

AMENDED IN SENATE JULY 16, 2015

AMENDED IN SENATE JUNE 25, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1387**

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**Introduced by Assembly Member Chu**

February 27, 2015

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An act to amend Sections 1548, 1568.0822, 1569.35, 1569.49, 1596.99, and 1597.58 of the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1387, as amended, Chu. Care facilities: civil penalties, deficiencies, and appeal procedures.

(1) Existing law establishes the State Department of Social Services and sets forth its powers and duties, including, but not limited to, the licensing and administration of community care facilities, residential care facilities for persons with chronic life-threatening illnesses, residential care facilities for the elderly, child day care centers, and family day care homes. Existing law authorizes any person to request an inspection of a residential care facility for the elderly by transmitting to the department notice of an alleged violation of applicable requirements prescribed by statutes or regulations, including, but not limited to, a denial of access of any person statutorily authorized to enter the facility. Under existing law, upon receipt of a complaint alleging denial of a statutory right of access to a residential facility for the elderly, the department is required to review the complaint and

promptly notify the complainant of the department's proposed course of action.

This bill would instead authorize any person to request an investigation of a residential care facility for the elderly by making a complaint to the department alleging a violation of the applicable statutes or regulations. The bill would delete the department's above-described obligations relating to the denial of a statutory right of access and instead impose specified requirements on the department, including a pre-investigation interview, if a local long-term care ombudsman or the State Long-Term Care Ombudsman files a complaint alleging denial of a statutory right of access to a residential care facility for the elderly. The bill would impose other requirements on the department relating to investigations conducted pursuant to these provisions, including, among others, that within 10 days of completing the investigation of a complaint, the department notify the complainant in writing of the department's determination as a result of the investigation and of the complainant's right to appeal the findings. The bill would establish a process for a complainant to appeal the department's investigation, findings, or enforcement actions resulting from the investigation.

(2) Existing law authorizes the department to impose various civil penalties for a licensing violation under the above-described provisions, as specified. Existing law generally authorizes the department to impose a larger civil penalty for a violation that the department determines resulted in the death of a resident of or a person receiving care at one of those facilities, and for a violation that the department determines constitutes physical abuse of, or results in serious bodily injury to, a resident of or a person receiving care at one of those facilities. Prior to the issuance of a citation imposing one of those death, physical abuse, or serious bodily injury civil penalties, existing law requires the approval of the Director of Social Services.

This bill would instead require the approval of the program administrator of the Community Care Licensing Division of the department prior to the issuance of a citation imposing one of the death, physical abuse, or serious bodily injury civil penalties described above.

(3) Existing law, beginning July 1, 2015, provides a licensee under the provisions described above the right to submit to the department a written request for a formal review of an assessment of the death, physical abuse, and serious bodily injury civil penalties described above by a regional manager of the Community Care Licensing Division of the department. Existing law establishes a process to appeal that review

to the program administrator of the Community Care Licensing Division of the department, to further appeal to the deputy director of the Community Care Licensing Division of the department, and, upon exhausting the deputy director review, to an administrative law judge.

This bill would revise the review process of an assessment of the death, physical abuse, and serious bodily injury civil penalties described above by, among other things, deleting the provisions relating to a regional manager of the Community Care Licensing Division of the department and the program administrator of the Community Care Licensing Division of the department. The bill would also establish a process to appeal any other civil penalty assessed pursuant to these provisions.

(4) Existing law requires the department to notify the facilities described above in writing of all deficiencies in their compliance with specified provisions of law, and requires those facilities, unless otherwise specified, to remedy the deficiencies within certain time periods. Existing law requires the department to adopt regulations setting forth the appeal procedures for deficiencies.

This bill would establish a process for a licensee to submit to the department a written request for a formal review of a finding of a deficiency, and to further appeal that review to the program administrator of the Community Care Licensing Division. The bill would also require a notification of a deficiency written by a representative of the department to include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred.

(5) Existing law requires moneys collected from the imposition of the penalties described above relating to child day care centers and family day care homes to be deposited in the Child Health and Safety Fund and expended for certain purposes, including technical assistance, orientation, training, and education of licensed daycare centers.

This bill would delete the requirement that moneys collected from the imposition of certain penalties and deposited in the Child Health and Safety Fund be used for assisting families with the identification, transportation, and enrollment of children in another day care center or family day care home upon the revocation or suspension of the license of a day care center or family day care home.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. It is the intent of the Legislature to enact  
2 legislation that would clarify the complaint process for residential  
3 care facilities for the elderly and revise the appeal procedures for  
4 a deficiency issued against a care facility licensed by the State  
5 Department of Social Services.

6 SEC. 2. Section 1548 of the Health and Safety Code, as added  
7 by Section 2 of Chapter 813 of the Statutes of 2014, is amended  
8 to read:

9 1548. (a) In addition to the suspension, temporary suspension,  
10 or revocation of a license issued under this chapter, the department  
11 may levy a civil penalty.

12 (b) The amount of the civil penalty shall not be less than  
13 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day  
14 for each violation of this chapter except where the nature or  
15 seriousness of the violation or the frequency of the violation  
16 warrants a higher penalty or an immediate civil penalty assessment,  
17 or both, as determined by the department. ~~In no event, shall~~ *Except*  
18 *as otherwise provided in this chapter,* a civil penalty assessment  
19 *shall not* exceed one hundred fifty dollars (\$150) per day per  
20 violation.

21 (c) Notwithstanding Section 1534, the department shall assess  
22 an immediate civil penalty of one hundred fifty dollars (\$150) per  
23 day per violation for any of the following serious violations:

24 (1) (A) Fire clearance violations, including, but not limited to,  
25 overcapacity, ambulatory status, inoperable smoke alarms, and  
26 inoperable fire alarm systems. The civil penalty shall not be  
27 assessed if the licensee has done either of the following:

28 (i) Requested the appropriate fire clearance based on ambulatory,  
29 nonambulatory, or bedridden status, and the decision is pending.

30 (ii) Initiated eviction proceedings.

31 (B) A licensee denied a clearance for bedridden residents may  
32 appeal to the fire authority, and, if that appeal is denied, may  
33 subsequently appeal to the Office of the State Fire Marshal, and  
34 shall not be assessed an immediate civil penalty until the final

1 appeal is decided, or after 60 days has passed from the date of the  
2 citation, whichever is earlier.

3 (2) Absence of supervision, as required by statute or regulation.

4 (3) Accessible bodies of water when prohibited in this chapter  
5 or regulations adopted pursuant to this chapter.

6 (4) Accessible firearms, ammunition, or both.

7 (5) Refused entry to a facility or any part of a facility in violation  
8 of Section 1533, 1534, or 1538.

9 (6) The presence of an excluded person on the premises.

