

first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state-owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d) and (e) hereinabove, creating a like emergency.

NEW SECTION. Sec. 2. The state board of education shall prioritize the construction of common school facilities only from funds appropriated and available in the common school construction fund.

NEW SECTION. Sec. 3. This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975.

Passed the Senate May 20, 1975.

Passed the House May 19, 1975.

Approved by the Governor May 28, 1975.

Filed in Office of Secretary of State May 28, 1975.

CHAPTER 99

[Engrossed Senate Bill No. 2278]

NURSING HOMES

AN ACT Relating to nursing homes; amending section 6, chapter 117, Laws of 1951 as last amended by section 2, chapter 247, Laws of 1971 ex. sess. and RCW 18.51.050; amending section 7, chapter 117, Laws of 1951 as amended by section 5, chapter 160, Laws of 1953 and RCW 18.51.060; adding new sections to chapter 18.51 RCW; repealing section 10, chapter 117, Laws of 1951, section 6, chapter 160, Laws of 1953 and RCW 18.51.090; repealing section 13, chapter 117, Laws of 1951, section 7, chapter 160, Laws of 1953 and RCW 18.51.120; repealing section 14, chapter 117, Laws of 1951, section 8, chapter 160, Laws of 1953 and RCW 18.51.130; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 6, chapter 117, Laws of 1951 as last amended by section 2, chapter 247, Laws of 1971 ex. sess. and RCW 18.51.050 are each amended to read as follows:

Upon receipt of an application for license, the department, or the department and the approved health department jointly, shall issue a license or a provisional license if the applicant and the nursing home facilities meet the requirements established under this chapter. At the time of issuance or renewal of the license or provisional license the licensee shall pay a license fee of fifteen dollars plus one dollar per bed capacity per year, but in no event shall the total exceed one hundred dollars. No fee shall be required of government operated institutions. When the license or provisional license is issued jointly by the department and an approved health department, the license fee shall be paid to the approved health department. All licenses issued under the provisions of this chapter shall expire on a date to be set by the board, but no license issued pursuant to this chapter shall exceed twelve months in duration: PROVIDED, That when the annual license renewal date of a previously licensed nursing home is set by the board on a date less than twelve months prior to the expiration date of a license in effect at the time of reissuance, the license fee shall be prorated on a monthly basis and a

credit be allowed at the first renewal of a license for any period of one month or more covered by the previous license. All applications for renewal of license shall be made not later than thirty days prior to the date of expiration of the license. Each license shall be issued only for the premises and persons named in the application, and no license shall be transferable or assignable except with the written approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises.

~~((If there be a failure to comply with the provisions of this chapter or the standards, rules and regulations promulgated pursuant thereto, the department, or the department and approved health department, may in its discretion issue to an applicant for a license, or for the renewal of a license, a provisional license which will permit the operation of the nursing home for a period to be determined by the department, or the department and approved health department, but not to exceed twelve months.))~~

Sec. 2. Section 7, chapter 117, Laws of 1951 as amended by section 5, chapter 160, Laws of 1953 and RCW 18.51.060 are each amended to read as follows:

The department ~~((or the department and the approved health department jointly, as the case may be,))~~ is authorized to deny, suspend, or revoke a license or provisional license ~~((in the manner prescribed herein,))~~ or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature not to exceed five hundred dollars per violation in any case in which it finds that ~~((there has been a failure or refusal to comply with the requirements of this chapter or the standards, rules and regulations established hereunder. The department, or the department and the approved health department, shall issue an order to the applicant or licensee giving notice of any rejection, revocation or suspension, which order shall become final thirty days after the date of mailing, provided the applicant or licensee does not within ten days from the date of mailing of the department's, or the department and the approved health department's order of rejection, revocation, or suspension of license, make written application to the department for a hearing. The department shall then fix a time for such hearing and shall give the applicant or licensee a notice of the time fixed for such hearing. The procedure governing hearings authorized by this section shall be in accordance with rules promulgated by the board after consultation with the advisory nursing home council. The department shall render its decision affirming, modifying or setting aside the order of the department, or the department and the approved health department, which decision in the absence of an appeal therefrom as provided by this chapter, shall become final fifteen days after the date of mailing.))~~ the applicant, or licensee, or any partner, officer, director, owner of ten percent or more of the assets of the nursing home, or managing employee:

(1) Failed or refused to comply with the requirements of this chapter or the standards, rules and regulations established hereunder; or

(2) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled; or

(3) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto, or in any matter under investigation by the department; or

(4) Refused to allow representatives or agents of the department to inspect all books, records, and files required to be maintained or any portion of the premises of the nursing home; or

(5) Wilfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter; or

(6) Wilfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this chapter or the standards, rules, and regulations promulgated hereunder; or

(7) Fails to pay any civil monetary penalty assessed by the department pursuant to this chapter within ten days after such assessment becomes final: PROVIDED, That in no event shall the department assess a civil monetary penalty authorized pursuant to this section or post the said premises as provided in section 13 of this 1975 act or include in the report required pursuant to section 14 of this 1975 act during any period in which it has not fully implemented and funded its cost-related reimbursement system for public patients.

NEW SECTION. Sec. 3. There is added to chapter 18.51 RCW a new section to read as follows:

It is the intent of the legislature in enacting this 1975 amendatory act to establish (1) a system for the imposition of prompt and effective sanctions against nursing homes in violation of the laws and regulations of this state relating to patient care; (2) an inspection and reporting system to insure that nursing homes are in compliance with state statutes and regulations pertaining to patient care; and (3) a provisional licensing mechanism to insure that full term licenses are issued only to those nursing homes that meet state standards relating to patient care: PROVIDED, That no sanction shall be imposed by the department until the department has informed the owner and administrator of the nursing home about the rules and regulations required to be followed to avoid penalties and until the department has granted a reasonable amount of time to the owner and administrator of the nursing home to correct the condition which would result in the penalty.

NEW SECTION. Sec. 4. There is added to chapter 18.51 RCW a new section to read as follows:

Any person may request an inspection of any nursing home subject to licensing under this chapter in accordance with the provisions of this chapter by giving notice to the department of an alleged violation of applicable requirements of state law. Any such notice shall be in writing signed by the complainant and shall set forth with reasonable particularity the matters complained of. The substance of the complaint shall be provided to the licensee no earlier than at the commencement of the inspection. Neither the substance of the complaint provided the licensee nor any copy of the complaint or record published, released, or otherwise made available to the licensee shall disclose the name of any individual complainant or other person mentioned in the complaint, except the name or names of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter, unless such complainant specifically requests the release of such name or names.

NEW SECTION. Sec. 5. There is added to chapter 18.51 RCW a new section to read as follows:

Upon receipt of a complaint, the department shall assign an inspector to make a preliminary review of the complaint and shall notify the complainant of the name of such inspector. Unless the department determines that the complaint is wilfully intended to harass a licensee or is without any reasonable basis, it shall make an on-site inspection within a reasonable time after the receipt of the complaint. In either event, the complainant shall be promptly informed of the department's proposed course of action. If the complainant requests the opportunity to do so, the complainant or his representative, or both, may be allowed to accompany the inspector to the site of the alleged violations during his tour of the facility, unless the inspector determines that the privacy of any patient would be violated thereby.

NEW SECTION. Sec. 6. There is added to chapter 18.51 RCW a new section to read as follows:

(1) Any duly authorized officer, employee, or agent of the department may enter and inspect any nursing home, including, but not limited to, interviewing residents and reviewing records, at any time to enforce any provision of this chapter. Inspections conducted pursuant to complaints filed with the department shall be conducted in such a manner as to ensure maximum effectiveness. No advance notice shall be given of any inspection conducted pursuant to this chapter unless previously and specifically authorized by the secretary or required by federal law.

