

ASSEMBLY BILL

No. 2231

Introduced by Assembly Member Calderon

February 18, 2016

An act to amend Sections 1548, 1568.0822, 1569.49, 1596.8595, 1596.99, and 1597.58 of the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2231, as introduced, Calderon. Care facilities: civil penalties.

Existing law establishes the State Department of Social Services and sets forth its powers and duties, including, but not limited to, the licensure and regulation of community care facilities, residential care facilities for persons with chronic life-threatening illnesses, residential care facilities for the elderly, day care centers, and family day care homes. Existing law authorizes the department to impose various civil penalties for a licensing violation under those provisions, as specified, and requires moneys collected from the imposition of those penalties to be expended for certain purposes. Existing law establishes a process for the appeal of a citation under these provisions.

This bill would increase the amount of civil penalties to be imposed for a licensing violation under those provisions, and would impose civil penalties for a repeat violation of those provisions, as specified. The bill would delete the provisions that authorize the department to impose those civil penalties, and instead require the imposition of those civil penalties under those provisions. The bill would also delete a requirement that moneys collected from the imposition of certain penalties be used for assisting families with the identification, transportation, and enrollment of children in another day care or family

day care home upon the revocation or suspension of the license of a day care or family day care home. The bill would also delete obsolete provisions.

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. Section 1548 of the Health and Safety Code is
2 amended to read:

3 1548. (a) In addition to the suspension, temporary suspension,
4 or revocation of a license issued under this chapter, the department
5 ~~may shall levy a civil penalty. penalties as follows:~~

6 (b) (1) The amount of the civil penalty shall ~~not be less than~~
7 ~~twenty-five dollars (\$25) or more than fifty dollars (\$50) be one~~
8 ~~hundred dollars (\$100) per day for each violation of this chapter~~
9 ~~except where if an agency or facility fails to correct a deficiency~~
10 ~~after being provided a specified length of time to correct that~~
11 ~~deficiency. If the nature or seriousness of the violation or the~~
12 ~~frequency of the violation warrants a higher penalty or an~~
13 ~~immediate civil penalty assessment, or both, as determined by the~~
14 ~~department. Except as otherwise provided in this chapter, a civil~~
15 ~~penalty assessment shall not exceed one hundred fifty dollars~~
16 ~~(\$150) per day per violation. provided in this chapter, a correction~~
17 ~~of the deficiency shall not impact the imposition of a civil penalty.~~

18 (2) Any agency or facility that repeats a violation specified in
19 paragraph (1) within 12 months of a prior violation having a
20 similar factual description of the deficiency as stated in the
21 notification of deficiency, is subject to an immediate civil penalty
22 of two hundred fifty dollars (\$250) per violation and one hundred
23 dollars (\$100) for each day the violation continues after citation.

24 (c) ~~Notwithstanding Section 1534, the~~ The department shall
25 assess an immediate civil penalty of ~~one five hundred fifty dollars~~
26 ~~(\$150) (\$500) per day per violation and one hundred dollars (\$100)~~
27 ~~for each day the violation continues after citation for any of the~~
28 following serious violations:

29 (1) Any violation that the department determines resulted in the
30 injury or illness of a person in care.

31 (1)

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

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

7 (ii) Initiated eviction proceedings.

8 (B) A licensee denied a clearance for bedridden residents may
9 appeal to the fire authority, and, if that appeal is denied, may
10 subsequently appeal to the Office of the State Fire Marshal, and
11 shall not be assessed an immediate civil penalty until the final
12 appeal is decided, or after 60 days has passed from the date of the
13 citation, whichever is earlier.

14 ~~(2)~~

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

16 ~~(3)~~

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

19 ~~(4)~~

20 (5) Accessible firearms, ammunition, or both.

21 ~~(5)~~

22 (6) Refused entry to a facility or any part of a facility in violation
23 of Section 1533, 1534, or 1538.

24 ~~(6)~~

25 (7) The presence of ~~an excluded~~ a person *subject to a*
26 *department Order of Exclusion* on the premises.

27 (d) *Any agency or facility that repeats a violation specified in*
28 *subdivision (c) within 12 months of a prior violation having a*
29 *similar factual description of the deficiency as stated in the*
30 *notification of deficiency, shall be subject to an immediate civil*
31 *penalty of one thousand dollars (\$1,000) per violation and one*
32 *hundred dollars (\$100) for each day the violation continues after*
33 *citation.*

34 ~~(d)~~

35 (e) (1) For a violation that the department determines resulted
36 in the death of a resident at an adult residential facility, social
37 rehabilitation facility, enhanced behavioral supports ~~home~~, *home*
38 *licensed as an adult residential facility, adult residential facility*
39 *for persons with special health care needs*, or community crisis
40 home, the civil penalty shall be fifteen thousand dollars (\$15,000).

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

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

(B) Ten thousand dollars (\$10,000) for a ~~licensee licensed,~~ ~~among all of the licensee's facilities,~~ *facility licensed* to care for ~~51 or more than 50~~ persons.

(3) For a violation that the department determines resulted in the death of a person receiving care at a therapeutic day services facility, ~~foster family agency,~~ community treatment facility, ~~full-service adoption agency,~~ ~~noncustodial adoption agency,~~ transitional shelter care facility, transitional housing placement provider, *small family home, crisis nursery,* group home, *enhanced behavioral supports home* licensed as a group home, or short-term residential treatment center, the civil penalty shall be assessed as follows:

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

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

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

(4) For a violation that the department determines resulted in the death of a ~~resident youth receiving care~~ at a runaway and homeless youth shelter, *shelter licensed as a group home*, the civil penalty shall be five thousand dollars (\$5,000).

(5) *For a violation that the department determines resulted in the death of a child receiving care through a foster family agency, the civil penalty shall be seven thousand five hundred dollars (\$7,500).*

(6) *For a violation that the department determines resulted in the death of an individual receiving care or services through a full-service or noncustodial adoption agency, the civil penalty shall be seven thousand five hundred dollars (\$7,500).*

(e)

(f) (1) (A) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a resident at an adult residential facility, social rehabilitation facility, enhanced behavioral supports ~~home~~, *home licensed as an adult residential facility, adult residential facility for persons with special health care needs*, or community crisis home, the civil penalty shall be ten thousand dollars (\$10,000).

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

(i) Two thousand five hundred dollars (\$2,500) for a ~~licensee licensed, among all of the licensee's facilities,~~ *facility licensed to care for 50 or less* ~~fewer~~ persons.

(ii) Five thousand dollars (\$5,000) for a ~~licensee licensed, among all of the licensee's facilities,~~ *facility licensed to care for 51 or more than 50* persons.