10 (d) (1) For a violation that the department determines resulted  
11 in the death of a resident at an adult residential facility, social  
12 rehabilitation facility, enhanced behavioral supports home, or  
13 community crisis home, the civil penalty shall be fifteen thousand  
14 dollars (\$15,000).

15 (2) For a violation that the department determines resulted in  
16 the death of a person receiving care at an adult day program, the  
17 civil penalty shall be assessed as follows:

18 (A) Seven thousand five hundred dollars (\$7,500) for a licensee  
19 licensed, among all of the licensee's facilities, to care for 50 or  
20 less persons.

21 (B) Ten thousand dollars (\$10,000) for a licensee licensed,  
22 among all of the licensee's facilities, to care for more than 50  
23 persons.

24 (3) For a violation that the department determines resulted in  
25 the death of a person receiving care at a therapeutic day services  
26 facility, foster family agency, community treatment facility,  
27 full-service adoption agency, noncustodial adoption agency,  
28 transitional shelter care facility, transitional housing placement  
29 provider, or group home, the civil penalty shall be assessed as  
30 follows:

31 (A) Seven thousand five hundred dollars (\$7,500) for a licensee  
32 licensed, among all of the licensee's facilities, to care for 40 or  
33 less children.

34 (B) Ten thousand dollars (\$10,000) for a licensee licensed,  
35 among all of the licensee's facilities, to care for 41 to 100,  
36 inclusive, children.

37 (C) Fifteen thousand dollars (\$15,000) for a licensee licensed,  
38 among all of the licensee's facilities, to care for more than 100  
39 children.

1 (4) For a violation that the department determines resulted in  
2 the death of a resident at a runaway and homeless youth shelter,  
3 the civil penalty shall be five thousand dollars (\$5,000).

4 (e) (1) (A) For a violation that the department determines  
5 constitutes physical abuse, as defined in Section 15610.63 of the  
6 Welfare and Institutions Code, or resulted in serious bodily injury,  
7 as defined in Section 243 of the Penal Code, to a resident at an  
8 adult residential facility, social rehabilitation facility, enhanced  
9 behavioral supports home, or community crisis home, the civil  
10 penalty shall be ten thousand dollars (\$10,000).

11 (B) For a violation that the department determines constitutes  
12 physical abuse, as defined in Section 15610.63 of the Welfare and  
13 Institutions Code, or resulted in serious bodily injury, as defined  
14 in Section 243 of the Penal Code, to a person receiving care at an  
15 adult day program, the civil penalty shall be assessed as follows:

16 (i) Two thousand five hundred dollars (\$2,500) for a licensee  
17 licensed, among all of the licensee’s facilities, to care for 50 or  
18 less persons.

19 (ii) Five thousand dollars (\$5,000) for a licensee licensed, among  
20 all of the licensee’s facilities, to care for more than 50 persons.

21 (C) For a violation that the department determines constitutes  
22 physical abuse, as defined in paragraph (2), or resulted in serious  
23 bodily injury, as defined in Section 243 of the Penal Code, to a  
24 person receiving care at a therapeutic day services facility, foster  
25 family agency, community treatment facility, full-service adoption  
26 agency, noncustodial adoption agency, transitional shelter care  
27 facility, transitional housing placement provider, or group home,  
28 the civil penalty shall be assessed as follows:

29 (i) Two thousand five hundred dollars (\$2,500) for a licensee  
30 licensed, among all of the licensee’s facilities, to care for 40 or  
31 less children.

32 (ii) Five thousand dollars (\$5,000) for a licensee licensed, among  
33 all of the licensee’s facilities, to care for 41 to 100, inclusive,  
34 children.

35 (iii) Ten thousand dollars (\$10,000) for a licensee licensed,  
36 among all of the licensee’s facilities, to care for more than 100  
37 children.

38 (D) For a violation that the department determines constitutes  
39 physical abuse, as defined in paragraph (2), or resulted in serious  
40 bodily injury, as defined in Section 243 of the Penal Code, to a

1 resident at a runaway and homeless youth shelter, the civil penalty  
2 shall be one thousand dollars (\$1,000).

3 (2) For purposes of subparagraphs (C) and (D), “physical abuse”  
4 includes physical injury inflicted upon a child by another person  
5 by other than accidental means, sexual abuse as defined in Section  
6 11165.1 of the Penal Code, neglect as defined in Section 11165.2  
7 of the Penal Code, or unlawful corporal punishment or injury as  
8 defined in Section 11165.4 of the Penal Code when the person  
9 responsible for the child’s welfare is a licensee, administrator, or  
10 employee of any facility licensed to care for children.

11 (f) Prior to the issuance of a citation imposing a civil penalty  
12 pursuant to subdivision (d) or (e), the decision shall be approved  
13 by the program administrator of the Community Care Licensing  
14 Division.

15 (g) Notwithstanding Section 1534, any facility that is cited for  
16 repeating the same violation of this chapter within 12 months of  
17 the first violation is subject to an immediate civil penalty of one  
18 hundred fifty dollars (\$150) and fifty dollars (\$50) for each day  
19 the violation continues until the deficiency is corrected.

20 (h) Any facility that is assessed a civil penalty pursuant to  
21 subdivision (g) that repeats the same violation of this chapter within  
22 12 months of the violation subject to subdivision (g) is subject to  
23 an immediate civil penalty of one hundred fifty dollars (\$150) for  
24 each day the violation continues until the deficiency is corrected.

25 (i) (1) The department shall adopt regulations setting forth the  
26 appeal procedures for deficiencies.

27 (2) A notification of a deficiency written by a representative of  
28 the department shall include a factual description of the nature of  
29 the deficiency fully stating the manner in which the licensee failed  
30 to comply with the specified statute or regulation, and, if  
31 applicable, the particular place or area of the facility in which the  
32 deficiency occurred.

33 (j) (1) A licensee shall have the right to submit to the  
34 department a written request for a formal review of a civil penalty  
35 assessed pursuant to subdivisions (d) and (e) within 10 business  
36 days of receipt of the notice of a civil penalty assessment and shall  
37 provide all supporting documentation at that time. The review shall  
38 be conducted by the deputy director of the Community Care  
39 Licensing Division. If the department requires additional  
40 information from the licensee, that information shall be requested

1 within the first 30 ~~calendar~~ *business* days after receiving the request  
 2 for review. If the deputy director determines that the civil penalty  
 3 was not assessed, or the finding of the deficiency that resulted in  
 4 the assessment of the civil penalty was not made, in accordance  
 5 with applicable statutes or regulations of the department, he or she  
 6 may amend or dismiss the civil penalty or finding of deficiency.  
 7 The licensee shall be notified in writing of the deputy director’s  
 8 decision within 60 ~~calendar~~ *business* days of the request to review  
 9 the assessment of the civil penalty.