(2) Any public employee giving such advance notice in violation of this section shall be suspended from all duties without pay for a period of not less than five nor more than fifteen days.

(3) In any hearing held pursuant to this chapter it shall be a defense to a violation relating to the standard of care to be afforded public patients to show that the department does not provide sufficient funds to meet the cost of reimbursement standard allegedly violated.

NEW SECTION. Sec. 7. There is added to chapter 18.51 RCW a new section to read as follows:

(1) No licensee shall discriminate or retaliate in any manner against a patient or employee in its nursing home on the basis or for the reason that such patient or employee or any other person has initiated or participated in any proceeding specified in this chapter. A licensee who violates this section is subject to a civil penalty of not more than five hundred dollars.

(2) Any attempt to expel a patient from a nursing home, or any type of discriminatory treatment of a patient by whom, or upon whose behalf, a complaint has been submitted to the department or any proceeding instituted under or related to this chapter within one year of the filing of the complaint or the institution of such action, shall raise a rebuttable presumption that such action was taken by the licensee in retaliation for the filing of the complaint.

NEW SECTION. Sec. 8. There is added to chapter 18.51 RCW a new section to read as follows:

The remedies provided by this chapter are cumulative, and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party, and no judgment under this chapter shall preclude any party from obtaining additional relief based upon the same facts.

NEW SECTION. Sec. 9. There is added to chapter 18.51 RCW a new section to read as follows:

Any writing received, owned, used, or retained by the department in connection with the provisions of this chapter is a public record and, as such, is open to public inspection. However, the names of any persons contained in such records, except the names of duly authorized officers, employees, or agents of the department conducting an investigation or inspection in response to a complaint filed pursuant to this chapter, shall not be open to public inspection and copies of such records provided for public inspection shall have such names deleted.

NEW SECTION. Sec. 10. There is added to chapter 18.51 RCW a new section to read as follows:

The department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to section 4 of this 1975 act, conduct at least one general inspection each year of all nursing homes in the state without providing advance notice of such inspection. At least one such inspection in any three year period shall take place between the hours of 7 p.m. and 5 a.m. or on weekends.

NEW SECTION. Sec. 11. There is added to chapter 18.51 RCW a new section to read as follows:

The board may prescribe by regulations that any licensee or applicant desiring to make specific types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, submit its plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized.

NEW SECTION. Sec. 12. There is added to chapter 18.51 RCW a new section to read as follows:

On or before February 1st of each year, the department shall notify all public agencies which refer patients to nursing homes of all of the nursing homes in the area found upon inspection within the previous twelve-month period to be without violations. Public agencies shall give priority to such nursing homes in referring publicly assisted patients.

NEW SECTION. Sec. 13. There is added to chapter 18.51 RCW a new section to read as follows:

Each citation for a violation specified in subsections (1) through (7) of section 2 of this 1975 act which is issued pursuant to this section and which has become final, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the director, until the violation is corrected to the satisfaction of the department up to a maximum of one hundred twenty days. The citation or copy shall be posted in a place or places in plain view of the patients in the nursing home, persons visiting those patients, and persons who inquire about placement in the facility.

NEW SECTION. Sec. 14. There is added to chapter 18.51 RCW a new section to read as follows:

The department shall annually publish a report listing all licensees by name and address, indicating (1) the number of citations and the nature of each citation issued to each licensee during the previous twelve-month period and the status of any action taken pursuant to each citation, including penalties assessed, and (2) the nature and status of action taken with respect to each uncorrected violation for which a citation is outstanding.

The report shall be available to the public, at cost, at all offices of the department.

