

## **State Licensing Enforcement in Long Term Care**

State Licensed Long Term Care facilities in Vermont include:

*Nursing Homes (NH)*

*Residential Care Homes (RCH)*

*Assisted Living Residences (ALR)*

*Therapeutic Community Residences (TCR)*

*Home for the Terminally Ill*

Statutory Authority 33 V.S.A Chapter 71:

### **§ 7111. Enforcement; protection of residents**

(a) The licensing agency shall enforce provisions of this chapter to protect residents of facilities.

(b) The licensing agency may require a facility to take corrective action to eliminate a violation of a rule or provision of this chapter within a specified period of time. If the licensing agency does require corrective action:

(1) the licensing agency may, within the limits of resources available to it, provide technical assistance to the facility to enable it to comply with the provisions of this chapter;

(2) the facility shall provide the licensing agency with proof of correction of the violation within the time specified; and

(3) if the facility has not corrected the violation by the time specified, the licensing agency may take such further action as it deems appropriate under this section.

(c) (1) The licensing agency may impose an administrative penalty against a facility for failure to correct a violation or failure to comply with a plan of corrective action for such a violation, as follows:

(A) up to \$5.00 per resident or \$50.00, whichever is greater, for each day a violation remains uncorrected if the rule or provision violated was adopted primarily for the administrative purposes of the licensing agency;

(B) up to \$8.00 per resident or \$80.00, whichever is greater, for each day a violation remains uncorrected if the rule or provision violated was adopted primarily to protect the welfare or the rights of residents; and

(C) up to \$10.00 per resident or \$100.00, whichever is greater, for each day a violation remains uncorrected if the rule or provision violated was adopted primarily to protect the health or safety of residents.

(2) The licensing agency may impose an administrative penalty against a facility of up to \$10.00 per resident or \$100.00, whichever is greater, for each day a facility operates without a license when either:

(A) the facility has not obtained a license; or

(B) a license has been revoked or voluntarily relinquished and the operator fails to obtain a new license or to cause all of the residents to be moved promptly and appropriately.

(3) For purposes of imposing administrative penalties under this subsection, a violation shall be deemed to have first occurred as of the date of the notice of violation.

(d) The licensing agency may, after notice and an opportunity for a hearing, suspend, revoke, modify, or refuse to renew a license upon any of the following grounds:

(1) violation by the licensee of any of the provisions of this chapter or the rules adopted pursuant to this chapter;

(2) conviction of a crime for conduct which demonstrates the unfitness of the licensee or the principal owner to operate a facility under this chapter;

(3) conduct inimical to the public health, morals, welfare, and safety of the people of the State of Vermont in the maintenance and operation of the premises for which a license is issued;

(4) financial incapacity of the licensee to provide adequate care and services; or

(5) failure to comply with a final decision or action of the licensing agency.

(e) In the interest of the public health, safety, and pursuant to the provisions for the summary suspension of a license in 3 V.S.A. § 814(c), the licensing agency shall suspend the license of a nursing home which has been administered by a provisional administrator licensed under 18 V.S.A. § 2061 for the preceding 90 days and which nursing home is not presently administered by an administrator who is permanently licensed under 18 V.S.A. § 2055.

(f) The licensing agency may suspend admissions to a facility or transfer residents from a facility to an alternative placement, or both, for a violation which may directly impair the health, safety, or rights of residents or for operating without a license. Residents subject to transfer shall:

(1) be allowed to participate in the decision-making process of the agency concerning the selection of an alternative placement;

(2) receive adequate notice of a pending transfer; and

(3) be allowed to contest their transfer in accordance with the procedures in section 7118 of this title.

(g) The licensing agency, the Attorney General, or a resident may bring an action for injunctive relief against a facility in accordance with the Rules of Civil Procedure to enjoin any act or omission which constitutes a violation of this chapter or rules adopted pursuant to this chapter.

(h) The Commissioner of Disabilities, Aging, and Independent Living, the Attorney General, or a resident or a resident's legal representative may bring an action as provided for in subchapter 3 of this chapter.

(i) The licensing agency may enforce a final order by filing a civil action in the Superior Court in the county in which the facility is located, or in Washington Superior Court.

(j) The remedies provided in this chapter are cumulative. (Added 1985, No. 151 (Adj. Sess.), § 9; amended 2009, No. 36, § 1; 2011, No. 63, § E.329.1.)