10 (2) Upon exhausting the review described in paragraph (1), a  
 11 licensee may further appeal that decision to an administrative law  
 12 judge. Proceedings shall be conducted in accordance with Chapter  
 13 5 (commencing with Section 11500) of Part 1 of Division 3 of  
 14 Title 2 of the Government Code, and the department shall have all  
 15 the powers granted by those provisions. In all proceedings  
 16 conducted in accordance with this section, the standard of proof  
 17 shall be by a preponderance of the evidence.

18 (3) If, in addition to an assessment of civil penalties, the  
 19 department elects to file an administrative action to suspend or  
 20 revoke the facility license that includes violations relating to the  
 21 assessment of the civil penalties, the department review of the  
 22 pending appeal shall cease and the assessment of the civil penalties  
 23 shall be heard as part of the administrative action process.

24 (k) (1) A licensee shall have the right to submit to the  
 25 department a written request for a formal review of any other civil  
 26 penalty or deficiency not described in subdivision (j) within 10  
 27 business days of receipt of the notice of a civil penalty assessment  
 28 or a finding of a deficiency, and shall provide all supporting  
 29 documentation at that time. The review shall be conducted by a  
 30 regional manager of the Community Care Licensing Division. If  
 31 the department requires additional information from the licensee,  
 32 that information shall be requested within the first 30 ~~calendar~~  
 33 *business* days after receiving the request for review. If the regional  
 34 manager determines that the civil penalty was not assessed, or the  
 35 finding of the deficiency was not made, in accordance with  
 36 applicable statutes or regulations of the department, he or she may  
 37 amend or dismiss the civil penalty or finding of deficiency. The  
 38 licensee shall be notified in writing of the regional manager’s  
 39 decision within 60 ~~calendar~~ *business* days of the request to review  
 40 the civil penalty or finding of deficiency.

1 (2) Upon exhausting the review described in paragraph (1), the  
2 licensee may further appeal that decision to the program  
3 administrator of the Community Care Licensing Division within  
4 10 business days of receipt of notice of the regional manager's  
5 decision. If the program administrator determines that the civil  
6 penalty was not assessed, or the finding of the deficiency was not  
7 made, in accordance with applicable statutes or regulations of the  
8 department, he or she may amend or dismiss the civil penalty or  
9 finding of deficiency. The licensee shall be notified in writing of  
10 the program administrator's decision within ~~60-calendar~~ *business*  
11 days of the request to review the civil penalty or finding of  
12 deficiency.

13 (l) The department shall adopt regulations implementing this  
14 section.

15 (m) The department shall, by January 1, 2016, amend its  
16 regulations to reflect the changes to this section made by Section  
17 2 of Chapter 813 of the Statutes of 2014.

18 (n) As provided in Section 11466.31 of the Welfare and  
19 Institutions Code, the department may offset civil penalties owed  
20 by a group home against moneys to be paid by a county for the  
21 care of minors after the group home has exhausted its appeal of  
22 the civil penalty assessment. The department shall provide the  
23 group home a reasonable opportunity to pay the civil penalty before  
24 instituting the offset provision.

25 (o) This section shall become operative on July 1, 2015.

26 SEC. 3. Section 1568.0822 of the Health and Safety Code, as  
27 added by Section 4 of Chapter 813 of the Statutes of 2014, is  
28 amended to read:

29 1568.0822. (a) In addition to the suspension, temporary  
30 suspension, or revocation of a license issued under this chapter,  
31 the department may levy a civil penalty.

32 (b) The amount of the civil penalty shall not be less than  
33 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day  
34 for each violation of this chapter, except where the nature or  
35 seriousness of the violation or the frequency of the violation  
36 warrants a higher penalty or an immediate civil penalty assessment,  
37 or both, as determined by the department. ~~In no event shall~~ *Except*  
38 *as otherwise provided in this chapter,* a civil penalty assessment  
39 *shall not* exceed one hundred fifty dollars (\$150) per day per  
40 violation.

- 1 (c) Notwithstanding Section 1568.07, the department shall assess  
2 an immediate civil penalty of one hundred fifty dollars (\$150) per  
3 day per violation for any of the following serious violations:
- 4 (1) (A) Fire clearance violations, including, but not limited to,  
5 overcapacity, ambulatory status, inoperable smoke alarms, and  
6 inoperable fire alarm systems. The civil penalty shall not be  
7 assessed if the licensee has done either of the following:
- 8 (i) Requested the appropriate fire clearance based on ambulatory,  
9 nonambulatory, or bedridden status, and the decision is pending.  
10 (ii) Initiated eviction proceedings.
- 11 (B) A licensee denied a clearance for bedridden residents may  
12 appeal to the fire authority, and, if that appeal is denied, may  
13 subsequently appeal to the Office of the State Fire Marshal, and  
14 shall not be assessed an immediate civil penalty until the final  
15 appeal is decided, or after 60 days has passed from the date of the  
16 citation, whichever is earlier.
- 17 (2) Absence of supervision, as required by statute and regulation.
- 18 (3) Accessible bodies of water, when prohibited in this chapter  
19 or regulations adopted pursuant to this chapter.
- 20 (4) Accessible firearms, ammunition, or both.
- 21 (5) Refused entry to a facility or any part of a facility in violation  
22 of Section 1568.07 or 1568.071.
- 23 (6) The presence of an excluded person on the premises.
- 24 (d) For a violation that the department determines resulted in  
25 the death of a resident, the civil penalty shall be fifteen thousand  
26 dollars (\$15,000).
- 27 (e) For a violation that the department determines constitutes  
28 physical abuse, as defined in Section 15610.63 of the Welfare and  
29 Institutions Code, or resulted in serious bodily injury, as defined  
30 in Section 243 of the Penal Code, to a resident, the civil penalty  
31 shall be ten thousand dollars (\$10,000).
- 32 (f) Prior to the issuance of a citation imposing a civil penalty  
33 pursuant to subdivision (d) or (e), the decision shall be approved  
34 by the program administrator of the Community Care Licensing  
35 Division.
- 36 (g) Notwithstanding Section 1568.07, any residential care  
37 facility that is cited for repeating the same violation of this chapter  
38 within 12 months of the first violation is subject to an immediate  
39 civil penalty of one hundred fifty dollars (\$150) and fifty dollars

1 (\$50) for each day the violation continues until the deficiency is  
2 corrected.

3 (h) Any residential care facility that is assessed a civil penalty  
4 pursuant to subdivision (g) that repeats the same violation of this  
5 chapter within 12 months of the violation subject to subdivision  
6 (g) shall be assessed an immediate civil penalty of one thousand  
7 dollars (\$1,000) and one hundred dollars (\$100) for each day the  
8 violation continues until the deficiency is corrected, provided that  
9 the violation is a serious violation.

10 (i) (1) The department shall adopt regulations setting forth the  
11 appeal procedures for deficiencies.