NEW SECTION. Sec. 15. There is added to chapter 18.51 RCW a new section to read as follows:

(1) If a nursing home has not been previously licensed pursuant to this chapter, the department may only provisionally license such facility as provided in this section. A provisional license to operate a nursing home shall terminate six months from the date of issuance. Within thirty days of the termination of a provisional license, the department shall give such facility a full and complete inspection, and, if the facility meets requirements for licensure, a regular license shall be issued. If the nursing home does not meet the requirements for licensure but has made substantial progress towards meeting such requirements, as determined by the department, the initial provisional license shall be renewed for six months. If the department determines that there has not been substantial progress towards meeting licensure requirements at the time of the first full inspection provided by this section, or, if the state department determines upon its inspection made within thirty days of the termination of a renewed provisional license that there is lack of compliance with such requirements, no further license shall be issued.

(2) A nursing home seeking renewal of a license may, in the discretion of the department, be granted a provisional license under this section instead of a regular license, where there has been a failure to comply with the provisions of this chapter or the standards, rules and regulations promulgated pursuant thereto.

NEW SECTION. Sec. 16. There is added to chapter 18.51 RCW a new section to read as follows:

All orders of the department denying, suspending, or revoking the license or provisional license, and/or assessing a monetary penalty shall become final twenty days after the same has been served upon the applicant or licensee unless a hearing is requested. All hearings hereunder and judicial review of such determinations shall be in accordance with the administrative procedure act, chapter 34.04 RCW.

NEW SECTION. Sec. 17. The following acts or parts of acts are each hereby repealed:

(1) Section 10, chapter 117, Laws of 1951, section 6, chapter 160, Laws of 1953 and RCW 18.51.090;

(2) Section 13, chapter 117, Laws of 1951, section 7, chapter 160, Laws of 1953 and RCW 18.51.120; and

(3) Section 14, chapter 117, Laws of 1951, section 8, chapter 160, Laws of 1953 and RCW 18.51.130.

Passed the Senate May 20, 1975.

Passed the House May 19, 1975.

Approved by the Governor May 28, 1975.

Filed in Office of Secretary of State May 28, 1975.

CHAPTER 100

[Senate Bill No. 2328]

DISTRIBUTION OF FUEL TAX REVENUES TO
CITIES, TOWNS, AND COUNTIES

AN ACT Relating to the distribution of motor vehicle fuel tax and use fuel tax revenues to cities and counties; amending section 46.68.110, chapter 12, Laws of 1961 as amended by section 7, chapter 7, Laws of 1961 ex. sess. and RCW 46.68.110; and amending section 46.68.120, chapter 12, Laws of 1961 as last amended by section 47, chapter 195, Laws of 1973 1st ex. sess. and RCW 46.68.120.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 46.68.110, chapter 12, Laws of 1961 as amended by section 7, chapter 7, Laws of 1961 ex. sess. and RCW 46.68.110 are each amended to read as follows:

Funds credited to the incorporated cities and towns of the state as set forth in subdivision (1) of RCW 46.68.150 shall be subject to deduction and distribution as follows:

(1) (~~Three-fourths of~~) One and one-half percent of such sums shall be deducted monthly as such sums are credited and set aside for the use of the state highway commission for the supervision of work and expenditures of such incorporated cities and towns on the city and town streets thereof, including the supervision and administration of federal-aid programs for which the highway commission has responsibility: PROVIDED, That any moneys so retained and not expended shall be credited in the succeeding biennium to the incorporated cities and towns in proportion to deductions herein made;

(2) The balance remaining to the credit of incorporated cities and towns after such deduction shall be apportioned monthly as such funds accrue among the several cities and towns within the state ratably on the basis of the population last determined by the state census board.

Sec. 2. Section 46.68.120, chapter 12, Laws of 1961 as last amended by section 47, chapter 195, Laws of 1973 1st ex. sess. and RCW 46.68.120 are each amended to read as follows:

Funds to be paid to the counties of the state shall be subject to deduction and distribution as follows:

(1) (~~Three-fourths of~~) One and one-half percent of such sums shall be deducted monthly as such sums accrue and set aside for the use of the state highway commission and the county road administration board for the supervision of work and expenditures of such counties on the county roads thereof including the supervision and administration of federal-aid programs for which the highway commission has responsibility: PROVIDED, That any moneys so retained and