(C) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a person receiving care at a therapeutic day services facility, ~~foster family agency, community treatment facility, full-service adoption agency, noncustodial adoption agency,~~ transitional shelter care facility, transitional housing placement provider, *small family home, crisis nursery, group home, enhanced behavioral supports home licensed as a group home*, or short-term residential treatment center, the civil penalty shall be assessed as follows:

(i) Two thousand five hundred dollars (\$2,500) for a ~~licensee licensed, among all of the licensee's facilities,~~ *facility licensed to care for 40 or less* ~~fewer~~ children.

(ii) Five thousand dollars (\$5,000) for a ~~licensee licensed, among all of the licensee's facilities,~~ *facility licensed to care for 41 to 100, inclusive*, children.

(iii) Ten thousand dollars (\$10,000) for a ~~licensee licensed, among all of the licensee's facilities,~~ *facility licensed to care for more than 100* children.

(D) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a ~~resident youth receiving care~~ at a runaway and homeless youth shelter, *shelter licensed as a group home*, the civil penalty shall be one thousand dollars (\$1,000).

(E) *For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a child receiving care through a foster family agency, the civil penalty shall be two thousand five hundred dollars (\$2,500).*

(F) *For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to an individual receiving care or services through a full-service or noncustodial adoption agency, the civil penalty shall be two thousand five hundred dollars (\$2,500).*

(2) For purposes of subparagraphs ~~(C) and (D)~~, (C), (D), (E), and (F) of paragraph (1), “physical abuse” includes physical injury inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1 of the Penal Code, neglect as defined in Section 11165.2 of the Penal Code, or unlawful corporal punishment or injury as defined in Section 11165.4 of the Penal Code when the person responsible for the child’s welfare is a licensee, administrator, or employee of any facility licensed to care for children.

~~(f) Prior to~~

~~(g) (1) Before the issuance assessment of a citation imposing a civil penalty pursuant to subdivision (d) or (e); (e) or (f), the decision shall be approved by the program administrator of the Community Care Licensing Division.~~

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

~~(h) Any facility that is assessed a civil penalty pursuant to subdivision (g) that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (g) is subject to~~

1 an immediate civil penalty of one hundred fifty dollars (\$150) 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~~

6 (2) If the department assesses a civil penalty pursuant to
7 subdivision (e) or (f), that civil penalty shall prevail and the civil
8 penalty for the underlying violation shall be waived.

9 (h) A citation of a violation issued by the department shall be
10 classified according to the nature of the violation and shall indicate
11 the classification on its face.

12 (1) A Type AA violation is a violation that the department
13 determines resulted in the death or serious bodily injury of, or that
14 constitutes physical abuse of, a client, pursuant to subdivision (e)
15 or (f).

16 (2) A Type A violation is a violation that the department
17 determines poses a direct and immediate risk to the health or safety
18 of a person in care.

19 (3) A Type B violation is a violation that does not meet the
20 standards of a Type AA or A violation, but that the department
21 determines poses a potential risk to the health or safety of a person
22 in care.

23 (4) A Type C violation is a violation that does not meet the
24 standards of a Type AA, A, or B violation.

25 (i) (1) A notification of a deficiency written by a representative
26 of the department shall include a factual description of the nature
27 of the deficiency fully stating the manner in which the licensee
28 failed to comply with the specified statute or regulation, and, if
29 applicable, the particular place or area of the facility in which the
30 deficiency occurred. *The department shall make a good faith effort*
31 *to work with the licensee to determine the cause of the deficiency*
32 *and ways to prevent any repeat violations.*

33 (2) The department shall adopt regulations setting forth the
34 appeal procedures for deficiencies.

35 (j) (1) A licensee shall have the right to submit to the
36 department a written request for a formal review of a civil penalty
37 assessed pursuant to subdivisions ~~(d)~~ and (e) or (f) within 15
38 business days of receipt of the notice of a civil penalty assessment
39 and shall provide all available supporting documentation at that
40 time. The review shall be conducted by the deputy director of the

1 Community Care Licensing Division. The licensee may submit
2 additional supporting documentation that was unavailable at the
3 time of submitting the request for review within the first 30
4 business days after submitting the request for review. If the
5 department requires additional information from the licensee, that
6 information shall be requested within the first 30 business days
7 after receiving the request for review. The licensee shall provide
8 this additional information within 30 business days of receiving
9 the request from the department. If the deputy director determines
10 that the civil penalty was not assessed, or the finding of deficiency
11 was not made, in accordance with applicable statutes or regulations
12 of the department, he or she may amend or dismiss the civil penalty
13 or finding of deficiency. The licensee shall be notified in writing
14 of the deputy director's decision within 60 business days of the
15 date when all necessary information has been provided to the
16 department by the licensee.

17 (2) Upon exhausting the review described in paragraph (1), a
18 licensee may further appeal that decision to an administrative law
19 judge. Proceedings shall be conducted in accordance with Chapter
20 5 (commencing with Section 11500) of Part 1 of Division 3 of
21 Title 2 of the Government Code, and the department shall have all
22 the powers granted by those provisions. In all proceedings
23 conducted in accordance with this section, the standard of proof
24 shall be by a preponderance of the evidence.

25 (3) If, in addition to an assessment of civil penalties, the
26 department elects to file an administrative action to suspend or
27 revoke the facility license that includes violations relating to the
28 assessment of the civil penalties, the department review of the
29 pending appeal shall cease and the assessment of the civil penalties
30 shall be heard as part of the administrative action process.

31 (k) (1) A licensee shall have the right to submit to the
32 department a written request for a formal review of any other civil
33 penalty or deficiency not described in subdivision (j) within 15
34 business days of receipt of the notice of a civil penalty assessment
35 or a finding of a deficiency, and shall provide all available
36 supporting documentation at that time. The review shall be
37 conducted by a regional manager of the Community Care Licensing
38 Division. The licensee may submit additional supporting
39 documentation that was unavailable at the time of submitting the
40 request for review within the first 30 business days after submitting

1 the request for review. If the department requires additional
2 information from the licensee, that information shall be requested
3 within the first 30 business days after receiving the request for
4 review. The licensee shall provide this additional information
5 within 30 business days of receiving the request from the
6 department. If the regional manager determines that the civil
7 penalty was not assessed, or the finding of the deficiency was not
8 made, in accordance with applicable statutes or regulations of the
9 department, he or she may amend or dismiss the civil penalty or
10 finding of deficiency. The licensee shall be notified in writing of
11 the regional manager's decision within 60 business days of the
12 date when all necessary information has been provided to the
13 department by the licensee.

14 (2) Upon exhausting the review described in paragraph (1), the
15 licensee may further appeal that decision to the program
16 administrator of the Community Care Licensing Division within
17 15 business days of receipt of notice of the regional manager's
18 decision. The licensee may submit additional supporting
19 documentation that was unavailable at the time of appeal to the
20 program administrator within the first 30 business days after
21 requesting that appeal. If the department requires additional
22 information from the licensee, that information shall be requested
23 within the first 30 business days after receiving the request for the
24 appeal. The licensee shall provide this additional information
25 within 30 business days of receiving the request from the
26 department. If the program administrator determines that the civil
27 penalty was not assessed, or the finding of the deficiency was not
28 made, in accordance with applicable statutes or regulations of the
29 department, he or she may amend or dismiss the civil penalty or
30 finding of deficiency. The licensee shall be notified in writing of
31 the program administrator's decision within 60 business days of
32 the date when all necessary information has been provided to the
33 department by the licensee. The program administrator's decision
34 is considered final and concludes the licensee's administrative
35 appeal rights regarding the appeal conducted pursuant to this
36 paragraph.