12 (2) A notification of a deficiency written by a representative of  
13 the department shall include a factual description of the nature of  
14 the deficiency fully stating the manner in which the licensee failed  
15 to comply with the specified statute or regulation, and, if  
16 applicable, the particular place or area of the facility in which the  
17 deficiency occurred.

18 (j) (1) A licensee shall have the right to submit to the  
19 department a written request for a formal review of a civil penalty  
20 assessed pursuant to subdivisions (d) and (e) within 10 business  
21 days of receipt of the notice of a civil penalty assessment and shall  
22 provide all supporting documentation at that time. The review shall  
23 be conducted by the deputy director of the Community Care  
24 Licensing Division. If the department requires additional  
25 information from the licensee, that information shall be requested  
26 within the first 30 ~~calendar~~ *business* days after receiving the request  
27 for review. If the deputy director determines that the civil penalty  
28 was not assessed, or the finding of deficiency that resulted in the  
29 assessment of the civil penalty was not made, in accordance with  
30 applicable statutes or regulations of the department, he or she may  
31 amend or dismiss the civil penalty or finding of deficiency. The  
32 licensee shall be notified in writing of the deputy director's decision  
33 within 60 ~~calendar~~ *business* days of the request to review the  
34 assessment of the civil penalty.

35 (2) Upon exhausting the review described in paragraph (1), a  
36 licensee may further appeal that decision to an administrative law  
37 judge. Proceedings shall be conducted in accordance with Chapter  
38 5 (commencing with Section 11500) of Part 1 of Division 3 of  
39 Title 2 of the Government Code, and the department shall have all  
40 the powers granted by those provisions. In all proceedings

1 conducted in accordance with this section, the standard of proof  
2 shall be by a preponderance of the evidence.

3 (3) If, in addition to an assessment of civil penalties, the  
4 department elects to file an administrative action to suspend or  
5 revoke the facility license that includes violations relating to the  
6 assessment of the civil penalties, the department review of the  
7 pending appeal shall cease and the assessment of the civil penalties  
8 shall be heard as part of the administrative action process.

9 (k) (1) A licensee shall have the right to submit to the  
10 department a written request for a formal review of any other civil  
11 penalty or deficiency not described in subdivision (j) within 10  
12 business days of receipt of the notice of a civil penalty assessment  
13 or a finding of a deficiency, and shall provide all supporting  
14 documentation at that time. The review shall be conducted by a  
15 regional manager of the Community Care Licensing Division. If  
16 the department requires additional information from the licensee,  
17 that information shall be requested within the first 30 ~~calendar~~  
18 *business* days after receiving the request for review. If the regional  
19 manager determines that the civil penalty was not assessed, or the  
20 finding of the deficiency was not made, in accordance with  
21 applicable statutes or regulations of the department, he or she may  
22 amend or dismiss the civil penalty or finding of deficiency. The  
23 licensee shall be notified in writing of the regional manager's  
24 decision within 60 ~~calendar~~ *business* days of the request to review  
25 the civil penalty or finding of deficiency.

26 (2) Upon exhausting the review described in paragraph (1), the  
27 licensee may further appeal that decision to the program  
28 administrator of the Community Care Licensing Division within  
29 10 business days of receipt of notice of the regional manager's  
30 decision. If the program administrator determines that the civil  
31 penalty was not assessed, or the finding of the deficiency was not  
32 made, in accordance with applicable statutes or regulations of the  
33 department, he or she may amend or dismiss the civil penalty or  
34 finding of deficiency. The licensee shall be notified in writing of  
35 the program administrator's decision within 60 ~~calendar~~ *business*  
36 days of the request to review the civil penalty or finding of  
37 deficiency.

38 (l) The department shall adopt regulations implementing this  
39 section.

1 (m) The department shall, by January 1, 2016, amend its  
2 regulations to reflect the changes to this section made by Section  
3 4 of Chapter 813 of the Statutes of 2014.

4 (n) This section shall become operative on July 1, 2015.

5 SEC. 4. Section 1569.35 of the Health and Safety Code is  
6 amended to read:

7 1569.35. (a) Any person may request an investigation of a  
8 residential care facility for the elderly in accordance with this  
9 chapter by making a complaint to the department alleging a  
10 violation of applicable requirements prescribed by statutes or  
11 regulations of this state, including, but not limited to, a denial of  
12 access of any person authorized to enter the facility pursuant to  
13 Section 9722 of the Welfare and Institutions Code. A complaint  
14 may be made either orally or in writing.

15 (b) The substance of the complaint shall be provided to the  
16 licensee no earlier than at the time of the inspection. Unless the  
17 complainant specifically requests otherwise, neither the substance  
18 of the complaint provided the licensee nor any copy of the  
19 complaint or any record published, released, or otherwise made  
20 available to the licensee shall disclose the name of any person  
21 mentioned in the complaint except the name of any duly authorized  
22 officer, employee, or agent of the department conducting the  
23 investigation or inspection pursuant to this chapter.

24 (c) (1) Upon receipt of a complaint, other than a complaint  
25 alleging denial of a statutory right of access to a residential care  
26 facility for the elderly, the department shall make a preliminary  
27 review and, unless the department determines that the complaint  
28 is willfully intended to harass a licensee or is without any  
29 reasonable basis, it shall make an onsite inspection within 10 days  
30 after receiving the complaint except where the visit would  
31 adversely affect the licensing investigation or the investigation of  
32 other agencies, including, but not limited to, law enforcement  
33 agencies. In either event, the complainant shall be promptly  
34 informed of the department's proposed course of action.

35 (2) If a local long-term care ombudsman or the State Long-Term  
36 Care Ombudsman files a complaint alleging denial of a statutory  
37 right of access to a residential care facility for the elderly under  
38 Section 9722 of the Welfare and Institutions Code, the department  
39 shall give priority to the complaint pursuant to Section 9721 of  
40 the Welfare and Institutions Code and notify the Office of the State

1 Long-Term Care Ombudsman that an investigation has been  
2 initiated pursuant to this section.

3 (3) Prior to conducting an onsite investigation pursuant to this  
4 section, the department shall make a good faith effort, documented  
5 in writing, to contact and interview the complainant and inform  
6 the complainant of the department's proposed course of action and  
7 the relevant deadline for the department to complete its  
8 investigation. To the extent practicable, the officer, employee, or  
9 agent of the department who will conduct the investigation shall  
10 be the representative who interviews and makes contact with the  
11 complainant.

12 (d) When conducting an investigation pursuant to this section,  
13 the department shall consult with and, to the extent practicable,  
14 coordinate its investigation of a residential care facility for the  
15 elderly with the investigation of the facility by other agencies,  
16 including, but not limited to, the Office of the State Long-Term  
17 Care Ombudsman and law enforcement agencies.

