed in subsection ~~((2))~~ (3) of this section
10 when the department finds that a provider of residential services and
11 support with whom the department entered into an agreement under this
12 chapter has:

13 (a) Failed or refused to comply with the health and safety
14 related requirements of this chapter, chapter 74.34 RCW, or the rules
15 adopted under ~~((it))~~ these chapters;

16 (b) Failed or refused to cooperate with the certification
17 process;

18 (c) Prevented or interfered with a certification, inspection, or
19 investigation by the department;

20 (d) Failed to comply with any applicable requirements regarding
21 vulnerable adults under chapter 74.34 RCW; or

22 (e) Knowingly, or with reason to know, made a false statement of
23 material fact related to certification or contracting with the
24 department, or in any matter under investigation by the department.

25 ~~((2))~~ (3) The department may:

26 (a) Refuse to certify the provider;

27 (b) Decertify or refuse to renew the certification of a provider;

28 ~~((b))~~ (c) Impose reasonable conditions on a provider's
29 certification status such as correction within a time specified in
30 the statement of deficiency, training, and limits on the type of
31 client the provider may serve;

32 ~~((e))~~ (d) Suspend department referrals to the provider; ~~((e~~

33 ~~(d))~~ (e) Suspend the provider from accepting clients with
34 specified needs by imposing a limited stop placement; or

35 (f) Require a provider to implement a plan of correction
36 ~~((developed))~~ approved by the department and to cooperate with
37 subsequent monitoring of the provider's progress.

38 (4) In the event a provider fails to implement the plan or plans
39 of correction or fails to make a correction imposed under subsection

1 (3)(c) of this section or fails to cooperate with subsequent
2 monitoring, the department may impose civil penalties of ((not more
3 than)) up to one hundred ((fifty)) dollars per day per violation((-
4 Each day during which the same or similar action or inaction occurs
5 constitutes a separate)) and up to three thousand dollars per
6 violation from the compliance date identified in the approved plan of
7 correction or the statement of deficiencies. If a provider fails to
8 submit a plan of correction for approval by the department, the
9 department may impose civil penalties as described in this subsection
10 starting ten days after the provider received the statement of
11 deficiency.

12 ~~((+3))~~ (5) When determining the appropriate enforcement action
13 or actions under subsection ~~((+2))~~ (3) of this section, the
14 department must select actions commensurate with the seriousness of
15 the harm or threat of harm to the persons being served by the
16 provider. Further, the department may take enforcement actions that
17 are more severe for violations that are uncorrected, repeated,
18 pervasive, or which present a serious threat of harm to the health,
19 safety, or welfare of persons served by the provider. By January 1,
20 2016, the department shall by rule develop criteria for the selection
21 and implementation of enforcement actions authorized in subsection
22 ~~((+2))~~ (3) of this section. ~~((Rules adopted under this section shall~~
23 ~~include a process for an informal review upon request by a provider.~~

24 ~~(4) The provisions of chapter 34.05 RCW apply to enforcement~~
25 ~~actions under this section. Except for the imposition of civil~~
26 ~~penalties, the effective date of enforcement actions shall not be~~
27 ~~delayed or suspended pending any hearing or informal review.~~

28 ~~(5) The enforcement actions and penalties authorized in this~~
29 ~~section are not exclusive or exhaustive and nothing in this section~~
30 ~~prohibits the department from taking any other action authorized in~~
31 ~~statute or rule or under the terms of a contract with the provider.)~~

32 (6) If the department orders a stop placement, the provider may
33 not accept any new clients until the stop placement order is
34 terminated. If the department orders a limited stop placement, the
35 provider may not accept clients with specific needs or at a specific
36 site until the limited stop placement order is terminated. The
37 department shall terminate the stop placement or limited stop
38 placement when:

39 (a) The violations necessitating the stop placement or limited
40 stop placement have been corrected; and

1 (b) The provider exhibits the capacity to maintain correction of
2 the violations previously found. However, if upon revisiting the
3 provider, the department finds new violations that the department
4 reasonably believes will result in a new stop placement or new
5 limited stop placement, the previous stop placement or limited stop
6 placement remains in effect until the new stop placement or new
7 limited stop placement is imposed.

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

27 (8) The provisions of chapter 34.05 RCW apply to enforcement
28 actions under this section. The certified provider or its designee
29 has the right to an informal dispute resolution process to dispute
30 any violation found or enforcement remedy imposed by the department
31 during a certification inspection or complaint investigation. The
32 purpose of the informal dispute resolution process is to provide an
33 opportunity for an exchange of information that may lead to the
34 modification, deletion, or removal of a violation, parts of a
35 violation, or an enforcement remedy imposed by the department. Except
36 for the imposition of civil penalties, the effective date of
37 enforcement actions may not be delayed or suspended pending any
38 hearing or informal dispute resolution process.

39 (9) The enforcement actions and penalties authorized in this
40 section are not exclusive or exhaustive and nothing in this section

1 prohibits the department from taking any other action authorized in
2 statute, rule, or under the terms of a contract with the provider.

3 (10) A separate residential services and support account is
4 created in the custody of the state treasurer. All receipts from
5 civil penalties imposed under this section must be deposited into the
6 account. Only the director or the director's designee may authorize
7 expenditures from the account. The account is subject to allotment
8 procedures under chapter 43.88 RCW, but an appropriation is not
9 required for expenditures. The department shall use the special
10 account only for promoting the quality of life and care of clients
11 receiving care and services from the certified providers.

12 NEW SECTION. Sec. 3. RCW 71A.12.270 is recodified as a section
13 in chapter 71A.12 RCW, to be codified after RCW 71A.12.290.

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