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

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

(n) As provided in Section 11466.31 of the Welfare and Institutions Code, the department may offset civil penalties owed by a group home or short-term residential treatment center against moneys to be paid by a county for the care of minors after the group home or short-term residential treatment center has exhausted its appeal of the civil penalty assessment. The department shall provide the group home or short-term residential treatment center a reasonable opportunity to pay the civil penalty before instituting the offset provision.

(o) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

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

SEC. 2. Section 1568.0822 of the Health and Safety Code is amended to read:

1568.0822. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department ~~may shall~~ levy a civil ~~penalty. penalties as follows:~~

(b) ~~(1) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) be one hundred dollars (\$100) per day for each violation of this chapter, except where chapter if an agency or facility fails to correct a deficiency after being provided a specified length of time to correct that deficiency. If the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. Except as otherwise provided in this chapter, a civil penalty assessment shall not exceed one hundred fifty dollars (\$150) per day per violation. provided in this chapter, a correction of the deficiency shall not impact the imposition of a civil penalty.~~

~~(2) (A) Any agency or facility that repeats a violation specified in paragraph (1) within 12 months of a prior violation, having a similar factual description of the deficiency as stated in the~~

1 *notification of deficiency, shall be subject to an immediate civil*
2 *penalty of two hundred fifty dollars (\$250) per violation and one*
3 *hundred dollars (\$100) for each day the violation continues after*
4 *citation.*

5 (c) Notwithstanding Section 1568.07, the department shall assess
6 an immediate civil penalty of ~~one five hundred fifty dollars (\$150)~~
7 ~~(\$500) per day per~~ violation and one hundred dollars (\$100) for
8 each day the violation continues after citation for any of the
9 following serious violations:

10 (1) Any violation that the department determines resulted in the
11 injury or illness of a resident.

12 ~~(1)~~

13 (2) (A) Fire clearance violations, including, but not limited to,
14 overcapacity, ambulatory status, inoperable smoke alarms, and
15 inoperable fire alarm systems. The civil penalty shall not be
16 assessed if the licensee has done either of the following:

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

19 (ii) Initiated eviction proceedings.

20 (B) A licensee denied a clearance for bedridden residents may
21 appeal to the fire authority, and, if that appeal is denied, may
22 subsequently appeal to the Office of the State Fire Marshal, and
23 shall not be assessed an immediate civil penalty until the final
24 appeal is decided, or after 60 days has passed from the date of the
25 citation, whichever is earlier.

26 ~~(2)~~

27 (3) Absence of supervision, as required by statute and regulation.

28 ~~(3)~~

29 (4) Accessible bodies of water, when prohibited in this chapter
30 or regulations adopted pursuant to this chapter.

31 ~~(4)~~

32 (5) Accessible firearms, ammunition, or both.

33 ~~(5)~~

34 (6) Refused entry to a facility or any part of a facility in violation
35 of Section 1568.07 or 1568.071.

36 ~~(6)~~

37 (7) The presence of ~~an excluded~~ a person subject to a
38 department Order of Exclusion on the premises.

39 (d) Any facility that repeats a violation specified in subdivision

40 (c) within 12 months of a prior violation having a similar factual

1 *description of the deficiency as stated in the notice of deficiency,*
2 *shall be subject to an immediate civil penalty of one thousand*
3 *dollars (\$1,000) per violation and one hundred dollars (\$100) for*
4 *each day the violation continues after citation.*

5 ~~(d)~~

6 (e) For a violation that the department determines resulted in
7 the death of a resident, the civil penalty shall be fifteen thousand
8 dollars (\$15,000).

9 ~~(e)~~

10 (f) For a violation that the department determines constitutes
11 physical abuse, as defined in Section 15610.63 of the Welfare and
12 Institutions Code, or resulted in serious bodily injury, as defined
13 in Section 243 of the Penal Code, to a resident, the civil penalty
14 shall be ten thousand dollars (\$10,000).

15 ~~(f) Prior to~~

16 (g) (1) ~~Before the issuance assessment of a citation imposing~~
17 ~~a civil penalty pursuant to subdivision (d) or (e); (e) or (f), the~~
18 ~~decision shall be approved by the program administrator of the~~
19 ~~Community Care Licensing Division.~~

20 (2) If the department issues a citation pursuant to subdivision
21 (e) or (f), that civil penalty shall prevail and the civil penalty for
22 the underlying violation shall be waived.

23 ~~(g) Notwithstanding Section 1568.07, any residential care~~
24 ~~facility that is cited for repeating the same violation of this chapter~~
25 ~~within 12 months of the first violation is subject to an immediate~~
26 ~~civil penalty of one hundred fifty dollars (\$150) and fifty dollars~~
27 ~~(\$50) for each day the violation continues until the deficiency is~~
28 ~~corrected.~~

29 ~~(h) Any residential care facility that is assessed a civil penalty~~
30 ~~pursuant to subdivision (g) that repeats the same violation of this~~
31 ~~chapter within 12 months of the violation subject to subdivision~~
32 ~~(g) shall be assessed an immediate civil penalty of one thousand~~
33 ~~dollars (\$1,000) and one hundred dollars (\$100) for each day the~~
34 ~~violation continues until the deficiency is corrected, provided that~~
35 ~~the violation is a serious violation.~~

36 ~~(i) (1) The department shall adopt regulations setting forth the~~
37 ~~appeal procedures for deficiencies.~~

38 ~~(2) A~~

1 (h) A citation of a violation issued by the department shall be
2 classified according to the nature of the violation and shall indicate
3 the classification on its face.

4 (1) A Type AA violation is a violation that the department
5 determines resulted in the death or serious bodily injury of, or that
6 constitutes physical abuse of, a client, pursuant to subdivision (e)
7 or (f).

8 (2) A Type A violation is a violation that the department
9 determines poses a direct and immediate risk to the health or safety
10 of a person in care.

11 (3) A Type B violation is a violation that does not meet the
12 standards of a Type AA or A violation, but that the department
13 determines poses a potential risk to the health or safety of a person
14 in care.

15 (4) A Type C violation is a violation that does not meet the
16 standards of a Type AA, A, or B violation.