18 (e) Within 10 business days of completing the investigation of  
19 a complaint under this section, the department shall notify the  
20 complainant in writing of the department's determination as a  
21 result of the investigation and of the complainant's right to appeal  
22 the findings. The written notice shall describe the appeal process  
23 provided for under subdivisions (f) and (g) and include a copy of  
24 any reports and documents describing violations and enforcement  
25 actions resulting from the investigation.

26 (f) A complainant who is dissatisfied with the department's  
27 investigation, findings, or enforcement actions resulting from the  
28 investigation may file an appeal by notifying the program manager  
29 of the officer, employee, or agent of the department conducting  
30 the investigation in writing within 15 business days after receiving  
31 the notice described in subdivision (e). The program manager shall  
32 schedule a meeting or teleconference with the complainant within  
33 30 business days of receiving an appeal. The program manager  
34 shall carefully review the concerns, information, and evidence  
35 presented by the complainant to determine whether the  
36 department's findings or actions should be modified or whether  
37 further investigation is necessary. Within 10 business days after  
38 conducting the meeting or teleconference with the complainant,  
39 the program manager shall notify the complainant in writing of

1 the department's determinations and actions concerning the appeal  
2 and of the appeal rights provided in subdivision (g).

3 (g) If a complainant is dissatisfied with the program manager's  
4 determination on an appeal pursuant to subdivision (f), the  
5 complainant may, within 15 business days after receipt of this  
6 determination, file an appeal in writing with the Quality Assurance  
7 Unit of the Community Care Licensing Division. Within 30  
8 business days of receiving an appeal, a representative of the Quality  
9 Assurance Unit shall interview the complainant, consider any  
10 information presented or submitted by the complainant, and review  
11 the complaint record to determine whether the department's  
12 findings or actions should be modified or whether further  
13 investigation is necessary. No later than 10 business days after  
14 completing this review, the deputy director of the Community Care  
15 Licensing Division shall notify the complainant in writing of the  
16 department's determinations and actions concerning the appeal.

17 (h) A complainant may be assisted or represented by any person  
18 of his or her choice in the appeal processes described in this  
19 section.

20 SEC. 5. Section 1569.49 of the Health and Safety Code, as  
21 added by Section 6 of Chapter 813 of the Statutes of 2014, is  
22 amended to read:

23 1569.49. (a) In addition to the suspension, temporary  
24 suspension, or revocation of a license issued under this chapter,  
25 the department may levy a civil penalty.

26 (b) The amount of the civil penalty shall not be less than  
27 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day  
28 for each violation of this chapter except where the nature or  
29 seriousness of the violation or the frequency of the violation  
30 warrants a higher penalty or an immediate civil penalty assessment,  
31 or both, as determined by the department. ~~In no event, shall~~ *Except*  
32 *as otherwise provided in this chapter,* a civil penalty assessment  
33 *shall not* exceed one hundred fifty dollars (\$150) per day per  
34 violation.

35 (c) Notwithstanding Section 1569.33, the department shall assess  
36 an immediate civil penalty of one hundred fifty dollars (\$150) per  
37 day per violation for any of the following serious violations:

38 (1) (A) Fire clearance violations, including, but not limited to,  
39 overcapacity, ambulatory status, inoperable smoke alarms, and

1 inoperable fire alarm systems. The civil penalty shall not be  
2 assessed if the licensee has done either of the following:  
3 (i) Requested the appropriate fire clearance based on ambulatory,  
4 nonambulatory, or bedridden status, and the decision is pending.  
5 (ii) Initiated eviction proceedings.  
6 (B) A licensee denied a clearance for bedridden residents may  
7 appeal to the fire authority, and, if that appeal is denied, may  
8 subsequently appeal to the Office of the State Fire Marshal, and  
9 shall not be assessed an immediate civil penalty until the final  
10 appeal is decided, or after 60 days has passed from the date of the  
11 citation, whichever is earlier.  
12 (2) Absence of supervision as required by statute or regulation.  
13 (3) Accessible bodies of water, when prohibited in this chapter  
14 or regulations adopted pursuant to this chapter.  
15 (4) Accessible firearms, ammunition, or both.  
16 (5) Refused entry to a facility or any part of a facility in violation  
17 of Section 1569.32, 1569.33, or 1569.35.  
18 (6) The presence of an excluded person on the premises.  
19 (d) For a violation that the department determines resulted in  
20 the death of a resident, the civil penalty shall be fifteen thousand  
21 dollars (\$15,000).  
22 (e) For a violation that the department determines constitutes  
23 physical abuse, as defined in Section 15610.63 of the Welfare and  
24 Institutions Code, or resulted in serious bodily injury, as defined  
25 in Section 15610.67 of the Welfare and Institutions Code, to a  
26 resident, the civil penalty shall be ten thousand dollars (\$10,000).  
27 (f) Prior to the issuance of a citation imposing a civil penalty  
28 pursuant to subdivision (d) or (e), the decision shall be approved  
29 by the program administrator of the Community Care Licensing  
30 Division.  
31 (g) Notwithstanding Section 1569.33, any residential care  
32 facility for the elderly that is cited for repeating the same violation  
33 of this chapter within 12 months of the first violation is subject to  
34 an immediate civil penalty of one hundred fifty dollars (\$150) and  
35 fifty dollars (\$50) for each day the violation continues until the  
36 deficiency is corrected.  
37 (h) Any residential care facility for the elderly that is assessed  
38 a civil penalty pursuant to subdivision (g) that repeats the same  
39 violation of this chapter within 12 months of the violation subject  
40 to subdivision (g) shall be assessed an immediate civil penalty of

1 one thousand dollars (\$1,000) and one hundred dollars (\$100) for  
2 each day the violation continues until the deficiency is corrected.

3 (i) (1) The department shall adopt regulations setting forth the  
4 appeal procedures for deficiencies.

5 (2) A notification of a deficiency written by a representative of  
6 the department shall include a factual description of the nature of  
7 the deficiency fully stating the manner in which the licensee failed  
8 to comply with the specified statute or regulation, and, if  
9 applicable, the particular place or area of the facility in which the  
10 deficiency occurred.

11 (j) (1) A licensee shall have the right to submit to the  
12 department a written request for a formal review of a civil penalty  
13 assessed pursuant to subdivisions (d) and (e) within 10 business  
14 days of receipt of the notice of a civil penalty assessment and shall  
15 provide all supporting documentation at that time. The review shall  
16 be conducted by the deputy director of the Community Care  
17 Licensing Division. If the department requires additional  
18 information from the licensee, that information shall be requested  
19 within the first ~~30-calendar~~ *business* days after receiving the request  
20 for review. If the deputy director determines that the civil penalty  
21 was not assessed, or the finding of the deficiency that resulted in  
22 the assessment of the civil penalty was not made, in accordance  
23 with applicable statutes or regulations of the department, he or she  
24 may amend or dismiss the civil penalty or finding of deficiency.  
25 The licensee shall be notified in writing of the deputy director's  
26 decision within ~~60-calendar~~ *business* days of the request to review  
27 the assessment of the civil penalty.