17 (i) (1) A notification of a deficiency written by a representative
18 of the department shall include a factual description of the nature
19 of the deficiency fully stating the manner in which the licensee
20 failed to comply with the specified statute or regulation, and, if
21 applicable, the particular place or area of the facility in which the
22 deficiency occurred. *The department shall make a good faith effort*
23 *to work with the licensee to determine the cause of the deficiency*
24 *and ways to prevent any repeat violations.*

25 (2) *The department shall adopt regulations setting forth appeal*
26 *procedures for deficiencies.*

27 (j) (1) A licensee shall have the right to submit to the
28 department a written request for a formal review of a civil penalty
29 assessed pursuant to ~~subdivisions (d) and~~ subdivision (e) or (f)
30 within 15 business days of receipt of the notice of a civil penalty
31 assessment and shall provide all available supporting
32 documentation at that time. The review shall be conducted by the
33 deputy director of the Community Care Licensing Division. The
34 licensee may submit additional supporting documentation that was
35 unavailable at the time of submitting the request for review within
36 the first 30 business days after submitting the request for review.
37 If the department requires additional information from the licensee,
38 that information shall be requested within the first 30 business
39 days after receiving the request for review. The licensee shall
40 provide this additional information within 30 business days of

1 receiving the request from the department. If the deputy director
2 determines that the civil penalty was not assessed, or the finding
3 of deficiency that resulted in the assessment of the civil penalty
4 was not made, in accordance with applicable statutes or regulations
5 of the department, he or she may amend or dismiss the civil penalty
6 or finding of deficiency. The licensee shall be notified in writing
7 of the deputy director's decision within 60 business days of the
8 date when all necessary information has been provided to the
9 department by the licensee.

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 15
27 business days of receipt of the notice of a civil penalty assessment
28 or a finding of a deficiency, and shall provide all available
29 supporting documentation at that time. The review shall be
30 conducted by a regional manager of the Community Care Licensing
31 Division. The licensee may submit additional supporting
32 documentation that was unavailable at the time of submitting the
33 request for review within the first 30 business days after submitting
34 the request for review. If the department requires additional
35 information from the licensee, that information shall be requested
36 within the first 30 business days after receiving the request for
37 review. The licensee shall provide this additional information
38 within 30 business days of receiving the request from the
39 department. If the regional manager determines that the civil
40 penalty was not assessed, or the finding of the deficiency was not

1 made, in accordance with applicable statutes or regulations of the
2 department, he or she may amend or dismiss the civil penalty or
3 finding of deficiency. The licensee shall be notified in writing of
4 the regional manager's decision within 60 business days of the
5 date when all necessary information has been provided to the
6 department by the licensee.

7 (2) Upon exhausting the review described in paragraph (1), the
8 licensee may further appeal that decision to the program
9 administrator of the Community Care Licensing Division within
10 15 business days of receipt of notice of the regional manager's
11 decision. The licensee may submit additional supporting
12 documentation that was unavailable at the time of appeal to the
13 program administrator within the first 30 business days after
14 requesting that appeal. If the department requires additional
15 information from the licensee, that information shall be requested
16 within the first 30 business days after receiving the request for the
17 appeal. The licensee shall provide this additional information
18 within 30 business days of receiving the request from the
19 department. If the program administrator determines that the civil
20 penalty was not assessed, or the finding of the deficiency was not
21 made, in accordance with applicable statutes or regulations of the
22 department, he or she may amend or dismiss the civil penalty or
23 finding of deficiency. The licensee shall be notified in writing of
24 the program administrator's decision within 60 business days of
25 the date when all necessary information has been provided to the
26 department by the licensee. The program administrator's decision
27 is considered final and concludes the licensee's administrative
28 appeal rights regarding the appeal conducted pursuant to this
29 paragraph.

30 (l) The department shall adopt regulations implementing this
31 section.

32 (m) The department shall, by January 1, 2016, amend its
33 regulations to reflect the changes to this section made by Section
34 4 of Chapter 813 of the Statutes of 2014.

35 (n) Notwithstanding the Administrative Procedure Act (Chapter
36 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
37 Title 2 of the Government Code), the department may implement
38 and administer the changes made by the act that added this
39 subdivision through all-county letters or similar written instructions

1 until regulations are adopted pursuant to the Administrative
2 Procedure Act.

3 ~~(e) This section shall become operative on July 1, 2015.~~

4 SEC. 3. Section 1569.49 of the Health and Safety Code is
5 amended to read:

6 1569.49. (a) In addition to the suspension, temporary
7 suspension, or revocation of a license issued under this chapter,
8 the department ~~may~~ *shall* levy a civil penalty. ~~penalties as follows:~~

9 (b) ~~(1) The amount of the civil penalty shall not be less than~~
10 ~~twenty-five dollars (\$25) or more than fifty dollars (\$50) be one~~
11 ~~hundred dollars (\$100) per day for each violation of this chapter~~
12 ~~if the agency or facility failed to correct a deficiency after being~~
13 ~~provided a specified length of time to correct that deficiency. If~~
14 the nature or seriousness of the violation or the frequency of the
15 violation warrants a higher penalty or an immediate civil penalty
16 assessment, or both, as ~~determined by the department. Except as~~
17 ~~otherwise provided in this chapter, a civil penalty assessment shall~~
18 ~~not exceed one hundred fifty dollars (\$150) per day per violation.~~
19 *a correction of the deficiency shall not impact the imposition of a*
20 *civil penalty.*

21 (2) (A) Any agency or facility that repeats a violation specified
22 in paragraph (1) within 12 months of a prior violation having a
23 similar factual description of the deficiency as stated on the
24 notification of deficiency, shall be subject to an immediate civil
25 penalty of two hundred fifty dollars (\$250) per violation and one
26 hundred dollars (\$100) for each day the violation continues after
27 citation.

28 ~~(e) Notwithstanding Section 1569.33, the~~

29 (c) The department shall assess an immediate civil penalty of
30 ~~one hundred fifty five hundred dollars (\$150) per day (\$500) per~~
31 ~~violation and one hundred dollars (\$100) for each day the violation~~
32 ~~continues after citation for any of the following serious violations:~~

33 (1) Any violation that results in the injury or illness of a resident.

34 ~~(1)~~

35 (2) (A) Fire clearance violations, including, but not limited to,
36 overcapacity, ambulatory status, inoperable smoke alarms, and
37 inoperable fire alarm systems. The civil penalty shall not be
38 assessed if the licensee has done either of the following:

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

(ii) Initiated eviction proceedings.

(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.

~~(2)~~

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

~~(3)~~

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

~~(4)~~

(5) Accessible firearms, ammunition, or both.

~~(5)~~

(6) Refused entry to a facility or any part of a facility in violation of Section 1569.32, 1569.33, or 1569.35.

~~(6)~~

~~(7) The presence of an excluded a person subject to a department Order of Exclusion on the premises.~~

(d) Any facility that repeats a violation specified in subdivision (c) within 12 months of a prior violation, having a similar factual description of the deficiency as stated on the notification of deficiency, shall be subject to an immediate civil penalty of one thousand dollars (\$1,000) per violation and one hundred dollars (\$100) for each day the violation continues after citation.

~~(d)~~

(e) For a violation that the department determines resulted in the death of a resident, the civil penalty shall be fifteen thousand dollars (\$15,000).

~~(e)~~

(f) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 15610.67 of the Welfare and Institutions Code, to a resident, the civil penalty shall be ten thousand dollars (\$10,000).

~~(f) Prior to the issuance~~

(g) (1) Before the assessment of a citation imposing a civil penalty pursuant to subdivision (d) or (e), (e) or (f), the decision

1 shall be approved by the program administrator of the Community
2 Care Licensing Division.

3 ~~(g) Notwithstanding Section 1569.33, any residential care~~
4 ~~facility for the elderly that is cited for repeating the same violation~~
5 ~~of this chapter within 12 months of the first violation is subject to~~
6 ~~an immediate civil penalty of one hundred fifty dollars (\$150) and~~
7 ~~fifty dollars (\$50) for each day the violation continues until the~~
8 ~~deficiency is corrected.~~

9 ~~(h) Any residential care facility for the elderly that is assessed~~
10 ~~a civil penalty pursuant to subdivision (g) that repeats the same~~
11 ~~violation of this chapter within 12 months of the violation subject~~
12 ~~to subdivision (g) shall be assessed an immediate civil penalty of~~
13 ~~one thousand dollars (\$1,000) and one hundred dollars (\$100) for~~
14 ~~each day the violation continues until the deficiency is corrected.~~

15 ~~(i) (1) The department shall adopt regulations setting forth the~~
16 ~~appeal procedures for deficiencies.~~

17 ~~(2) If the department assesses a civil penalty pursuant to~~
18 ~~subdivision (e) or (f), that civil penalty shall prevail and the civil~~
19 ~~penalty for the underlying violation shall be waived.~~

20 ~~(h) A violation cited by the department shall be classified~~
21 ~~according to the nature of the violation and shall indicate the~~
22 ~~classification on its face.~~

23 ~~(1) A Type AA violation is a violation that the department~~
24 ~~determines resulted in the death or serious bodily injury of, or that~~
25 ~~constitutes physical abuse of, a client, pursuant to subdivision (e)~~
26 ~~or (f).~~

27 ~~(2) A Type A violation is a violation that the department~~
28 ~~determines poses a direct and immediate risk to the health or safety~~
29 ~~of a person in care.~~

30 ~~(3) A Type B violation is a violation that does not meet the~~
31 ~~standards of a Type AA or A violation, but that the department~~
32 ~~determines poses a potential risk to the health or safety of a person~~
33 ~~in care.~~

34 ~~(4) A Type C violation is a violation that does not meet the~~
35 ~~standards of a Type AA, A, or B violation.~~

36 ~~(2) A~~

37 ~~(i) (1) A notification of a deficiency written by a representative~~
38 ~~of the department shall include a factual description of the nature~~
39 ~~of the deficiency fully stating the manner in which the licensee~~
40 ~~failed to comply with the specified statute or regulation, and, if~~

1 applicable, the particular place or area of the facility in which the
2 deficiency occurred. *The department shall make a good faith effort*
3 *to work with the licensee to determine the cause of the deficiency*
4 *and ways to prevent any repeat violations.*

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

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

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 (k) (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 (j) within 15
7 business days of receipt of the notice of a civil penalty assessment
8 or a finding of a deficiency, and shall provide all available
9 supporting documentation at that time. The review shall be
10 conducted by a regional manager of the Community Care Licensing
11 Division. The licensee may submit additional supporting
12 documentation that was unavailable at the time of submitting the
13 request for review within the first 30 business days after submitting
14 the request for review. If the department requires additional
15 information from the licensee, that information shall be requested
16 within the first 30 business days after receiving the request for
17 review. The licensee shall provide this additional information
18 within 30 business days of receiving the request from the
19 department. If the regional manager determines that the civil
20 penalty was not assessed, or the finding of the deficiency was not
21 made, in accordance with applicable statutes or regulations of the
22 department, he or she may amend or dismiss the civil penalty or
23 finding of deficiency. The licensee shall be notified in writing of
24 the regional manager's decision within 60 business days of the
25 date when all necessary information has been provided to the
26 department by the licensee.

27 (2) Upon exhausting the review described in paragraph (1), the
28 licensee may further appeal that decision to the program
29 administrator of the Community Care Licensing Division within
30 15 business days of receipt of notice of the regional manager's
31 decision. The licensee may submit additional supporting
32 documentation that was unavailable at the time of appeal to the
33 program administrator within the first 30 business days after
34 requesting that appeal. If the department requires additional
35 information from the licensee, that information shall be requested
36 within the first 30 business days after receiving the request for the
37 appeal. The licensee shall provide this additional information
38 within 30 business days of receiving the request from the
39 department. If the program administrator determines that the civil
40 penalty was not assessed, or the finding of the deficiency was not

1 made, in accordance with applicable statutes or regulations of the
2 department, he or she may amend or dismiss the civil penalty or
3 finding of deficiency. The licensee shall be notified in writing of
4 the program administrator's decision within 60 business days of
5 the date when all necessary information has been provided to the
6 department by the licensee. The program administrator's decision
7 is considered final and concludes the licensee's administrative
8 appeal rights regarding the appeal conducted pursuant to this
9 paragraph.

10 (l) The department shall adopt regulations implementing this
11 section.

12 (m) The department shall, by January 1, 2016, amend its
13 regulations to reflect the changes to this section made by Section
14 6 of Chapter 813 of the Statutes of 2014.

15 (n) Notwithstanding the Administrative Procedure Act (Chapter
16 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
17 Title 2 of the Government Code), the department may implement
18 and administer the changes made by the act that added this
19 subdivision through all-county letters or similar written instructions
20 until regulations are adopted pursuant to the Administrative
21 Procedure Act.

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

23 SEC. 4. Section 1596.8595 of the Health and Safety Code is
24 amended to read:

25 1596.8595. (a) (1) Each licensed child day care facility shall
26 post a copy of any licensing report pertaining to the facility that
27 documents either a facility visit or a complaint investigation that
28 results in a citation for a violation that, if not corrected, will create
29 a direct and immediate risk to the health, safety, or personal rights
30 of children in care. The licensing report provided by the department
31 shall be posted immediately upon receipt, adjacent to the postings
32 required pursuant to Section 1596.817 and on, or immediately
33 adjacent to, the interior side of the main door to the facility and
34 shall remain posted for 30 consecutive days.

35 (2) A family day care home shall comply with the posting
36 requirements contained in paragraph (1) during the hours when
37 clients are present.

38 (3) Failure to comply with paragraph (1) shall result in an
39 immediate civil penalty of one hundred dollars (\$100).

(b) (1) Notwithstanding subdivision (b) of Section 1596.859, the licensee shall post a licensing report or other appropriate document verifying the licensee's compliance or noncompliance with the department's order to correct a deficiency that is subject to posting pursuant to paragraph (1) of subdivision (a). The licensing report or other document shall be posted immediately upon receipt, adjacent to the postings required pursuant to Section 1596.817, on, or immediately adjacent to, the interior side of the main door into the facility and shall be posted for a period of 30 consecutive days.