28 (2) Upon exhausting the review described in paragraph (1), a  
29 licensee may further appeal that decision to an administrative law  
30 judge. Proceedings shall be conducted in accordance with Chapter  
31 5 (commencing with Section 11500) of Part 1 of Division 3 of  
32 Title 2 of the Government Code, and the department shall have all  
33 the powers granted by those provisions. In all proceedings  
34 conducted in accordance with this section, the standard of proof  
35 shall be by a preponderance of the evidence.

36 (3) If, in addition to an assessment of civil penalties, the  
37 department elects to file an administrative action to suspend or  
38 revoke the facility license that includes violations relating to the  
39 assessment of the civil penalties, the department review of the

1 pending appeal shall cease and the assessment of the civil penalties  
2 shall be heard as part of the administrative action process.

3 (k) (1) A licensee shall have the right to submit to the  
4 department a written request for a formal review of any other civil  
5 penalty or deficiency not described in subdivision (j) within 10  
6 business days of receipt of the notice of a civil penalty assessment  
7 or a finding of a deficiency, and shall provide all supporting  
8 documentation at that time. The review shall be conducted by a  
9 regional manager of the Community Care Licensing Division. If  
10 the department requires additional information from the licensee,  
11 that information shall be requested within the first 30 ~~calendar~~  
12 *business* days after receiving the request for review. If the regional  
13 manager determines that the civil penalty was not assessed, or the  
14 finding of the deficiency was not made, in accordance with  
15 applicable statutes or regulations of the department, he or she may  
16 amend or dismiss the civil penalty or finding of deficiency. The  
17 licensee shall be notified in writing of the regional manager's  
18 decision within 60 ~~calendar~~ *business* days of the request to review  
19 the civil penalty or finding of deficiency.

20 (2) Upon exhausting the review described in paragraph (1), the  
21 licensee may further appeal that decision to the program  
22 administrator of the Community Care Licensing Division within  
23 10 business days of receipt of notice of the regional manager's  
24 decision. If the program administrator determines that the civil  
25 penalty was not assessed, or the finding of the deficiency was not  
26 made, in accordance with applicable statutes or regulations of the  
27 department, he or she may amend or dismiss the civil penalty or  
28 finding of deficiency. The licensee shall be notified in writing of  
29 the program administrator's decision within 60 ~~calendar~~ *business*  
30 days of the request to review the civil penalty or finding of  
31 deficiency.

32 (l) The department shall adopt regulations implementing this  
33 section.

34 (m) The department shall, by January 1, 2016, amend its  
35 regulations to reflect the changes to this section made by Section  
36 6 of Chapter 813 of the Statutes of 2014.

37 (n) This section shall become operative on July 1, 2015.

38 SEC. 6. Section 1596.99 of the Health and Safety Code, as  
39 added by Section 8 of Chapter 813 of the Statutes of 2014, is  
40 amended to read:

1 1596.99. (a) In addition to the suspension, temporary  
2 suspension, or revocation of a license issued under this chapter or  
3 Chapter 3.4 (commencing with Section 1596.70), the department  
4 may levy a civil penalty.

5 (b) The amount of the civil penalty shall not be less than  
6 twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day  
7 for each violation of this chapter except where the nature or  
8 seriousness of the violation or the frequency of the violation  
9 warrants a higher penalty or an immediate civil penalty assessment,  
10 or both, as determined by the department. ~~In no event shall~~ *Except*  
11 *as otherwise provided in this chapter*, a civil penalty assessment  
12 *shall not* exceed one hundred fifty dollars (\$150) per day per  
13 violation.

14 (c) Notwithstanding Sections 1596.893a, 1596.893b, and  
15 1596.98, the department shall assess an immediate civil penalty  
16 of one hundred fifty dollars (\$150) per day per violation for any  
17 of the following serious violations:

18 (1) Fire clearance violations, including, but not limited to,  
19 overcapacity, inoperable smoke alarms, and inoperable fire alarm  
20 systems.

21 (2) Absence of supervision, including, but not limited to, a child  
22 left unattended, supervision of a child by a person under 18 years  
23 of age, and lack of supervision resulting in a child wandering away.

24 (3) Accessible bodies of water.

25 (4) Accessible firearms, ammunition, or both.

26 (5) Refused entry to a facility or any part of a facility in violation  
27 of Section 1596.852, 1596.853, or 1597.09.

28 (6) The presence of an excluded person on the premises.

29 (d) For a violation that the department determines resulted in  
30 the death of a child, the civil penalty shall be assessed as follows:

31 (1) Seven thousand five hundred dollars (\$7,500) for a licensee  
32 licensed, among all of the licensee's facilities, to care for 30 or  
33 less children.

34 (2) Ten thousand dollars (\$10,000) for a licensee licensed,  
35 among all of the licensee's facilities, to care for 31 to 100,  
36 inclusive, children.

37 (3) Fifteen thousand dollars (\$15,000) for a licensee licensed,  
38 among all of the licensee's facilities, to care for more than 100  
39 children.

1 (e) (1) For a violation that the department determines constitutes  
2 physical abuse or resulted in serious injury, as defined in Section  
3 1596.8865, to a child, the civil penalty shall be assessed as follows:

4 (A) Two thousand five hundred dollars (\$2,500) for a licensee  
5 licensed, among all of the licensee’s facilities, to care for 30 or  
6 less children.

7 (B) Five thousand dollars (\$5,000) for a licensee licensed,  
8 among all of the licensee’s facilities, to care for 31 to 100,  
9 inclusive, children.

10 (C) Ten thousand dollars (\$10,000) for a licensee licensed,  
11 among all of the licensee’s facilities, to care for more than 100  
12 children.

13 (2) For purposes of this subdivision, “physical abuse” includes  
14 physical injury inflicted upon a child by another person by other  
15 than accidental means, sexual abuse as defined in Section 11165.1  
16 of the Penal Code, neglect as defined in Section 11165.2 of the  
17 Penal Code, or unlawful corporal punishment or injury as defined  
18 in Section 11165.4 of the Penal Code when the person responsible  
19 for the child’s welfare is a licensee, administrator, or employee of  
20 any facility licensed to care for children, or an administrator or  
21 employee of a public or private school or other institution or  
22 agency.

23 (f) Before the issuance of a citation imposing a civil penalty  
24 pursuant to subdivision (d) or (e), the decision shall be approved  
25 by the program administrator of the Community Care Licensing  
26 Division.

27 (g) Notwithstanding Sections 1596.893a, 1596.893b, and  
28 1596.98, any day care center that is cited for repeating the same  
29 violation of this chapter or Chapter 3.4 (commencing with Section  
30 1596.70) within 12 months of the first violation is subject to an  
31 immediate civil penalty of one hundred fifty dollars (\$150) for  
32 each day the violation continues until the deficiency is corrected.