(2) A family day care home shall comply with the posting requirements contained in paragraph (1) during the hours when clients are present.

(3) Failure to comply with paragraph (1) shall result in an immediate civil penalty of one hundred dollars (\$100).

(c) (1) A licensed child day care facility shall provide to the parents or guardians of each child receiving services in the facility copies of any licensing report that documents any Type A *or more serious* citation that represents an immediate risk to the health, safety, or personal rights of children in care as set forth in paragraph (1) of subdivision (a) of Section 1596.893b.

(2) Upon enrollment of a new child in a facility, the licensee shall provide to the parents or legal guardians of the newly enrolling child copies of any licensing report that the licensee has received during the prior 12-month period that documents any Type A *or more serious* citation that represents an immediate risk to the health, safety, or personal rights of children in care as set forth in paragraph (1) of subdivision (a) of Section 1596.893b.

(3) The licensee shall require each recipient of the licensing report described in paragraph (1) pertaining to a complaint investigation to sign a statement indicating that he or she has received the document and the date it was received.

(4) The licensee shall keep verification of receipt in each child's file.

(d) (1) A licensed child day care facility shall provide to the parents or legal guardians of each child receiving services in the facility copies of any licensing document pertaining to a conference conducted by a local licensing agency management representative with the licensee in which issues of noncompliance are discussed.

(2) Upon enrollment of a new child in a facility, the licensee shall provide to the parents or legal guardians of the newly enrolling child copies of any licensing document that the licensee has received during the prior 12-month period that pertains to a conference conducted by a local licensing agency management representative with the licensee in which issues of noncompliance are discussed.

(3) The licensee shall require each recipient of the licensing document pertaining to a conference to sign a statement indicating that he or she has received the document and the date it was received.

(4) The licensee shall keep verification of receipt in each child's file.

SEC. 5. Section 1596.99 of the Health and Safety Code is amended to read:

1596.99. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter or Chapter 3.4 (commencing with Section 1596.70), the department ~~may shall~~ levy a civil penalty: *penalties as follows:*

(b) (1) ~~The amount of the civil penalty shall not be less than twenty-five dollars (\$25) nor more than fifty dollars (\$50) be one hundred dollars (\$100) per day for each violation of this chapter except where if an agency or facility fails to correct a deficiency after being provided a specified length of time to correct the deficiency. If the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. Except as otherwise provided in this chapter, a civil penalty assessment shall not exceed one hundred fifty dollars (\$150) per day per violation. provided in this chapter. A correction of a deficiency shall not impact the imposition of a civil penalty.~~

(2) (A) *Any agency or facility that repeats a violation specified in paragraph (1) within 12 months of a prior violation having a similar factual description of the deficiency on the notification of deficiency, shall be subject to an immediate civil penalty of two hundred fifty dollars (\$250) per violation and one hundred dollars (\$100) for each day the violation continues after citation.*

(c) ~~Notwithstanding Sections 1596.893a, 1596.893b, and 1596.98, the~~ The department shall assess an immediate civil penalty of ~~one five hundred fifty dollars (\$150) (\$500) per day per violation~~

1 *and one hundred dollars (\$100) for each day the violation*
2 *continues after citation, for any of the following serious violations:*

3 *(1) Any violation that the department determines resulted in the*
4 *injury or illness of a child.*

5 ~~(1)~~

6 *(2) Fire clearance violations, including, but not limited to,*
7 *overcapacity, inoperable smoke alarms, and inoperable fire alarm*
8 *systems.*

9 ~~(2)~~

10 *(3) Absence of supervision, including, but not limited to, a child*
11 *left unattended, supervision of a child by a person under 18 years*
12 *of age, and lack of supervision resulting in a child wandering away.*

13 ~~(3)~~

14 *(4) Accessible bodies of water.*

15 ~~(4)~~

16 *(5) Accessible firearms, ammunition, or both.*

17 ~~(5)~~

18 *(6) Refused entry to a facility or any part of a facility in violation*
19 *of Section 1596.852, 1596.853, or 1597.09.*

20 ~~(6)~~

21 *(7) The presence of ~~an excluded~~ a person subject to a*
22 *department Order of Exclusion on the premises.*

23 *(d) Any facility that repeats a violation specified in subdivision*
24 *(c) within 12 months of a prior violation, having a similar factual*
25 *description of deficiency as stated in the notification of deficiency,*
26 *shall be subject to an immediate civil penalty of one thousand*
27 *dollars (\$1,000) per violation and one hundred dollars (\$100) for*
28 *each day the violation continues after citation.*

29 ~~(d)~~

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

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

35 *(2) Ten thousand dollars (\$10,000) for a licensee licensed,*
36 *among all of the licensee's facilities, facility licensed to care for*
37 *31 to 100, inclusive, children.*

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

1 ~~(e)~~

2 ~~(f)~~ (1) For a violation that the department determines constitutes
3 physical abuse or resulted in serious injury, as defined in Section
4 1596.8865, to a child, the civil penalty shall be assessed as follows:

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

8 (B) Five thousand dollars (\$5,000) for a ~~licensee licensed,~~
9 ~~among all of the licensee's facilities, facility licensed to~~ care for
10 31 to 100, inclusive, children.

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

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

24 ~~(f)~~

25 ~~(g)~~ (1) Before the ~~issuance~~ *assessment* of a ~~citation imposing~~
26 a civil penalty pursuant to subdivision ~~(d) or (e); (e) or (f)~~, the
27 decision shall be approved by the program administrator of the
28 Community Care Licensing Division.

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

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

1 (2) If the department assesses a civil penalty pursuant to
2 subdivision (e) or (f), that civil penalty shall prevail and the civil
3 penalty for the underlying violation shall be waived.

4 (h) Citations issued by the department shall be classified
5 according to the nature of the violation and shall indicate the
6 classification on its face.

7 (1) A Type AA violation is a violation that the department
8 determines resulted in the death or serious bodily injury of, or that
9 constitutes physical abuse of, a client, pursuant to subdivision (e)
10 or (f).

11 (2) A Type A violation is a violation that the department
12 determines poses a direct and immediate risk to the health or safety
13 of a person in care.

14 (3) A Type B violation is a violation that does not meet the
15 standards of a Type AA or A violation, but that the department
16 determines poses a potential risk to the health or safety of a person
17 in care.

18 (4) A Type C violation is a violation that does not meet the
19 standards of a Type AA, A, or B violation.

20 (i) Notwithstanding any ~~other~~ law, revenues received by the
21 state from the payment of civil penalties imposed on licensed child
22 care centers pursuant to this chapter or Chapter 3.4 (commencing
23 with Section 1596.70), shall be deposited in the Child Health and
24 Safety Fund, created pursuant to Chapter 4.6 (commencing with
25 Section 18285) of Part 6 of Division 9 of the Welfare and
26 Institutions Code, and shall be expended, upon appropriation by
27 the Legislature, pursuant to subdivision (f) of Section 18285 of
28 the Welfare and Institutions Code exclusively for the technical
29 assistance, orientation, training, and education of licensed day care
30 center providers.

31 ~~(j) (1) The department shall adopt regulations setting forth the~~
32 ~~appeal procedures for deficiencies.~~

33 ~~(2) A~~

34 (j) (1) A notification of a deficiency written by a representative
35 of the department shall include a factual description of the nature
36 of the deficiency fully stating the manner in which the licensee
37 failed to comply with the specified statute or regulation, and, if
38 applicable, the particular place or area of the facility in which the
39 deficiency occurred. *The department shall make a good faith effort*

1 *to work with the licensee to determine the cause of the deficiency*
2 *and ways to prevent any repeat violations.*

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

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

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 (l) (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 (k) within 15
6 business days of receipt of the notice of a civil penalty assessment
7 or a finding of a deficiency, and shall provide all available
8 supporting documentation at that time. The review shall be
9 conducted by a regional manager of the Community Care Licensing
10 Division. The licensee may submit additional supporting
11 documentation that was unavailable at the time of submitting the
12 request for review within the first 30 business days after submitting
13 the request for review. If the department requires additional
14 information from the licensee, that information shall be requested
15 within the first 30 business days after receiving the request for
16 review. The licensee shall provide this additional information
17 within 30 business days of receiving the request from the
18 department. If the regional manager determines that the civil
19 penalty was not assessed, or the finding of the deficiency was not
20 made, in accordance with applicable statutes or regulations of the
21 department, he or she may amend or dismiss the civil penalty or
22 finding of deficiency. The licensee shall be notified in writing of
23 the regional manager's decision within 60 business days of the
24 date when all necessary information has been provided to the
25 department by the licensee.

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 15 business days of receipt of notice of the regional manager's
30 decision. The licensee may submit additional supporting
31 documentation that was unavailable at the time of appeal to the
32 program administrator within the first 30 business days after
33 requesting that appeal. If the department requires additional
34 information from the licensee, that information shall be requested
35 within the first 30 business days after receiving the request for the
36 appeal. The licensee shall provide this additional information
37 within 30 business days of receiving the request from the
38 department. If the program administrator determines that the civil
39 penalty was not assessed, or the finding of the deficiency was not
40 made, in accordance with applicable statutes or regulations of the

1 department, he or she may amend or dismiss the civil penalty or
2 finding of deficiency. The licensee shall be notified in writing of
3 the program administrator's decision within 60 business days of
4 the date when all necessary information has been provided to the
5 department by the licensee. The program administrator's decision
6 is considered final and concludes the licensee's administrative
7 appeal rights regarding the appeal conducted pursuant to this
8 paragraph.

9 (m) The department shall, by January 1, 2016, amend its
10 regulations to reflect the changes to this section made by Section
11 8 of Chapter 813 of the Statutes of 2014.

12 (n) Notwithstanding the Administrative Procedure Act (Chapter
13 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
14 Title 2 of the Government Code), the department may implement
15 and administer the changes made by the act that added this
16 subdivision through all-county letters or similar written instructions
17 until regulations are adopted pursuant to the Administrative
18 Procedure Act.

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

20 SEC. 6. Section 1597.58 of the Health and Safety Code is
21 amended to read:

22 1597.58. (a) In addition to the suspension, temporary
23 suspension, or revocation of a license issued under this chapter,
24 the department ~~may~~ shall levy a civil penalty.

25 (b) ~~(1) The amount of the civil penalty shall not be less than~~
26 ~~twenty-five dollars (\$25) nor more than fifty dollars (\$50) be one~~
27 ~~hundred dollars (\$100) per day for each violation of this chapter~~
28 ~~except where if an agency or facility fails to correct a deficiency~~
29 ~~after being provided a specified length of time to correct that~~
30 ~~deficiency. If the nature or seriousness of the violation or the~~
31 ~~frequency of the violation warrants a higher penalty or an~~
32 ~~immediate civil penalty—assessment assessment, or both, as~~
33 ~~determined by the department. Except as otherwise provided in~~
34 ~~this chapter, a civil penalty assessment shall not exceed one~~
35 ~~hundred fifty dollars (\$150) per day per violation. provided in this~~
36 ~~chapter, a correction of the deficiency shall not impact the~~
37 ~~imposition of a civil penalty.~~

38 (2) (A) Any facility that repeats a violation specified in
39 paragraph (1) within 12 months of a prior violation having a
40 similar factual description of deficiency as stated on the

1 notification of deficiency, shall be subject to an immediate civil
2 penalty of two hundred fifty dollars (\$250) per violation and one
3 hundred dollars (\$100) for each day the violation continues after
4 citation.

5 ~~(c) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56,~~
6 ~~and 1597.62, the~~ The department shall assess an immediate civil
7 penalty of ~~one five hundred fifty dollars (\$150)~~ (\$500) per day per
8 violation and one hundred dollars (\$100) for each day the violation
9 continues after citation, for any of the following serious violations:

10 (1) Any violation that ~~results the department determines resulted~~
11 in the ~~injury, illness, or death~~ injury or illness of a child.

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

15 (3) Accessible bodies of water.

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

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

19 (6) The presence of ~~an excluded~~ a person subject to a
20 department Order of Exclusion on the premises.

21 (d) Any facility that repeats a violation specified in subdivision
22 (c) within 12 months of a prior violation, having a similar factual
23 description of deficiency as stated in the notification of deficiency,
24 is subject to an immediate civil penalty of one thousand dollars
25 (\$1,000) per violation and one hundred dollars (\$100) for each
26 day the violation continues after citation.

27 ~~(d)~~

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

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

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

34 ~~(e)~~

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

38 (A) One thousand dollars (\$1,000) for a small family day care
39 home, as described in Section 1597.44.

(B) Two thousand dollars (\$2,000) for a large family day care home, as described in Section 1597.465.

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

(f)

(g) (1) Before the ~~issuance~~ *assessment* of a ~~citation imposing~~ a civil penalty pursuant to subdivision ~~(d) or (e)~~, (e) or (f), the decision shall be approved by the program administrator of the Community Care Licensing Division.