33 (h) Any day care center that is assessed a civil penalty under  
34 subdivision (g) and that repeats the same violation of this chapter  
35 within 12 months of the violation subject to subdivision (g) shall  
36 be assessed an immediate civil penalty of one hundred fifty dollars  
37 (\$150) for each day the violation continues until the deficiency is  
38 corrected.

39 (i) Notwithstanding any other law, revenues received by the  
40 state from the payment of civil penalties imposed on licensed child

1 care centers pursuant to this chapter or Chapter 3.4 (commencing  
2 with Section 1596.70), shall be deposited in the Child Health and  
3 Safety Fund, created pursuant to Chapter 4.6 (commencing with  
4 Section 18285) of Part 6 of Division 9 of the Welfare and  
5 Institutions Code, and shall be expended, upon appropriation by  
6 the Legislature, pursuant to subdivision (f) of Section 18285 of  
7 the Welfare and Institutions Code exclusively for the technical  
8 assistance, orientation, training, and education of licensed day care  
9 center providers.

10 (j) (1) The department shall adopt regulations setting forth the  
11 appeal procedures for deficiencies.

12 (2) A notification of a deficiency written by a representative of  
13 the department shall include a factual description of the nature of  
14 the deficiency fully stating the manner in which the licensee failed  
15 to comply with the specified statute or regulation, and, if  
16 applicable, the particular place or area of the facility in which the  
17 deficiency occurred.

18 (k) (1) A licensee shall have the right to submit to the  
19 department a written request for a formal review of a civil penalty  
20 assessed pursuant to subdivisions (d) and (e) within 10 business  
21 days of receipt of the notice of a civil penalty assessment and shall  
22 provide all supporting documentation at that time. The review shall  
23 be conducted by the deputy director of the Community Care  
24 Licensing Division. If the department requires additional  
25 information from the licensee, that information shall be requested  
26 within the first ~~30 calendar~~ *business* days after receiving the request  
27 for review. If the deputy director determines that the civil penalty  
28 was not assessed, or the finding of the deficiency that resulted in  
29 the assessment of the civil penalty was not made, in accordance  
30 with applicable statutes or regulations of the department, he or she  
31 may amend or dismiss the civil penalty or finding of deficiency.  
32 The licensee shall be notified in writing of the deputy director's  
33 decision within ~~60 calendar~~ *business* days of the request to review  
34 the assessment of the civil penalty.

35 (2) Upon exhausting the review described in paragraph (1), a  
36 licensee may further appeal that decision to an administrative law  
37 judge. Proceedings shall be conducted in accordance with Chapter  
38 5 (commencing with Section 11500) of Part 1 of Division 3 of  
39 Title 2 of the Government Code, and the department shall have all  
40 the powers granted by those provisions. In all proceedings

1 conducted in accordance with this section, the standard of proof  
2 shall be by a preponderance of the evidence.

3 (3) If, in addition to an assessment of civil penalties, the  
4 department elects to file an administrative action to suspend or  
5 revoke the facility license that includes violations relating to the  
6 assessment of the civil penalties, the department review of the  
7 pending appeal shall cease and the assessment of the civil penalties  
8 shall be heard as part of the administrative action process.

9 (l) (1) A licensee shall have the right to submit to the  
10 department a written request for a formal review of any other civil  
11 penalty or deficiency not described in subdivision (k) within 10  
12 business days of receipt of the notice of a civil penalty assessment  
13 or a finding of a deficiency, and shall provide all supporting  
14 documentation at that time. The review shall be conducted by a  
15 regional manager of the Community Care Licensing Division. If  
16 the department requires additional information from the licensee,  
17 that information shall be requested within the first 30 ~~calendar~~  
18 *business* days after receiving the request for review. If the regional  
19 manager determines that the civil penalty was not assessed, or the  
20 finding of the deficiency was not made, in accordance with  
21 applicable statutes or regulations of the department, he or she may  
22 amend or dismiss the civil penalty or finding of deficiency. The  
23 licensee shall be notified in writing of the regional manager's  
24 decision within 60 ~~calendar~~ *business* days of the request to review  
25 the civil penalty or finding of deficiency.

26 (2) Upon exhausting the review described in paragraph (1), the  
27 licensee may further appeal that decision to the program  
28 administrator of the Community Care Licensing Division within  
29 10 business days of receipt of notice of the regional manager's  
30 decision. If the program administrator determines that the civil  
31 penalty was not assessed, or the finding of the deficiency was not  
32 made, in accordance with applicable statutes or regulations of the  
33 department, he or she may amend or dismiss the civil penalty or  
34 finding of deficiency. The licensee shall be notified in writing of  
35 the program administrator's decision within 60 ~~calendar~~ *business*  
36 days of the request to review the civil penalty or finding of  
37 deficiency.

38 (m) The department shall, by January 1, 2016, amend its  
39 regulations to reflect the changes to this section made by Section  
40 8 of Chapter 813 of the Statutes of 2014.

1 (n) This section shall become operative on July 1, 2015.

2 SEC. 7. Section 1597.58 of the Health and Safety Code, as  
3 added by Section 10 of Chapter 813 of the Statutes of 2014, is  
4 amended to read:

5 1597.58. (a) In addition to the suspension, temporary  
6 suspension, or revocation of a license issued under this chapter,  
7 the department may levy a civil penalty.

8 (b) The amount of the civil penalty shall not be less than  
9 twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day  
10 for each violation of this chapter except where the nature or  
11 seriousness of the violation or the frequency of the violation  
12 warrants a higher penalty or an immediate civil penalty assessment  
13 or both, as determined by the department. ~~In no event shall~~ *Except*  
14 *as otherwise provided in this chapter*, a civil penalty assessment  
15 *shall not* exceed one hundred fifty dollars (\$150) per day per  
16 violation.

17 (c) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56,  
18 and 1597.62 the department shall assess an immediate civil penalty  
19 of one hundred fifty dollars (\$150) per day per violation for any  
20 of the following serious violations:

21 (1) Any violation that results in the injury, illness, or death of  
22 a child.

23 (2) Absence of supervision, including, but not limited to, a child  
24 left unattended, a child left alone with a person under 18 years of  
25 age, and lack of supervision resulting in a child wandering away.

26 (3) Accessible bodies of water.

27 (4) Accessible firearms, ammunition, or both.

28 (5) Refused entry to a facility or any part of a facility in violation  
29 of Sections 1596.852, 1596.853, 1597.55a, and 1597.55b.

30 (6) The presence of an excluded person on the premises.

31 (d) For a violation that the department determines resulted in  
32 the death of a child, the civil penalty shall be assessed as follows:

33 (1) Five thousand dollars (\$5,000) for a small family day care  
34 home, as described in Section 1597.44.