~~(g) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56, and 1597.62, any family day care home that is cited for repeating the same violation of this chapter or Chapter 3.4 (commencing with Section 1596.70), within 12 months of the first violation, is subject to an immediate civil penalty assessment of up to one hundred fifty dollars (\$150) and may be assessed up to fifty dollars (\$50) for each day the violation continues until the deficiency is corrected.~~

~~(h) Any family day care home that is assessed a civil penalty under subdivision (g) that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (g) shall be assessed an immediate assessment of up to one hundred fifty dollars (\$150) and may be assessed up to one hundred fifty dollars (\$150) for each day the violation continues until the deficiency is corrected.~~

(2) *If the department assesses a civil penalty pursuant to subdivision (e) or (f), that civil penalty shall prevail and the civil penalty for the underlying violation shall be waived.*

(h) *A violation cited by the department shall be classified according to the nature of the violation and shall indicate the classification on its face.*

(1) *A Type AA violation is a violation that the department determines resulted in the death or serious bodily injury of, or that*

1 *constitutes physical abuse of, a client, pursuant to subdivision (e)*
2 *or (f).*

3 *(2) A Type A violation is a violation that the department*
4 *determines poses a direct and immediate risk to the health or safety*
5 *of a person in care.*

6 *(3) A Type B violation is a violation that does not meet the*
7 *standards of a Type AA or A violation, but that the department*
8 *determines poses a potential risk to the health or safety of a person*
9 *in care.*

10 *(4) A Type C violation is a violation that does not meet the*
11 *standards of a Type AA, A, or B violation.*

12 (i) Notwithstanding any other law, revenues received by the
13 state from the payment of civil penalties imposed on licensed
14 family day care homes pursuant to this chapter or Chapter 3.4
15 (commencing with Section 1596.70), shall be deposited in the
16 Child Health and Safety Fund, created pursuant to Chapter 4.6
17 (commencing with Section 18285) of Part 6 of Division 9 of the
18 Welfare and Institutions Code, and shall be expended, upon
19 appropriation by the Legislature, pursuant to subdivision (f) of
20 Section 18285 of the Welfare and Institutions Code exclusively
21 for the technical assistance, orientation, training, and education of
22 licensed family day care home providers.

23 ~~(j) (1) The department shall adopt regulations setting forth the~~
24 ~~appeal procedures for deficiencies.~~

25 ~~(2) A~~

26 (j) (1) A notification of a deficiency written by a representative
27 of the department shall include a factual description of the nature
28 of the deficiency fully stating the manner in which the licensee
29 failed to comply with the specified statute or regulation, and, if
30 applicable, the particular place or area of the facility in which the
31 deficiency occurred. *The department shall make a good faith effort*
32 *to work with the licensee to determine the cause of the deficiency*
33 *and ways to prevent any repeat violations.*

34 (2) *The department shall adopt regulations setting forth appeal*
35 *procedures for deficiencies.*

36 (k) (1) A licensee shall have the right to submit to the
37 department a written request for a formal review of a civil penalty
38 assessed pursuant to subdivisions (d) and (e) within 15 business
39 days of receipt of the notice of a civil penalty assessment and shall
40 provide all available supporting documentation at that time. The

1 review shall be conducted by the deputy director of the Community
2 Care Licensing Division. The licensee may submit additional
3 supporting documentation that was unavailable at the time of
4 submitting the request for review within the first 30 business days
5 after submitting the request for review. If the department requires
6 additional information from the licensee, that information shall be
7 requested within the first 30 business days after receiving the
8 request for review. The licensee shall provide this additional
9 information within 30 business days of receiving the request from
10 the department. If the deputy director determines that the civil
11 penalty was not assessed, or the finding of the deficiency that
12 resulted in the assessment of the civil penalty was not made, in
13 accordance with applicable statutes or regulations of the
14 department, he or she may amend or dismiss the civil penalty or
15 finding of deficiency. The licensee shall be notified in writing of
16 the deputy director's decision within 60 business days of the date
17 when all necessary information has been provided to the
18 department by the licensee.

19 (2) Upon exhausting the review described in paragraph (1), a
20 licensee may further appeal that decision to an administrative law
21 judge. Proceedings shall be conducted in accordance with Chapter
22 5 (commencing with Section 11500) of Part 1 of Division 3 of
23 Title 2 of the Government Code, and the department shall have all
24 the powers granted by those provisions. In all proceedings
25 conducted in accordance with this section, the standard of proof
26 shall be by a preponderance of the evidence.

27 (3) If, in addition to an assessment of civil penalties, the
28 department elects to file an administrative action to suspend or
29 revoke the facility license that includes violations relating to the
30 assessment of the civil penalties, the department review of the
31 pending appeal shall cease and the assessment of the civil penalties
32 shall be heard as part of the administrative action process.

33 (l) (1) A licensee shall have the right to submit to the
34 department a written request for a formal review of any other civil
35 penalty or deficiency not described in subdivision (k) within 15
36 business days of receipt of the notice of a civil penalty assessment
37 or a finding of a deficiency, and shall provide all available
38 supporting documentation at that time. The review shall be
39 conducted by a regional manager of the Community Care Licensing
40 Division. The licensee may submit additional supporting

1 documentation that was unavailable at the time of submitting the
2 request for review within the first 30 business days after submitting
3 the request for review. If the department requires additional
4 information from the licensee, that information shall be requested
5 within the first 30 business days after receiving the request for
6 review. The licensee shall provide this additional information
7 within 30 business days of receiving the request from the
8 department. If the regional manager determines that the civil
9 penalty was not assessed, or the finding of the deficiency was not
10 made, in accordance with applicable statutes or regulations of the
11 department, he or she may amend or dismiss the civil penalty or
12 finding of deficiency. The licensee shall be notified in writing of
13 the regional manager's decision within 60 business days of the
14 date when all necessary information has been provided to the
15 department by the licensee.

16 (2) Upon exhausting the review described in paragraph (1), the
17 licensee may further appeal that decision to the program
18 administrator of the Community Care Licensing Division within
19 15 business days of receipt of notice of the regional manager's
20 decision. The licensee may submit additional supporting
21 documentation that was unavailable at the time of appeal to the
22 program administrator within the first 30 business days after
23 requesting that appeal. If the department requires additional
24 information from the licensee, that information shall be requested
25 within the first 30 business days after receiving the request for the
26 appeal. The licensee shall provide this additional information
27 within 30 business days of receiving the request from the
28 department. If the program administrator determines that the civil
29 penalty was not assessed, or the finding of the deficiency was not
30 made, in accordance with applicable statutes or regulations of the
31 department, he or she may amend or dismiss the civil penalty or
32 finding of deficiency. The licensee shall be notified in writing of
33 the program administrator's decision within 60 business days of
34 the date when all necessary information has been provided to the
35 department by the licensee. The program administrator's decision
36 is considered final and concludes the licensee's administrative
37 appeal rights regarding the appeal conducted pursuant to this
38 paragraph.

1 (m) The department shall, by January 1, 2016, amend its
2 regulations to reflect the changes to this section made by Section
3 10 of Chapter 813 of the Statutes of 2014.

4 (n) Notwithstanding the Administrative Procedure Act (Chapter
5 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
6 Title 2 of the Government Code), the department may implement
7 and administer the changes made by the act that added this
8 subdivision through all-county letters or similar written instructions
9 until regulations are adopted pursuant to the Administrative
10 Procedure Act.

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

O