35 (2) Seven thousand five hundred dollars (\$7,500) for a large  
36 family day care home, as described in Section 1597.465.

37 (e) (1) For a violation that the department determines constitutes  
38 physical abuse or resulted in serious injury, as defined in Section  
39 1596.8865, to a child, the civil penalty shall be assessed as follows:

- 1 (A) One thousand dollars (\$1,000) for a small family day care  
2 home, as described in Section 1597.44.
- 3 (B) Two thousand dollars (\$2,000) for a large family day care  
4 home, as described in Section 1597.465.
- 5 (2) For purposes of this subdivision, “physical abuse” includes  
6 physical injury inflicted upon a child by another person by other  
7 than accidental means, sexual abuse as defined in Section 11165.1  
8 of the Penal Code, neglect as defined in Section 11165.2 of the  
9 Penal Code, or unlawful corporal punishment or injury as defined  
10 in Section 11165.4 of the Penal Code when the person responsible  
11 for the child’s welfare is a licensee, administrator, or employee of  
12 any facility licensed to care for children, or an administrator or  
13 employee of a public or private school or other institution or  
14 agency.
- 15 (f) Before the issuance of a citation imposing a civil penalty  
16 pursuant to subdivision (d) or (e), the decision shall be approved  
17 by the program administrator of the Community Care Licensing  
18 Division.
- 19 (g) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56,  
20 and 1597.62, any family day care home that is cited for repeating  
21 the same violation of this chapter or Chapter 3.4 (commencing  
22 with Section 1596.70), within 12 months of the first violation is  
23 subject to an immediate civil penalty assessment of up to one  
24 hundred fifty dollars (\$150) and may be assessed up to fifty dollars  
25 (\$50) for each day the violation continues until the deficiency is  
26 corrected.
- 27 (h) Any family day care home that is assessed a civil penalty  
28 under subdivision (g) that repeats the same violation of this chapter  
29 within 12 months of the violation subject to subdivision (g) shall  
30 be assessed an immediate assessment of up to one hundred fifty  
31 dollars (\$150) and may be assessed up to one hundred fifty dollars  
32 (\$150) for each day the violation continues until the deficiency is  
33 corrected.
- 34 (i) Notwithstanding any other law, revenues received by the  
35 state from the payment of civil penalties imposed on licensed  
36 family day care homes pursuant to this chapter or Chapter 3.4  
37 (commencing with Section 1596.70), shall be deposited in the  
38 Child Health and Safety Fund, created pursuant to Chapter 4.6  
39 (commencing with Section 18285) of Part 6 of Division 9 of the  
40 Welfare and Institutions Code, and shall be expended, upon

1 appropriation by the Legislature, pursuant to subdivision (f) of  
2 Section 18285 of the Welfare and Institutions Code exclusively  
3 for the technical assistance, orientation, training, and education of  
4 licensed family day care home providers.

5 (j) (1) The department shall adopt regulations setting forth the  
6 appeal procedures for deficiencies.

7 (2) A notification of a deficiency written by a representative of  
8 the department shall include a factual description of the nature of  
9 the deficiency fully stating the manner in which the licensee failed  
10 to comply with the specified statute or regulation, and, if  
11 applicable, the particular place or area of the facility in which the  
12 deficiency occurred.

13 (k) (1) A licensee shall have the right to submit to the  
14 department a written request for a formal review of a civil penalty  
15 assessed pursuant to subdivisions (d) and (e) within 10 business  
16 days of receipt of the notice of a civil penalty assessment and shall  
17 provide all supporting documentation at that time. The review shall  
18 be conducted by the deputy director of the Community Care  
19 Licensing Division. If the department requires additional  
20 information from the licensee, that information shall be requested  
21 within the first 30 ~~calendar~~ *business* days after receiving the request  
22 for review. If the deputy director determines that the civil penalty  
23 was not assessed, or the finding of the deficiency that resulted in  
24 the assessment of the civil penalty was not made, in accordance  
25 with applicable statutes or regulations of the department, he or she  
26 may amend or dismiss the civil penalty or finding of deficiency.  
27 The licensee shall be notified in writing of the deputy director's  
28 decision within 60 ~~calendar~~ *business* days of the request to review  
29 the assessment of the civil penalty.

30 (2) Upon exhausting the review described in paragraph (1), a  
31 licensee may further appeal that decision to an administrative law  
32 judge. Proceedings shall be conducted in accordance with Chapter  
33 5 (commencing with Section 11500) of Part 1 of Division 3 of  
34 Title 2 of the Government Code, and the department shall have all  
35 the powers granted by those provisions. In all proceedings  
36 conducted in accordance with this section, the standard of proof  
37 shall be by a preponderance of the evidence.

38 (3) If, in addition to an assessment of civil penalties, the  
39 department elects to file an administrative action to suspend or  
40 revoke the facility license that includes violations relating to the

1 assessment of the civil penalties, the department review of the  
2 pending appeal shall cease and the assessment of the civil penalties  
3 shall be heard as part of the administrative action process.

4 (l) (1) A licensee shall have the right to submit to the  
5 department a written request for a formal review of any other civil  
6 penalty or deficiency not described in subdivision (k) within 10  
7 business days of receipt of the notice of a civil penalty assessment  
8 or a finding of a deficiency, and shall provide all supporting  
9 documentation at that time. The review shall be conducted by a  
10 regional manager of the Community Care Licensing Division. If  
11 the department requires additional information from the licensee,  
12 that information shall be requested within the first 30 ~~calendar~~  
13 *business* days after receiving the request for review. If the regional  
14 manager determines that the civil penalty was not assessed, or the  
15 finding of the deficiency was not made, in accordance with  
16 applicable statutes or regulations of the department, he or she may  
17 amend or dismiss the civil penalty or finding of deficiency. The  
18 licensee shall be notified in writing of the regional manager’s  
19 decision within 60 ~~calendar~~ *business* days of the request to review  
20 the civil penalty or finding of deficiency.

21 (2) Upon exhausting the review described in paragraph (1), the  
22 licensee may further appeal that decision to the program  
23 administrator of the Community Care Licensing Division within  
24 10 business days of receipt of notice of the regional manager’s  
25 decision. If the program administrator determines that the civil  
26 penalty was not assessed, or the finding of the deficiency was not  
27 made, in accordance with applicable statutes or regulations of the  
28 department, he or she may amend or dismiss the civil penalty or  
29 finding of deficiency. The licensee shall be notified in writing of  
30 the program administrator’s decision within 60 ~~calendar~~ *business*  
31 days of the request to review the civil penalty or finding of  
32 deficiency.

33 (m) The department shall, by January 1, 2016, amend its  
34 regulations to reflect the changes to this section made by Section  
35 10 of Chapter 813 of the Statutes of 2014.

36 (n) This section shall become operative on July 1, 2015.

O